

**CITY OF LINDEN**  
**PERSONNEL POLICY MANUAL**  
**EFFECTIVE OCTOBER 1, 2020**

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## DISCLAIMER

THE EMPLOYMENT RELATIONSHIP WHICH EXISTS BETWEEN THE CITY OF LINDEN ("CITY") AND ITS EMPLOYEES IS EMPLOYMENT-AT-WILL. THIS MEANS THAT AN EMPLOYEE MAY TERMINATE HIS OR HER EMPLOYMENT AT ANY TIME FOR ANY REASON, WITH OR WITHOUT NOTICE. SIMILARLY, THE CITY MAY DECIDE, IN ITS SOLE DISCRETION, TO TERMINATE AN INDIVIDUAL'S EMPLOYMENT AT ANY TIME FOR ANY REASON, WITH OR WITHOUT NOTICE.

NOTHING CONTAINED IN THIS MANUAL OR ANY OTHER CITY MANUAL, HANDBOOK, POLICY STATEMENT OR WORK RULE CONSTITUTES A CONTRACT OF EMPLOYMENT OR A CONTRACT OR AGREEMENT FOR A DEFINITE TERM OF EMPLOYMENT. THIS MANUAL DOES NOT CONTAIN ANY PROMISES OF ANY KIND. THESE PERSONNEL POLICIES AND OTHER POLICIES AND RULES MAY BE CHANGED OR NEW POLICIES OR RULES MAY BE ADOPTED AT ANY TIME, WITHOUT NOTICE. THE CITY MAY CHANGE WAGES, HOURS AND ALL OTHER WORKING CONDITIONS WITHOUT HAVING TO CONSULT ANYONE AND WITHOUT ANYONE'S AGREEMENT. ALTHOUGH THE CITY HOPES AND EXPECTS THAT ITS RELATIONSHIP WITH ITS EMPLOYEES WILL CONTINUE HAPPILY FOR A LONG TIME, ABSENT A WRITTEN CONTRACT OF EMPLOYMENT, THE CITY HAS THE ABSOLUTE POWER TO TERMINATE ANYONE WITH OR WITHOUT JUST CAUSE.

THERE IS NO PROMISE OF ANY KIND BY THE CITY OF LINDEN ("CITY") CONTAINED IN THIS POLICY MANUAL. THE CITY RECOGNIZES THAT CERTAIN EMPLOYEES SERVE THE CITY UNDER A COLLECTIVE BARGAINING AGREEMENT (ALSO REFERRED TO AS "UNION CONTRACT") OR SOME OTHER WRITTEN CONTRACTUAL ARRANGEMENT ("OTHER CONTRACT"). WHERE THIS POLICY MANUAL AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR CONTRACT DIFFERS, THE TERMS AND CONDITIONS OF THE AGREEMENT OR CONTRACT PREVAIL.

IF YOU HAVE ANY QUESTIONS CONCERNING THE MEANING OF THIS NOTICE OR THE TERMS OF THIS POLICY MANUAL YOU MUST DIRECT YOUR QUESTIONS TO YOUR DEPARTMENT HEAD OR THE PERSONNEL OFFICE.

EXCEPT FOR YOUR DEPARTMENT HEAD OR PERSONNEL OFFICE, NO OTHER MEMBER OR EMPLOYEE OF THE CITY IS AUTHORIZED TO EXPLAIN THIS NOTICE OR THE TERMS OF THIS POLICY MANUAL TO YOU OR TO ANY OTHER EMPLOYEE.

## **ARTICLE 1**

### **WELCOME**

As an employee of the City, you are part of a team dedicated to serving your friends and neighbors. When you come in contact with the public, either in person or by telephone, you are likely talking to and serving men and women whose tax dollars pay your salary. It goes without saying that you should treat these people and your fellow employees with courtesy and respect.

This Manual has been prepared to acquaint you with the procedures and policies we follow at the City. It also lists various benefits issued to City employees.

The information in this Manual will be useful to you throughout your employment with the City. Please take the time to thoroughly read the Manual. Although this Manual is intended to be as comprehensive as is reasonably possible, at the City's discretion, there may be additional procedures or policies added, changed or deleted in the future. This document may be changed or supplemented at any time with or without prior notice to employees. The City will make efforts to explain and/or to clarify the procedures and policies contained within this document; however, it is incumbent upon every employee who has any questions with respect to this Manual to bring those questions to the attention of your Department Head or the Personnel Division.

Again, thank you for becoming a City employee. Best wishes for much success and happiness in your position.

## **ARTICLE 2**

### **INTRODUCTION**

#### **Section 1                      Purpose**

The purpose of this Manual is to serve as a guide and reference to all employees on personnel matters, policies, procedures and regulations. This Manual general provides the standard conditions of employment with the City. In the event there is a conflict between the terms of this Manual and City regulations and procedures or an applicable collective bargaining agreement ("Union Contract"), individual employment agreement, or Federal or State law, the terms and conditions of that Union Contract, individual employment agreement or law shall prevail. In all other cases, the policies of this Manual shall prevail.

This Manual is for informational purposes only and does not provide any contractual and/or employment rights to any employee.

Employees are required to conform to the policies set forth herein.

This Manual is the property of the City and is to be returned to the City upon resignation, retirement or discharge.

**Section 2**                      **Effective Date**

The requirements, provisions and benefits set forth in the within Employee Manual are effective October 1, 2020. Benefits accrued by employees prior to October 1, 2020 shall be determined in accordance with then existing City policies and procedures.

**Section 3**                      **Management Rights and Responsibilities**

It is recognized that there are certain functions, responsibilities and rights reserved to the City among but not limited to: the right to control the properties and contracts of the City; the right to direct and operate all departments of the City; the right to decide the hours of work; staffing and scheduling decisions; the right to establish job classification descriptions subject to New Jersey Civil Service approval; along with the right to change or introduce processes and methods for the purpose of securing more efficient and economical operation of City government. The City also has the right and sole discretion to take the following actions which shall include but are not limited to, the following:

1. to determine the standards of service to be provided by its employees and the evaluation process utilized;
2. to determine the standards of selection for employment;
3. to hire, suspend, demote, discharge, layoff, assign, promote, or transfer employees;
4. to direct its employees;
5. to take disciplinary action;
6. to determine the amount of overtime to be worked and the right to order that such time be taken at the discretion of the City;
7. to relieve its employees from duty without cause or because of lack work or funding or for cause;
8. to decide the number and location of its facilities;
9. to determine the methods, means, and personnel by which its operations are to be conducted;
10. to determine the content of work assignments;
11. to schedule the hours of work for employees;
12. to determine the amount of maintenance and repair schedules for equipment and property;
13. to determine the machinery, tool, and equipment requirements, together with the selection, procurement, designing, engineering, and the control of equipment and materials;
14. to purchase the services of others, by contract or otherwise;
15. to make binding rules and regulations governing employees;
16. to exercise complete control and discretion over its organization and operating technology; and
17. to maintain efficient operations in compliance with Federal, State, local law and Union Contract.

**ARTICLE 3**

**PERSONNEL POLICIES**

**Section 1**                    **General Policies**

A.        Initial employment in the City shall be in accordance with the Civil Service Commission, State of New Jersey and in accordance with the laws of the State of New Jersey.

B.        Employment in the City shall be based on merit and fitness, free of personal and political considerations.

C.        Subsequent appointments, promotions and other personnel actions shall be on a merit basis in accordance with New Jersey Civil Service Commission Regulations.

D.        Qualified City of Linden personnel shall be given preference for vacancies and new positions in accordance with New Jersey Civil Service Commission Regulations.

E.        Employees considered by the City to be permanent part-time employees, excluding seasonal employees who work less than thirty (30) hours per week, and other employees as determined by the City, who are employed on a daily basis, shall be eligible for employee vacation days on a pro rata basis in accordance with their respective period of employment, as set forth herein.

F.        Part-time employees, who are employed less than the hours mandated by the State of New Jersey State Health Benefits Plan and full-time seasonal employees shall not be eligible for health benefits, and may not be eligible to be enrolled in a State of New Jersey Pension Plan through the New Jersey Department of Treasury, Division of Pensions and Benefits.

**Section 2**                    **Abolition or Modification of Offices**

The City Council may, by ordinance or resolution, abolish, increase, decrease or modify the terms and compensation of any office or position of the City, except where such office has been or is created by general law, or New Jersey Civil Service Commission requirements.

**ARTICLE 4**

**CONFIDENTIALITY**

Much of the business conducted by the City, including but not limited to the preparation of budgets, ordinances, bids, contracts, personnel matters and litigation is proprietary and/or confidential in nature. While many of the City's actions are public actions, which under the law, are subject to public disclosure, the decision whether to disclose any activity or conduct of the City or anyone representing the City, rests exclusively with the City Council. It is therefore essential that City employees not discuss either in public or with non-employees what happens during their

work day. If an employee has a question as to whether certain conduct or activity is proprietary or confidential, the employee should direct the question(s) to their Department Head, the Division of Personnel, Office of the Municipal Treasurer or to the Municipal Attorney.

## **ARTICLE 5**

### **APPOINTMENTS**

#### **Section 1                    Power of Appointment**

All employees, officers and Department Heads of the City shall be appointed and promoted by the Council in accordance with the State Statutes, New Jersey Civil Service Commission's Regulations and local ordinances in specific instances and as provided by general law, with the exception of the Police Department as directed by Statute and the City's Municipal Charter.

#### **Section 2                    Qualifications**

Appointments by the City to fill vacancies or for new positions shall be limited to qualified persons who have been interviewed or tested concerning such factors as education, experience, aptitude, knowledge, character and fitness, all in accordance with the requirements of the Civil Service Commission and local ordinances and procedures. If the City shall require a specific level of educational experience for a particular position, the City shall specify the requirement in the job posting.

#### **Section 3                    Preference to City Employees and Residents**

A. Preference shall be given in appointments to vacancies and new positions, to the most senior qualified employees of the City. All employees must remain residents of the City at all times during their appointment; however, the residency of Police Officers and Fire Fighters shall be as determined by the statutes of the State of New Jersey except that initial appointment shall be as follows:

- i. Residents of the Municipality.
- ii. Other residents of the County in which the municipality is situated.
- iii. Contiguous Counties
- iv. Other residents of the State.
- v.. All other qualified applicants.

**Section 4**                      **Application for Appointment**

A. Applicants for employment shall apply on forms provided by the City that have been designed to obtain pertinent information concerning the applicant’s education, training, experience and other skills specifically related to the position which will determine the applicant’s fitness and qualifications for service to the City.

B. The City shall not request information on the application for employment regarding a candidate’s prior salaries and the criminal record, except for those positions where there is statutory or regulatory authority

C. On the date a vacancy exists in any Department due to death, retirement or termination, the Clerk and Personnel Committee is to be notified of the vacancy so that the Council in consultation with the Department Head may determine whether the position is to be filled. The Department Head will conduct all interviews to determine the applicant’s suitability for the position, and advise his Councilmatic Committee. The entire Council shall receive all documentation from the respective Councilmatic Committee.

**Section 5**                      **Processing**

Where it appears that an applicant is otherwise qualified for City employment and prior to the effective date of employment, the appointing authority shall require that the applicant be examined by a physician designated by the City, the expense to be borne by the City, to determine that said individual is physically fit for the position for which employment is sought.

**Section 6**                      **Grounds for Rejection of an Applicant**

A. An applicant for City employment may be rejected upon, but not limited to, any of the following determinations:

- i. Is not qualified for appointment to the position for which he has applied;
- ii. Is physically or mentally unfit to perform the duties of the position for which he has applied, without reasonable accommodation, as determined by a physician;
- iii. Utilizes illegal or non-prescribed narcotics or is addicted to the habitual or excessive use of drugs or intoxicants, as determined by a physician;
- iv. Has been convicted of any crime or other unlawful offense, including offenses involving moral turpitude; unless if a record has been expunged by an Order of the Court;
- v. Has received a dishonorable discharge from the Armed Services of the United States;

- vi. Has practiced or attempted to practice any deception or fraud in his application or in furnishing other evidence of eligibility for appointment;
- vii. Is not a Linden Resident.

B. Nothing herein contained shall be contrary to the New Jersey Department of Personnel Rules for the State of New Jersey or general law.

C. All classified employees are also subject to the New Jersey Administrative Code, Title 4, Department of New Jersey Department of Personnel.

### **Section 7                      Residency Requirement**

Except for statutory exemptions, the City has and maintains a residency policy for all employees. Employees who were employed with the City after July 1, 2008 and who were domiciled in the City as of that date must continue to reside in the City until they leave the City's employ. After July 1, 2008, all new employees are required to be domiciled in the City. All City employees, regardless of whether they live in the City, are therefore required to provide the City Treasurer with a written document stating their actual domicile's address within thirty (30) days of obtaining a new domicile. The failure to provide such information within the timeframe will be considered insubordination and may result in disciplinary action, up to and including termination.

## **ARTICLE 6**

### **PERSONNEL MANAGEMENT**

#### **Section 1                      Employee Status and Job Description**

It is extremely important that all employees know and understand their status (exempt or non-exempt) and job description. Unless otherwise provided by ordinance, resolution, employment agreement or collective negotiations agreement, the City shall utilize the job description maintained on the New Jersey Civil Service website, including qualifications, for each position. If you do not know or understand your work status or job description, then you should immediately contact your supervisor, Department Head or the Personnel Division.

#### **Section 2                      Probation**

A. Every person appointed to a new position shall be deemed to be on probation in the position to which appointment has been made for a period of ninety (90) days.

B. If an employee with no break in service to the City, prior to entering a new position with the City, held a permanent title in the City, the probationary term for the new position shall not affect the permanent status that the employee previously held with the City.

C. Prior to the completion of the probationary period, the employee shall be evaluated at least three times (30, 60 and 90 day reviews) by the Department Head or their designee, with notification to the appointing authority, to determine whether said employee should be granted permanent status, reassigned or dismissed. The Department Head shall submit all evaluations in writing. The appointing authority may require periodic reports and recommendations from immediate superiors and department heads for this purpose.

D. The City may extend the probationary period for two (2) additional periods of forty-five (45) days at the sole discretion of the City. To extend the probationary period, (working test period for civil service employees), the employee must voluntarily execute a waiver for the extension of the probationary period.

E. For Police and Fire Department employees, statutory requirements prevailing, shall serve a further probationary period of one (1) year upon the completion of the training courses approved by the New Jersey Department of Law and Public Safety and the Department of Community Affairs, respectively.

### **Section 3 Personnel File**

A. All Department Heads shall maintain the complete personnel file for each employee assigned to their department. Personnel files are confidential records, are secured in a locked cabinet, and will only be available to authorized managerial and supervisory personnel as is deemed necessary. Records relating to any medical condition will be maintained in a separate file for each employee. Any electronic personnel and medical records will be protected from unauthorized access. Employees have the right, with reasonable notice to inspect their own personnel file. All employees may review their file during normal working hours in the presence of their Department Head or designee, upon reasonable notice.

B. An employee's personnel file shall include, but is not limited to the following:

- i. All information contained in paragraph C below;
- ii. All civil service documentation;
- iii. Work history;
- iv. Employee status;
- v. Vacation, sick, and personal days;
- vi. Leaves of absences; and
- vii. Time records.

C. Employees must keep their personnel records up to date by notifying their Department Head or designee of all changes concerning the following:

- i. Home address and telephone number;
- ii. Person to be notified in case of an emergency;
- iii. Legal name;
- iv. Marital status;
- v. Name, number and age of dependent children;

- vi. Insurance beneficiary;
- vii. W-4 form;
- viii. Number of tax exemptions; and
- ix. Vehicle driving privileges.

D. Failure to comply with this subsection may result in disciplinary penalties.

#### **Section 4 Promotions (Title Change)**

A. No requests for title change will be considered prior to the employee having reached the maximum salary under their present title except where a vacancy exists and/or a change in workload or responsibility. Request for salary increase will only be considered during the departmental budget meetings at the end of the year and are granted by the sole authority of the appointing authority.

B. In the event a promotion to a supervisory position is attained, the individual will receive no less than the salary of their previous position.

#### **Section 5 Resignations**

A. Employees are required to give at least two (2) weeks written notice of their resignation to their Department Head. The notice should include the reason for leaving and the exact date it will take effect. Compliance with this requirement shall be deemed proper notice.

B. Failure to provide proper notice will result in the resignation being considered not in good standing and may preclude any future employment with the City.

C. Proper notice generally allows the City sufficient time in which to calculate all monies to which an employee may be entitled and to include said monies in the employee's final paycheck.

D. Employees who are absent from work, without notification, for five (5) consecutive work days shall be considered to have abandoned their position and be considered to have resigned. Such resignation is classified as not in good standing and may preclude future employment with the City.

E. Any employee leaving the employ of the City prior to retirement, or any employee terminated by the City for reasons other than layoff, will not be entitled to accumulated sick leave pay reimbursement.

#### **Section 6 Exit Interviews**

A. Exit interviews with City representatives will be scheduled for employees who are resigning, retiring or who have been laid off or terminated. The purposes of the interviews are to review eligibility for health insurance continuation and conversion, to insure that all necessary forms are completed, to properly calculate all money due to the employee, and if possible, to

ascertain the employee's evaluation of the Department to employee is leaving.

B. The interview is also held to collect all City property (e.g., identification badges, keys), and to provide employees with an opportunity to discuss their job related experiences.

C. You will be notified of the time, date and location of the exit interview.

### **Section 7 Re-employment**

If an employee leaves the employ of the City in good standing and is subsequently re-employed, the employee, upon completion of a new ninety (90) day probationary period, will be granted his vacation time as if there was no break in service; and shall be credited with the total accrued sick leave at the termination of his previous employment, except when the employee's accumulated time was paid out upon his termination of employment.

### **Section 8 Work Force Reduction**

The City reserves the right to institute layoff actions for economy, efficiency or any other related reasons, but will first consider voluntary alternatives.

### **Section 9 Salary Upon Death**

In the event of the death of an employee, payment of salary shall be made up to and including the day of death, together with any accumulated time to which employee may be entitled for services rendered to the City of Linden.

### **Section 10 Granting Accumulated Sick Leave on Death or Retirement**

A. Each employee upon retirement will be granted one (1) day of base pay for every three (3) days of earned sick leave for the first two hundred one (201) days of earned sick leave and one (1) day base pay for each two (2) days of earned sick leave over and above two hundred one (201) days to a maximum payment of Fifteen Thousand Dollars (\$15,000.00).

B. If an employee dies while employed by the City, the employee's beneficiary will receive any earned sick leave pay and accrued, but unused time benefit reimbursement.

## **ARTICLE 7**

### **PRE-EMPLOYMENT EXAM**

As a condition of employment, all employees offered employment with the City shall be subject to a pre-employment medical examination conducted by a physician designated by the Council of the City of Linden, with the expense to be borne by the City. The examination will be scheduled by the City and may be repeated at the City's request. This examination shall include a

test for alcohol and illegal drugs. Employment with the City is contingent upon certification of employability by the City's designated physician.

At the employee's written request, the findings may be sent to the employee's personal physician.

The City reserves the right to conduct a criminal history background check at its discretion and consistent with State Statute. Employment is contingent upon a positive result of the background check or through the City's appeal process.

## **ARTICLE 8**

### **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The City is committed to the principle of equal employment opportunity pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the Pregnancy Discrimination Act of 1978. The policy of the City is to afford equal employment opportunity to all employees and/or prospective employees in any decisions regarding hiring, promotion, transfer, demotion or termination regardless of the individual's race, religion, color, sex (including pregnancy), national origin, ancestry, age, gender, marital status, pregnancy, political affiliation, liability for service in the United States Armed Forces, status as a Vietnam-era or special-disabled veteran, atypical hereditary cellular or blood trait, affectional or sexual orientation, physical or mental disability, genetic information or because of the refusal to submit to a genetic test or to make available the results of a genetic test to the City. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their department head, or, if they prefer, the Office of the Municipal Treasurer or the Municipal Attorney

## **ARTICLE 9**

### **AMERICANS WITH DISABILITIES ACT**

It is the policy of the City to comply with the Americans with Disabilities Act (ADA) and to ensure equal opportunity in employment for all qualified persons with disabilities. The City is committed to ensuring non-discrimination in all terms, conditions and privileges of employment. All employment practices and activities, whether provided or conducted by the City or another entity on our behalf, will be conducted on a non-discriminatory basis.

Recruiting, advertising and job application procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Upon request, applications are available in alternative, accessible formats, as is assistance in completing the application. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position for which they are applying.

Employment physical examinations are given to all persons entering the position only after conditional job offers. Medical records will be confidential and maintained separate from employees' personnel files.

The City will endeavor to make every work environment handicap accessible 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. All decisions with respect to accommodations shall be made by the City Council as recommended by the Department Head and the Councilmatic Committee.

The ADA does not require the City to offer permanent light duty assignments, relocate essential functions or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc. The City does offer temporary light duty assignments. The City offers reasonable accommodations to employees with qualified disabilities pursuant to the ADA. Employees whose reasonable accommodations require reassignment to a different position shall receive the salary of their new position.

All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.

All fringe benefits, whether provided or administered directly by the City or on our behalf, will be accessible to persons with disabilities. Training, apprenticeship programs, conferences, professional meetings, as well as financial support and leaves will be available to all employees. Recreational and social activities sponsored by the City will be accessible to all employees.

The City is also committed to not discriminating against any qualified employee or applicant because he or she is related to or associated with a person with a disability. The City will follow any State or local law that provides individuals with disabilities greater protection than the ADA.

This policy is neither exhaustive nor exclusive. The City is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable Federal, State and local laws.

## ARTICLE 10

### NEW JERSEY LAW AGAINST DISCRIMINATION

It is the policy of the City to comply with the New Jersey Law Against Discrimination (NJLAD). The City is committed to ensuring non-discrimination in all terms, conditions and privileges of employment. All employment practices and activities, whether provided or conducted by the City or another entity on our behalf, will be conducted on a non-discriminatory basis. Specifically, the City shall not discriminate in any job-related action, including recruitment, interviewing, hiring, promotions, discharge, compensation and the terms, conditions and privileges of employment on the basis of any of the law's specified protected categories. These protected categories are: race, creed, color, national origin, nationality, ancestry, age, sex (including sexual harassment), pregnancy, marital status, domestic partnership or civil union status, pregnancy, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information liability for military service, or mental or physical disability, including AIDS and HIV related illnesses. The City is committed to taking all actions necessary to ensure accordance with the NJLAD and all other applicable Federal, State and local laws.

## ARTICLE 11

### ANTI-NEPOTISM

#### Section 1 Definitions

A. "Relative" means an individual's spouse, by marriage or civil union pursuant to NJSA 37:1-33, domestic partner as defined in NJSA 26:8A-3, or the individual's or spouse's parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

B. "Immediate family member" means the person's spouse, partner in a civil union as defined in NJSA 37:1-33, domestic partner as defined in NJSA 26:8A-3, or dependent child residing in the same household.

C. Specifically excluded from this Policy are individuals who are under the age of 23 years old, enrolled as full-time students either in High School or College/University, and who would be assigned as seasonal workers or work under a grant. Examples of excluded programs are Clean Communities, summer or winter seasonal assignments, summer camps or sports programs.

#### Section 2 Restrictions

A. A Department Head or an employee who holds a supervisory title as determined by the Civil Service Commission shall not work in the same department, work group or division as a relative of the Department Head or supervisor, and shall be prohibited from exercising direct or indirect authority, supervision or control over a relative of the Department Head or supervisor.

Where it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screen and/or alternative supervision and reporting mechanisms must be put in place.

B. An elected official who has a relative who is a member of any collective bargaining unit shall be prohibited from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team; nor should that elected official be present with the City Council in closed session when negotiation strategies are being discussed; provided, however, that an elected official may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the City can provide such information.

C. The City shall not hire or employ a permanent full-time or part-time relative of a current employee or elected official unless said prospective hire or employee is qualified for the position pursuant to a fair, open and competitive examination or as otherwise provided by any state statute or regulation.

## **ARTICLE 12**

### **WORK FORCE REDUCTION POLICY**

The City may institute layoff actions pursuant to the rules and regulations set forth by the New Jersey Civil Service System.

## **ARTICLE 13**

### **WORKING CONDITIONS**

#### **Section 1                      Hours**

A. The official office hours of the City are 8:00 a.m. to 5:00 p.m., prevailing time, Monday through Friday. For the efficient operations of certain Departments, the hours of 8:00 a.m. to 5:00 p.m. may be exempted when authorized by the City.

B. The hours of work for all bargaining unit employees shall be specified in contracts and ordinances of the City of Linden.

C. The hours of work for all other employees, including lunch hours, shall be specified by the appointing authority upon the recommendation of the Department Head.

D. No Municipal Office is to be closed at any time during the working day of 8:00 a.m. to 5 p.m. unless authorized by the City. Lunch hour is to be staggered or Department is to arrange for coverage so that the public may be served at any time during the day.

E. Employees are to perform all City work at the employee's work site or where the employee is assigned to appear for work. No employee, except exempt employees as defined in the Article, shall be entitled work at any location other than where assigned. If any employee is required by the City to work from home, express written approval must be obtained from the Department Head and consent from the City Council.

**Section 2                      Attendance and Punctuality**

Punctual and daily attendance is required of each employee. The City operates a timekeeping system. All employees are to adhere to the procedures for the timekeeping system as required by their Department. Failure to adhere to the timekeeping procedures shall subject the employee to disciplinary action.

All employees must, in the event of absence or lateness, notify their supervisor no later than one (1) hour prior to the start of their normal reporting time. In the event of an unforeseen emergency, which prevents an employee from complying with the above requirements, the employee must notify their supervisor as soon as is possible. Failure to properly notify the appropriate your supervisor in accordance with these procedures will result in disciplinary action. Unsatisfactory attendance and/or punctuality, including employees with unsubstantiated or inappropriate patterns of lateness or absences will be subject to discipline, up to and including termination. Failure to comply with the above requirements will have an adverse effect on promotional considerations.

**Section 3                      Holidays**

A. The following official holidays with pay shall be observed by the City:

- |                               |                             |
|-------------------------------|-----------------------------|
| New Year's Day                | Columbus Day                |
| Martin Luther King's Birthday | Veteran's Day               |
| President's Day               | Election Day                |
| Good Friday                   | Thanksgiving Day - Skeleton |
| Memorial Day                  | Christmas Eve Day           |
| July 4 <sup>th</sup>          | Christmas Day               |
| Labor Day                     | New Year's Eve Day          |

B. When any other designated holiday falls on Saturday, Municipal Offices will be closed on the preceding Friday. If a holiday falls on a Sunday, it shall be observed on the following Monday.

C. The day after Thanksgiving shall be considered a skeleton day and employees shall receive a day off as scheduled by their Department Head.

If Christmas Eve Day/New Years Eve Day falls on a Friday or Saturday and Christmas Day/New Years Day falls on a Sunday or Monday, Christmas Eve Day/New Years Eve Day shall be celebrated on the preceding Friday and Christmas Day/New Years Day shall be celebrated on the following Monday.

D. Any off-holiday as may be proclaimed by the Mayor and City Council.

E. Due to the emergency nature of the work of the Police Department, the Fire Department, the Public Works Department and the Municipal Garage, shall have holidays as set forth in their respective contracts, and amendments thereto, with the City.

F. Employees who are scheduled to work twenty (20) hours or more but less than thirty (35) hours per week shall be entitled to holiday pay if the holiday falls on a regularly scheduled workday. The amount of holiday pay will depend on the number of hours the employee is scheduled to work on the holiday.

G. In order to be eligible for holiday pay, employees must work the regular work day before and after the holiday or be on paid sick leave, authorized vacation or compensation day, scheduled day off or jury duty on those days. The same applies to employees where a holiday falls immediately before, on, or immediately after on their scheduled day off.

H. Special rules may apply with regard to employees assigned to work locations that operate on extended schedules.

I. If an employee calls in sick before or after a holiday, they must present a doctor's note to their supervisor, referring to the specific day. Failure to produce a doctor's note will result in the loss of the holiday pay.

J. Holidays that fall within approved vacation leave will be charged to holiday pay if the employee was otherwise required to work the Holiday.

#### **Section 4                      Personal Days**

All full-time City employees, not covered by a collective bargaining unit, shall be entitled to four (4) personal days per calendar year. Full-time employment is considered thirty-five (35) hours per week or more. Employees, who work more than twenty (20) hours per week, but less than thirty-five (35) hours per week, shall be entitled to earn personal days pro-rated on a forty (40) hour workweek. Employees who work less than twenty (20) hours per week are not entitled to personal days.

Employees shall be entitled to utilize their full complement of personal days on the January 1<sup>st</sup> following their first full year of employment with the City. Prior to working for the City for one (1) year, employees shall earn one (1) personal day per quarter at the beginning of the quarter. (For example, an employee hired November 1, 2016 shall earn one (1) personal day on November 1, 2016; one (1) personal day on January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup> and October 1<sup>st</sup>, 2017; and four (4) personal days on January 1, 2018. Employees who were docked pay in the prior calendar year shall have their allotted personal days proportionally pro-rated in the subsequent calendar year. Employee's time shall be pro-rated in their final year of employment with the City.

## **Section 5**

### **Vacation**

A. Vacations for all full-time classified and unclassified permanent employees, not represented by a recognized bargaining unit shall be as follows:

- i. First Year: Credit one (1) working day per month up to December 31<sup>st</sup>;
- ii. Beginning Second Year through Fifth Year: Twelve (12) days;
- iii. Sixth Year through Tenth Year: Fifteen (15) days;
- iv. Eleventh Year through Fifteenth Year: Twenty (20) days;
- v. Sixteenth Year through Twentieth Year: Twenty-five (25) days;
- vi. Twenty-first Year through Twenty-fourth Year: Twenty-five (25) days;
- vii. Twenty-fifth Year: Thirty (30) days.

B. Part-time permanent employees shall be eligible for vacation benefits on a pro rata basis in accordance with their respective period of employment. Full-time seasonal and part-time (less than twenty (20) hours per week) employees shall not be eligible for vacation benefits.

C. Employees shall accrue vacation leave during the first ninety (90) days of employment, but no vacation time may be taken during that time except in a case of emergency, and with the approval of the Department Head.

D. When an elected official who has been fully covered by the City's medical and pension plan since the commencement of their election or appointment subsequently becomes a full-time employee with the City, then the total prior time to the original date of appointment or election shall be used for calculation of vacation time.

E. All vacations schedules must be submitted by Department Heads for themselves and their employees to the Personnel Committee, no later than March 1st of each year.

F. All vacations shall be taken during the current year and vacation time shall not be permitted to be accrued. Vacation selection shall be provided to the employee's Department Head no later than November 1<sup>st</sup> of the preceding year. Vacation time will be granted at the discretion of the Department Head. Any unused vacation may be carried into the succeeding year only upon a written request prior to year-end, and with the recommendation of the Department Head and Councilmatic Committee and with the approval of the Council. Employees shall not be permitted to carryover more than seven (7) days.

G. Any employee retiring during any year shall be entitled to pro-rated vacation benefits for the retirement year.

H. Any employee who resigns during any calendar year shall be entitled to their earned and accrued pro-rated vacation days. Any employee who is terminated for cause shall not be entitled to receive any paid benefit time. Any additional time paid shall be reimbursed to the City.

I. Employees who were docked pay in the prior calendar year shall have their allotted vacation days proportionally pro-rated in the subsequent calendar year. Employee's time shall be

pro-rated in their final year of employment with the City.

## **Section 6                      Salaries and Wages**

A.        The City complies with the New Jersey Minimum Wage Law, as may be amended from time to time. The City shall comply with the Diane Allen Equal Pay Act. The City's Personnel Division, shall annually, review the job descriptions and salaries of employees to ensure compliance with the Equal Pay Act.

B.        The salaries and wages of all officers and employees of the City of Linden shall be paid on a bi-weekly basis in twenty-six payments in each year.

C.        All earned annual increments for non-union employees entitled thereto shall be effective on January 1st and July 1st in accordance with the Salary Schedule adopted by the Council.

D.        Employees of the City who are in the unclassified service and who acquired tenure by reason of various laws such as the Assessor, City Clerk, Receiver of Taxes and City Treasurer and such other employees who may receive tenure shall receive benefits and emoluments at the discretion of Council.

## **Section 7                      Overtime**

Overtime is not permitted for Department Heads as the compensation for management positions takes into account occasional instances where additional hours are involved. Exempt employees are not entitled to accrue overtime compensation.

## **Section 8                      Compensatory Time**

### **A. Employees Eligible for Overtime Payments**

Employees who are entitled to overtime by the Federal Fair Labor Standards Act (FLSA) and/or the New Jersey Wage and Hour Act are classified as non-exempt employees. Non-exempt employees are entitled to overtime in cash at the rate of time and one half for all hours worked in excess of 35 or 40 hours depending upon the employee's single work week. Upon the approval of the City, non-exempt employees may to receive compensatory time in lieu of cash. At the discretion of the City, sick time may not be considered as time worked for overtime payments.

### **B. Exempt Employees**

Employees holding executive, managerial, administrative or professional positions (as defined by the New Jersey Wage and Hour Regulations and the Fair Labor Standards Act) are not entitled to overtime in either cash or compensatory time. Employees under these titles include, but are not limited to: Department Heads, Chiefs of Police and Fire, Attorneys, Engineer, City Treasurer,

Judge, Superintendent Recreation, Director Automotive Services, City Clerk and certain designated Supervisors.

C. Approval

i. Employees must get permission from their Department Head or his designee before they work overtime. Employees who work overtime without permission may not be eligible for overtime compensation and may be subject to discipline, including discharge.

ii. Department Heads shall submit monthly time to the Treasurer on City consistent with the City's designated timekeeping system. These records shall include hours worked; vacation, sick, personal and compensation time earned, used and accrued.

iii. Department Heads shall submit monthly compensation time usage reports to the City Treasurer and the Council on City approved forms.

D. Accumulation of Compensatory Time

i. Employees may accumulate a maximum of 240 hours of compensatory time pursuant to this policy. Since compensatory time is earned on the basis of time and one half, this represents 160 hours of actual overtime work. Employees whose job duties are deemed a public safety activity, emergency response activity, or seasonal activity may accumulate a maximum of 480 hours of FLSA compensatory time.

ii. Employees who have reached the 240 or 480 hour FLSA maximum must be paid time and one half in cash for all hours worked in excess of 40 hours in a week.

iii. Compensatory time that is earned for work that is not in excess of 40 hours per work week is not included in the 240 or 480 hour calculation and is known as "other" compensatory time. This may include compensatory time for hours worked on holidays, where 40 or less total hours have been worked during the pay period.

E. Use of Compensatory Time

i. Employees will be allowed to use compensatory time at their request, subject to approval by their Department Head or designee which approval shall not be unreasonably withheld, provided that the use of the compensatory time does not unduly disrupt the City's operations. The City reserves the right to mandate the use of accrued compensation time.

ii. Compensatory time shall be used in the year it is earned. The Department Head shall, by November 1<sup>st</sup> notify in writing the City Treasurer and their Council Chair if an employee will be unable to utilize his accrued compensation time. The only permissible reason to carry over accrued compensation time is the use of said time will unduly impact upon City operations.

F. Payment for Accrued FLSA Compensatory Time

i. The City may, at its option, substitute cash, in whole or in part, for compensatory time. Such substitution will not affect subsequent granting of compensatory time off in future work-weeks or other work periods.

ii. Upon termination of employment, an employee must be paid for unused compensatory time.

G. Refusals to Work Required Overtime

i. Employees who refuse a directive to work overtime are subject to discipline, including discharge.

ii. Employees who are uncertain about whether they are exempt or non-exempt may contact the Personnel Division, the New Jersey Department of Labor or the United States Department of Labor.

H. Call-In Pay

Employees who are called into work before or after their regularly scheduled shift shall be guaranteed a minimum of two (2) hours pay at the appropriate rate for the time worked outside the regularly scheduled shift hours. Employees working overtime after their normal shift, but in conjunction with it, are not entitled to Call-In Pay.

**Section 9                      Sick Leave**

A. As used in this subsection, “sick leave” shall mean paid leave that will be granted to an employee who, through sickness or injury, becomes incapacitated to a degree that makes it impossible for the employee to perform the duties of the position, or who is quarantined by a physician because said employee has been exposed to a contagious disease. Permanent part-time employees shall be eligible for sick benefits on a pro rata basis in accordance with their respective period of employment. Part-time employees (less than 20 hours per week) and full-time seasonal employees are not eligible for sick leave.

B. A certificate from the employee’s doctor or department physician shall be required as sufficient proof of the need for sick leave after an absence of three (3) consecutive working days.

C. In the first year of employment, an employee shall be entitled to one and one-quarter (1¼) sick day for each month of employment. (Hired prior to the 15th, constitutes the first month) Sick leave shall accumulate on the basis of 1¼ day per month, or 15 days per year. Sick leave may be accumulated from year to year. Employees who were docked pay in the prior calendar year shall have their allotted sick days proportionally pro-rated in the subsequent calendar year. Employee’s time shall be pro-rated in their final year of employment with the City.

D. On an individual basis, an employee may use their sick time for an immediate family member consistent with the New Jersey Earned Sick Leave Act, and with the recommendation of the Department Head and approval of the Council, after providing medical documentation, concurrent with the New Jersey Family Leave Act and the Family Leave Act, accumulated sick leave shall be used by an employee for personal illness, quarantine restrictions, pregnancy or disabling injuries and may be used for attendance upon a member of the immediate family at the discretion of the Department Head and concurrence of Council. All requests for such leaves, with the exception of time used consistent with the New Jersey Earned Sick Leave Act, shall be submitted in writing. Immediate family for the provisions of this subparagraph shall be defined as: employee's spouse, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.

E. Sick leave will not be granted to a new employee until said employee has accumulated ninety (90) days of credited service.

F. Advance paid sick leave is not permitted.

G. Sell back sick leave - Any employee after accumulating ninety (90) days earned sick leave, may at their discretion sell back sick leave days during the period of January 1<sup>st</sup> through January 15<sup>th</sup> of the succeeding year at their prevailing salary according to the following schedule:

<u>SICK DAYS TAKEN</u>	<u>BANK</u>	<u>CASH</u>
0	10 days	5 days
1	10 days	4 days
2	10 days	3 days

Any employee after accumulating 180 days earned sick leave, may at their discretion sell back sick leave days during the period of January 1<sup>st</sup> through January 15<sup>th</sup> of the succeeding year at their prevailing salary according to the following schedule:

Number of Sick Days Utilized	Sick Days Eligible for Sell-Back
0	10
1	9
2	8
3	7
4	6
5	5
6	4
7	3
8	2
9	1
10 or more	0

Any employee utilizing the option to sell back sick time may select only one of the sick leave sell back schedules.

H. Personal Illness - In the case of a long-term personal illness, all accrued sick leave, holidays and personnel leave must be taken in accordance with the provisions of Family Medical Leave Act and the New Jersey Family Leave Act. The City requires the employee to utilize sick time in conjunction with FMLA and/or NJFLA leaves until their sick time is exhausted or until their leave ends. The employee may then apply for Temporary Disability payments.

I. Sick leave and vacation leave credits shall continue to accrue while an employee is on leave with full pay. Credits shall not accrue while an employee is on any leave without pay, except military leave.

J. (i) Employees who inappropriately utilize sick time, for reasons other than those set forth above, are subject to discipline for such inappropriate use. Chronic or excessive absenteeism will not be tolerated, nor will the abuse of sick time, such as a pattern of sick time use, be condoned.

(ii) Excessive absenteeism is interpreted as utilizing more than the employee's yearly allotment of sick time. Chronic absenteeism has broadly been interpreted as utilizing large amounts of sick time over several years, but not necessarily rising to the level of excessive absenteeism.

(iii) The City has performed, and will continue to periodically perform, checks of employees in order to determine if an employee is appropriately utilizing sick time. Such checks may include, but are not limited to, unannounced residency checks and medical evaluations.

## **Section 10 Workers Compensation**

A. The City maintains Worker's Compensation Insurance for all employees who incur job-related illnesses or injuries. Employees who cannot work because they were injured on the job or developed a job-related illness may be eligible for worker's compensation benefits.

B. When a City employee is injured in the performance of his duties, Workers Compensation will prevail and the employee shall receive full salary for the first thirty (30) days. All benefits and emoluments are limited to a one (1) year period from the initial date of injury.

C. In order to be eligible for worker's compensation benefits, an injured or ill employee must immediately report the injury or illness to his supervisor who will submit a written report by the end of the employee's shift to the Department Head. The Department Head shall immediately contact the Division of Personnel and the City Attorney. The Department Head shall submit all reports to the Division of Personnel and City Attorney.

D. Sick days shall not be charged for absences attributable to job-related illness or injury, which are properly reported and verified.

E. In cases of emergencies requiring immediate medical treatment, employees may be treated at the nearest medical facility.

F. The City has the right to select or designate its choice of doctors, surgeons, specialists, hospitals or medical centers necessary for treatment of all job-related injuries or illness. If an employee utilizes doctors, surgeons or hospitals without the City's prior written authorization, the employee may be liable for payment of the bills.

G. The failure to follow these procedures may result in delay or forfeiture of benefits.

H. Return to Work: Employees who miss any time from work for an occupational illness or injury must obtain written medical authorization for a return to work or a change in work status. Employees must report to work as soon as possible following their being deemed medically able to work. In the event an employee is deemed able to return to work but is unable to obtain written authorization to return to work, he must immediately contact his supervisor or Department Head. Employees who are able to return to work, but fail either to obtain written authorization to return or to notify their supervisor or the Department Head of their inability to obtain such written authorization, will be subject to the unpaid leave provisions of this Manual for any time missed from work beyond the date and time they were deemed medically able to do so. Employees found able to return to duty, but fail to do so, may be subject to disciplinary action, up to and including termination.

I. Any employee who has any questions or problems regarding their rights and obligations under this policy must contact the Personnel Division or the City Attorney immediately.

## **Section 11 Leave of Absence**

A. Unpaid leaves of absence may be granted at the sole discretion of the City with a recommendation of the Department Head and the Personnel Committee.

B. Employees may be granted unpaid leaves of absence without pay for good and substantial reasons, which may include, but are not limited to, education, maternity, and medical, but in no event shall unpaid leave be granted for an employee to participate in paid training for or to engage in other employment, and employees participating in such activities during an approved unpaid leave may be discharged.

C. Before being granted a medical leave, employees will be required to first use all accrued sick leave. Employees seeking such leave must first refer to the Family and Medical Leave policies in this Manual. Before being granted a personal leave, employees will be required to first use all accrued paid leave time.

D. If any Employee requests said leave due to a medical condition, the Employee shall submit to a fitness of duty examination.

E. Requests for unpaid leave and extensions of existing unpaid leave must be initiated by written request to the Department Head prior to the start of the leave, or prior to the expiration of a leave if an extension is sought. In the case of a medical leave request, appropriate medical documentation and an examination by a City physician may be required.

F. Employees who are going on unpaid leave must arrange to continue payroll deductions for life insurance, or other benefits paid for through payroll deductions. Failure to arrange for payment may result in lapse of coverage or termination of benefits.

G. Employees returning from an unpaid leave of absence must contact their Department Head and the Office of the Treasurer to arrange for a reinstatement of pay, benefits and other programs which may have been affected by the leave. Failure to do so may result in a delay to full pay status and cause other hardships for the employee. Returning employees must provide a physician's note indicating that they are fit to return to duty.

## **Section 12                      Funeral Leave**

A. A maximum of three (3) working days with pay will be granted an employee in the event of death in his immediate family. Said leave must be taken within seven (7) days of the date of death.

B. All employees on funeral leave may request additional unpaid leave pursuant to the City's Leave of Absence Policy or may utilize vacation or personal days.

C. The term immediate family shall mean spouse, child, parent, sibling, the child of spouse, sibling of spouse, parent of spouse, grandparents and grandchildren of employee and spouse, or relative living under the same roof. Upon request, written proof shall be submitted that a relative was living under the same roof.

D. In the event of death of an aunt or uncle, the employee shall be given a day off with pay on the day of the funeral if she attends the funeral. Upon request, written proof of relationship shall be submitted to Council.

E. The City may request submission of proof of death, which may be evidenced by substantive proofs, such as but not limited to a letter from a member of the clergy or the funeral home. Failure to produce such evidence upon request may result in the forfeiture of funeral leave benefits and/or loss of pay.

## **Section 13**

### **Military Leave**

A. The City provides military leave in accordance with applicable state and federal law. In all cases involving military leave, the employee must, as soon as possible, provide his Department Head with a certificate verifying the call to military duty prior to beginning the military leave.

B. Organized Militia: Any permanent or full-time temporary employee, who is a member of the organized reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve or United States Marine Corps Reserve, or other affiliated organization, including the National Guard of other states, shall be entitled to a leave of absence without loss of pay or time on all work days on which he is engaged training in any period of Federal active duty, up to thirty (30) work days in any calendar year. A military leave of absence is in addition to the employee's regular vacation or other accrued leave. Any request for a leave of absence for active duty will be granted without pay for the duration of the duty, but without loss of seniority.

C. New Jersey Organized Militia: Any permanent or temporary full-time employee who is a member of the New Jersey organized militia shall be entitled, in addition to pay received for the service, to a leave of absence without loss of pay or time on all work days on which he is engaged training in any period of State active duty, up to ninety (90) work days in any calendar year. A military leave of absence is in addition to the employee's regular vacation or other accrued leave. Any request for a leave of absence for active duty will be granted without pay for the duration of the duty, but without loss of seniority.

D. Each employee must be reinstated without loss of privileges or seniority provided he reports for duty with the City within sixty (60) days following his honorable discharge or separation from military service, and provided he has notified the City of his intent to report for duty, thirty (30) days prior to his discharge from military service.

E. Each employee must be reinstated without loss of privileges or seniority provided he reports for duty with the City within sixty (60) days following his honorable discharge or separation from military service, and provided he has notified the City of his intent to report for duty with the City thirty (30) days prior to his discharge from military service. Failure to comply with the requirements enumerated above will jeopardize an employee's reemployment rights.

## **Section 14**

### **Jury Duty**

Upon receipt of a notice to serve on jury duty, the employee must immediately produce the notice to her Department Head. Leave shall be granted for the length of time required by the Court. The employee shall not be deprived of any privileges or benefits of employment during the term of service. Any monetary compensation less travel expenses for jury duty must be returned to the City Treasurer within five (5) working days of the employees return to the City. Evidence of jury service (time served) must be given to the Department Head.

**Section 15**                      **Maternity Leave**

All requests for maternity leave shall be made pursuant to the provisions of the Family Medical Leave Act and the New Jersey Family Leave Act as described in this Manual.

**Section 16**                      **Unaffiliated Part-Time Professional Employees**

Part-time professional employees who are unclassified appointments include, but are not limited to, the following: City Attorney, Assistant City Attorney, Public Defender, Assistant Public Defender, Municipal Court Judge, and Associate Municipal Court Judge. Subject to individual employment terms, the following provisions apply:

A. All part-time professional employees who are unclassified appointments shall be entitled to four (4) personal days on a pro-rated basis based upon a forty (40) hour work week, with the exception of the Municipal Court Judge. Said days are not cumulative year-to-year and there shall be no payout of unused time. The use of said days must be approved by the Department Head. Where use of said days would require coverage from another staff member in the Department, the employee using the time must obtain coverage prior to the use of the time. In the event of emergency or other circumstances beyond the control of the employee, the City may obtain coverage outside of the City’s Department. Coverage which would require the City to expend funds must be approved by the Chair of the Personnel Committee.

B. All part-time professional employees who are unclassified appointments shall be entitled to ten (10) vacation days on a pro-rated basis based upon a forty (40) hour work week. Said days are not cumulative year-to-year and there shall be no payout of unused time. The use of said days must be approved by the Department Head. Where use of said days would require coverage from another staff member in the Department, the employee using the time must obtain coverage prior to the use of the time. In the event of emergency or other circumstances beyond the control of the employee, the City may obtain coverage outside of the City’s Department. Coverage which would require the City to expend funds must be approved by the Chair of the Personnel Committee.

C. All part-time professional employees who are unclassified appointments shall be entitled to fifteen (15) sick days based upon a forty (40) hour work week. Said days may accumulate year-to-year but there shall not be any payout of time upon separation of service with the City, unless the part-time professional employee retires from the City with at least 25 years of service in a qualifying State Pension Plan. If there is a break in continuous service with the City, there will be no carryover or crediting of sick time. The use of said days must be approved by the Department Head. Where use of said days would require coverage from another staff member in the Department, the employee using the time must obtain coverage prior to the use of the time. In the event of emergency or other circumstances beyond the control of the employee, the City may obtain coverage outside of the City’s Department. Coverage which would require the City to expend funds must be approved by the Chair of the Personnel Committee.

## ARTICLE 14

### DRESS CODE

It is the policy of the City that each employee's dress, grooming, and personal hygiene should be appropriate to the work situation.

Employees are expected at all times to present a professional, business-like image to the public. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted. Subject to the standards set forth below, dress related to religious and cultural mores is acceptable and expected to conform to business standards accepted by said religion or culture.

The personal appearance of office workers and employees is governed by the following standards:

- A. Employees are expected to dress in a manner that is normally acceptable in professional business establishments. The wearing of inappropriate or tight fitting clothing and other revealing attire is not appropriate, Dungarees, jeans, jean material, athletic clothing, sweatshirts, shorts, tank tops, halter-tops, tube tops, oversized-shirts, tops with bare shoulders unless worn under another blouse or jacket, mini-skirts, leggings, sneakers, flip-flops, T-shirts, hats, and similar items of casual attire are not permitted, as they do not present a business-like appearance.
- B. Hair should be clean, combed, and neatly trimmed or arranged. Shaggy, unkempt hair is not permissible regardless of length.
- C. Sideburns, moustaches and beards should be neatly trimmed.
- D. Male employees are expected to wear a collared shirt and neat slacks.
- E. At its discretion, the City may allow employees to dress in a more casual fashion than is normally required. On such occasions, employees are still expected to present a neat appearance and are not permitted to wear ripped or disheveled clothing, athletic wear, or other similarly inappropriate clothing.
- F. Employees who are provided with uniforms shall wear same during performance of duties, except for specific approved assignments.
- G. Should there be any question regarding acceptable or unacceptable attire, please contact your supervisor or a department head.
- H. These general guidelines do not address every type of clothing. Management reserves the right to determine if clothing is inappropriate, unprofessional or revealing. An employee may be sent home for inappropriate attire. An employee determined to be dressed inappropriately shall be subject to discipline, up to and including termination.

- I. Clothing, grooming and appearance does affect the health, safety and orderly operation of the City and as such, clothing, appearance or grooming which interferes or violates the standards set forth above is not permitted.
- J. All employees shall abide by the requirements of this policy unless a specific approved assignment requires appropriate clothing for the task.

## **ARTICLE 15**

### **UNIFORMS**

Certain employees, by virtue of their duties, are required to wear uniforms and/or approved work clothes. Said employees must wear only the uniforms or approved work clothes while on duty. No employee shall wear their City uniform on non-work hours. Employees may only wear their City uniform coming from their residence to work and from work to their residence and during their regular work shift. City employees may not inappropriately utilize their City uniform for private purposes, or with associated conduct of ill-repute. Failure to comply with this policy may subject you to disciplinary action.

## **ARTICLE 16**

### **IDENTIFICATION BADGES**

Employees who are issued photo identification cards and must possess them while at work. Failure to do so may subject you to disciplinary action.

## **ARTICLE 17**

### **CONTAGIOUS OR LIFE THREATENING ILLNESSES POLICY**

The City encourages employees with contagious diseases or life-threatening illnesses such as cancer, heart disease, Hepatitis C and HIV/AIDS to continue their normal pursuits, including work, to the extent allowed by their condition. As in the case of other disabilities, the City shall make reasonable accommodations, in accordance with legal requirements, to allow qualified employees with contagious or life-threatening illnesses to perform the essential functions of their jobs as long as they are able to meet acceptable performance standards. Employees have a duty to inform their Supervisor or Department Head if they have a contagious disease which may affect the health of their fellow employees or the safety, welfare or operations of the facility. Medical information shall be treated confidentially. The City will take reasonable precautions to protect such information from inappropriate disclosure.

Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact their Department Head, the Division of Personnel or the City Attorney.

## ARTICLE 18

### **EMPLOYEE REPORTING CRIMINAL CHARGES**

A. All employees shall have the affirmative obligation to report, in writing (or orally if the submission of a written report is impractical due to incarceration), their arrest or indictment for any crime or offense, or quasi-criminal charge, brought against such employee in the Superior Court or any Municipal Court in this or any other jurisdiction to their Department Head and the Personnel Department within ten (10) calendar days of the arrest or indictment. The report submitted to the Department Head and Personnel Department shall include the date of arrest or indictment and charge(s) lodged against the employee.

B. This shall not apply to motor vehicle offenses under N.J.S. 39, unless the Court action affects the employee's driving privileges, such as driving under the influence.

C. The Department Head and Personnel Department shall cause the matter to be investigated in order to determine if the arrest or indictment affects the health, welfare, safety and/or orderly operations of the County or its employees. During the course of the investigation, the City shall keep the report of the arrest or indictment confidential, to the extent possible.

D. The employee shall, within seven (7) calendar days of the disposition of the criminal matter, notify the Department Head and Personnel Department of the disposition of the charges.

E. Failure to comply with these reporting requirements may be deemed "just cause" for disciplinary action, which may include termination.

## ARTICLE 19

### **THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)**

#### **Section 1**            **Employee Rights**

Employees who have been employed by the City for at least twelve (12) months and worked at least 1,250 hours during the last twelve (12) months are entitled to a maximum of twelve (12) weeks of unpaid leave in any twelve (12) month period.

#### **Section 2**            **Reasons for Taking Leave**

A. Unpaid leave must be granted for any of the following reasons:

- i. Childbirth and care of a newborn child (eligibility expires twelve (12) months after the birth of the child);
- ii. Adoption or placement of a foster child (eligibility expires twelve (12) months after adoption or placement);
- iii. Care of the employee's spouse, child or parent with a serious health condition; or
- iv. Serious health condition of the employee that renders the employee unable to perform the functions of her or his position.

B. Leave can be taken intermittently or on a schedule that reduces the usual number of hours per work day or work week to care for a child, spouse, or parent who has a serious health condition, or because of the employee's serious health condition. Intermittent or reduced leave schedules because of the birth of a child, adoption, or foster care are subject to City approval. Such reduced or intermittent leave schedules do not result in a reduction in the total amount of leave to which employees are entitled. Thus, an employee who takes four hours' leave has utilized only four hours of the twelve (12) weeks of leave to which she or he is entitled. If the leave is foreseeable because of planned medical treatment, the City may require an employee to transfer to an alternative position with equivalent pay and benefits.

C. Time spent on workers' compensation and paid and unpaid leave, such as sick, vacation or personal, is considered part of the twelve (12) week FMLA entitlement if the absence is due to a serious health condition as defined below.

**Section 3                      Definitions**

A. "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person who stands in loco parentis, who is under age 18, or age 18 or older and incapable of caring for himself because of a mental or physical disability.

B. "Health Care Provider" - Health care providers who may provide certification of a serious health condition include:

- i. Doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices;
- ii. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the State and performing within the scope of their practice under State law;
- iii. Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under State law and performing within the scope of their practice as defined under State law;
- iv. Christian Science practitioners listed with the First Church of Christ, Scientist of Boston, Massachusetts;

- v. Any health care provider recognized by the employer or the employer's group health plan's benefits manager; and,
- vi. Any health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

C. "Parent" means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parents-in-law.

D. "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves:

- i. any period of incapacity or treatment connected with in-patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- ii. a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider, or
- iii. any period of incapacity due to pregnancy, or for prenatal care; or
- iv. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- v. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
- vi. any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

E. "Spouse" means a husband or wife as defined or recognized under State law for purposes of marriage.

F. Persons who are in "loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

#### **Section 4                      Job Benefits And Protection**

A. City-paid health insurance benefits will continue for the duration of an unpaid FMLA leave (up to twelve (12) weeks). Employees who have selected an HMO that requires an employee contribution will be obligated to continue to make those contributions.

B. Upon the expiration of the FMLA leave, employees will be restored to the original or an equivalent position with equivalent benefits, pay and all other terms and conditions of employment. However, employees do not earn seniority or other employment benefits during an unpaid FMLA leave.

C. Restoration to employment can be denied to certain highly paid employees, but only where they have been given notice by the City before they commenced their FMLA leave. Those employees must be among the highest-paid ten (10%) percent of the City's workforce. Restoration to employment can only be denied when necessary to prevent substantial and grievous economic injury to the City's operations and the City so notifies the employee at the time of its determination.

D. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## **Section 5 Notice Requirements**

Employees are required to provide advance notice to their supervisors of their intention to take leave under FMLA.

At least thirty (30) days' notice must be provided when the need for the leave is foreseeable. However, if the required medical treatment, birth, adoption or placement is due to begin in less than thirty (30) days; a reasonable amount of notice is required.

Family leave must be approved by the City Council.

## **Section 6 Certification of Need for Leave**

A. The City requires certification from a health care provider to support a claim for FMLA leave. The certification must state:

- i. a statement of the serious health condition;
- ii. the date the serious health condition commenced; and
- iii. the probable duration of the condition.

B. In the case of leave to care for a family member, the certification must include:

- i. a statement that the employee is needed to care for the family member; and
- ii. an estimate of the amount of time the employee needs to care for the family member.

C. In the case of leave due to the employee's serious health condition, a statement that the employee is unable to perform the functions of his or her position is also required.

D. In the case of intermittent or reduced schedule leave, the certification must include:

- i. dates of planned medical treatment (if applicable); and
- ii. a statement of medical necessity for intermittent leave.

E. In the event of the birth or adoption of a child, the certification need only state the date of birth or adoption, whichever is appropriate.

F. If the City doubts the validity of the certification, the City may obtain the opinion of a second health care provider at its expense. If the first and second opinions are in conflict, the City may obtain a third opinion at its expense.

E. Completed Certifications must be submitted to the department head within fifteen (15) calendar days. The department head must immediately forward the certification to the Office of the Municipal Treasurer. Failure to supply required medical certification may result in denial of leave requests and the imposition of discipline.

## **Section 7 Other Requirements**

A. Employees may be required to schedule planned medical treatment so as not to unduly disrupt City operations.

B. When a husband and wife work for the City, the total amount of FMLA leave that they may take is limited to twelve (12) weeks per twenty-four (24) month period if they are taking leave for the birth or adoption of a child, placement of a foster child or to care for a sick parent.

C. Employees who do not return from a FMLA leave are obligated to reimburse the City for the health insurance premiums paid by the City during that leave. However, if an employee fails to return to work because of a recurrence or onset of a serious health condition or because of other conditions beyond the control of the employee, no reimbursement is required.

D. Employees who take a FMLA leave because of their own serious health condition may be required to supply a certification that they are fit for duty and able to resume work.

E. Employees are obligated to utilize any accrued sick time concurrent with their FMLA leave until their accrued sick time is exhausted or the employee returns to work.

## **Section 8 Relationship To Other Laws And Policies**

The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law, collective negotiations agreement or employment benefit plan providing greater employee family leave rights.

**Section 9**                      **Unlawful Acts By The City**

**FMLA makes it illegal for the City to:**

- A.     interfere with, restrain, or deny the exercise of any right provided under FMLA;
- B.     discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**Section 10**                      **Enforcement**

A.     Employee rights are enforceable through civil actions. The Secretary of Labor of the United States Department of Labor is authorized to receive, investigate, and attempt to resolve complaints of violations and may bring an action against the City in any Federal or State court of competent jurisdiction. Actions must be brought not later than two (2) years after the date of the last event constituting the alleged violation, or within three (3) years of the last event, if the alleged violation is willful.

B.     Complaints about violations of the FMLA are filed with the United States Department of Labor, Employment Standards Administration (ESA). Inquiries should be directed to the local offices of the Wage and Hour Division, ESA. The address and telephone number are listed in most telephone directories under "U.S. Government, Department of Labor."

**Section 11**                      **Damages**

A.     If successful in their civil action, employees can recover back pay, employment benefits, or, if no such damages are recovered, any actual monetary losses sustained as a direct result, such as the cost of providing care, up to an amount equal to 12 weeks of the employee's wages. The City is also liable for interest and liquidated damages equal to the amounts recovered.

B.     Employees can also be awarded other types of relief, such as reinstatement and promotions and attorneys' and expert witness fees.

**Section 12**                      **For Additional Information**

Contact the Office of the Municipal Treasurer or the nearest office of the Wage and Hour Division, listed in most telephone directories under "U.S. Government, Department of Labor".

## ARTICLE 20

### NEW JERSEY FAMILY LEAVE ACT

#### **Section 1 Employee Rights**

Pursuant to the New Jersey Family Leave Act, employees who have been on the City payroll for at least twelve (12) months and who worked at least 1,000 hours during the preceding twelve (12) month period are eligible to take up to twelve (12) weeks of unpaid leave in any twelve (12) month period ("Family Leave").

#### **Section 2 Reasons for Taking Unpaid Family Leave**

Unpaid Family Leave must be granted for any of the following reasons:

- A. Childbirth and care of a newborn;
- B. Adoption of a child; and
- C. care of the employee's spouse, child or parent with a serious health condition.

#### **Section 3 Notice Requirements**

A. Completed applications must be submitted to supervisors at least thirty (30) days in advance in cases of the adoption or birth of a child and fifteen (15) days in advance if the Leave is to care for a family member. If the required medical treatment, birth, adoption or placement is to begin in less than the respective thirty (30) or fifteen (15) days, a reasonable amount of notice is required. Employees seeking Leave on an intermittent or part-time basis must give at least two weeks prior notice.

- B. Family leave must be approved by the City Council.

#### **Section 4 Job Protection**

A. An eligible employee returning from Family Leave is entitled to be restored to his or her prior job or equivalent position, unless the job or position has been eliminated through a legitimate reduction in force.

- B. The City may deny Family Leave if:
  - i. The employee is a salaried employee who is among the highest paid 5% of the City's employees or of the seven highest paid employees, whichever is greater;
  - ii. The denial is necessary to prevent substantial and grievous economic injury to the City's operation; or

- iii. The City notifies the employee of its intent to deny the leave at the time the City determines that the denial is necessary.

**Section 5**                      **Certification of Need for Leave**

A. The City requires certification of the need for Family Leave. In the event of Family Leave for the care of the employee’s spouse, child or parent with a serious health condition, the certification must include:

- i. A statement of the serious health condition;
- ii. The date on which the serious health condition commenced; and
- iii. The probable duration of the condition.

B. In the event of Family Leave for the birth or adoption of a child, the certification need only state the date of birth or adoption, whichever is appropriate.

C. The City, at its expense, may seek a second or third opinion as to the need for the leave.

**Section 6**                      **Miscellaneous**

A. Employees who are on Family Leave may not be employed on a full-time basis by another employer unless the employee performed those same services immediately prior to commencement of the Family Leave.

C. This leave is in addition to and will not conflict with any rights granted under the Temporary Disability Benefits Law.

D. Employees are obligated to utilize any accrued sick time concurrent with their NJFLA leave until their accrued sick time is exhausted or the employee returns to work.

**ARTICLE 21**

**INTERACTION BETWEEN THE FEDERAL FMLA AND THE STATE FAMILY LEAVE ACT**

The Federal FMLA may interact with the State Family Leave Act as follows:

**EXAMPLE ONE:** A City employee needs to take leave for the birth of a child in 1993 and the birth of another child in 1994. If the employee is eligible for leave under both State and federal laws, the employee may utilize the twelve (12) week entitlement in 1993, which counts against leave under both laws. The City must comply with applicable provisions of both laws. More generous provisions of the FMLA, such as those on intermittent and reduced leave, apply. However, more generous provisions under State law, such as the retention of seniority, also apply.

In 1994, the employee is not entitled to family leave under State law because State law only permits twelve (12) weeks of family leave in a two-year period. However, the employee is entitled to family leave under federal law because the FMLA permits a family leave of twelve (12) weeks in a twelve (12) month period.

**EXAMPLE TWO:** A City employee suffers from a serious health condition which makes the employee unable to perform his job duties. If the employee meets the criteria for eligibility under the FMLA, the employee is therefore entitled to twelve (12) weeks of medical leave. This leave does not count against the employee's entitlement under State law because State law does not provide for leave for an employee's own serious health condition. Therefore, during the same twelve (12) month period, if the employee needs to take leave because of the serious health condition of a child, the employee is entitled to twelve (12) weeks of such leave under State law as long as the employee meets the criteria for eligibility.

**EXAMPLE THREE:** A City employee is disabled due to her pregnancy and is unable to work. The employee needs to take twelve (12) weeks of leave for this reason. If the employee is eligible for medical leave under the FMLA, then the twelve (12) weeks of pregnancy-disability leave will count toward her FMLA entitlement for that twelve (12) month period. If she thereafter wishes to take twelve (12) weeks of leave to care for her new child and is eligible for family leave under State law, she may then take twelve (12) weeks of family leave. However, if the employee needs additional leave for child care, she may apply for leave without pay for this additional leave. The City may, but is not required to, grant such additional leave, since the employee has exhausted her leave entitlements under both State and federal law.

## ARTICLE 22

### **HEALTH INSURANCE BENEFITS**

#### **Section 1**

All employees shall be permitted to enroll in the City's designated Health Benefits Program as implemented by the City. All employees are entitled to enroll in the City's prescription plan. The City reserves the right to change insurance carriers and/or plans or to self-insure so long as substantially similar benefits are provided. The City will notify its employees not less than thirty (30) days prior to the change.

#### **Section 2**                      **Benefits Continuation (COBRA)**

A. The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage

under the City's health plan when a "qualifying event" would normally result in the loss of eligibility.

B. Under COBRA, the employee or beneficiary pays the full cost of coverage at the City's group rates plus an administration fee. The City provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under the City's health insurance plan. The notice contains important information about the employee's rights and obligations, including what constitutes the "qualifying event" referenced above.

### **Section 3 Continuation of Health Benefits (Unpaid Leave of Absence)**

A. An employee on an approved unpaid leave-of-absence due will be continued on health benefits coverage at City expense for a period not to exceed three (3) months. Coverage may be continued beyond the three (3) month period, pursuant to the City's COBRA policy.

B. Employees on an approved unpaid leave-of-absence for personal reasons may continue health benefits coverage pursuant to the City's COBRA policy. Employees on personal leave who do not arrange for continued coverage will be dropped from coverage effective the first of the month following the beginning of the leave of absence.

C. Employees who seek to continue health benefits coverage must make the arrangements to continue coverage. Failure to secure coverage will be considered the employee's error, and not that of the City. To secure continued coverage the employee should contact the Office of the Municipal Treasurer to determine the cost of the coverage. Payments by employees for continued coverage must be received no later than the 15th of the month prior to the first of the month during which the employee will be on leave. Failure to supply the payment in a timely manner will result in a lapse of coverage.

D. If you have any questions or problems regarding continuation of benefits, please contact the Office of the Municipal Treasurer.

### **Section 4 Continuation of Health Benefits while on Disciplinary Suspension**

A. Employees who are suspended from work for more than thirty (30) consecutive days are not eligible for City-paid health benefits.

B. Suspended employees may continue health benefits coverage at their expense beyond the thirty (30) days pursuant to the City's COBRA policy. Suspended employees who elect to continue coverage will have no interruption in benefits.

C. Health benefits coverage will be terminated in cases where suspended employees elect not to continue coverage at their expense. If health benefits coverage is terminated, new enrollment forms must be completed by affected employees upon their return to work. Failure to do so will result in the affected employees and their eligible dependents remaining as uninsured by the City.

D. To secure continued coverage, suspended employees should contact the Office of the Municipal Treasurer to determine the cost of the coverage.

E. Payments for continued coverage must be received no later than the 15th of the month prior to the first of the month during which the employee will be suspended. Failure to make the payment in a timely manner will result in termination of coverage.

F. If you have any questions concerning continuation of benefits, please contact the Division of Personnel.

## **Section 5 Declining Health Insurance Coverage**

A. Employees who are covered under the health care insurance of a spouse or employees who have health insurance coverage from another source may decline the City's health insurance coverage and will be entitled to an annual cash payment in accordance with the provisions as set forth below:

B. The annual cash payment will be determined by the City Council and payable on or about December 20<sup>th</sup> of each year that the employee has waived the City's health insurance coverage. In the event that the employee has not been employed for a full calendar year, the payment shall be prorated.

C. The declining of health insurance coverage is solely at the employee's option.

D. The employee shall notify, in writing, the Personnel Division on a form to be provided by the City no later than December 20<sup>th</sup> of the year preceding the year for which the employee is declining health insurance coverage.

E. Proof of other health insurance coverage must be included with the form waiving the City's health insurance coverage.

F. In the event the employee requests a return to the health insurance coverage as provided by the City prior to receiving the compensation as described herein, the employee will not be entitled to any payment.

G. An employee who requests a return to the City's health insurance coverage will be eligible for coverage in accordance with the existing rules and regulations of such coverage.

H. In the event an employee seeking to return to the City's health insurance coverage is not eligible for immediate coverage under said plan, the City will pay for COBRA coverage at a cost not to exceed the cost of premiums being paid for by the City under the plan.

I. The City reserves the right to change insurance carriers and/or plans or to self-insure so long as substantially similar benefits are provided. The City will notify its employees not less than thirty (30) days prior to the change.

## ARTICLE 23

### OTHER INSURANCE BENEFITS

#### Section 1                    **Life Insurance**

The City shall assume the full cost of life insurance for each employee over 30 work hours per week for her term of employment equal to at least her base annual salary, with limitation of \$15,000.00.

#### Section 2                    **Automobile Liability Insurance**

The City shall provide adequate liability insurance for all City vehicles utilized by its employees while on City business.

#### Section 3                    **Unemployment/Temporary Disability Insurance**

City employees are covered by New Jersey Unemployment Insurance, which generally provides compensation in cases where employees are laid off. Said coverage also may provide compensation to employees who sustain non-job related injuries or illnesses which render them unable to work. These benefits are determined by the State of New Jersey at the time application for benefits are made. State law requires that employees contribute to unemployment insurance by payroll deduction. The City also contributes at a rate determined by the State.

## ARTICLE 24

### RETIREMENT

#### Section 1                    **Notification of Retirement**

Employees who intend to retire from service with the City shall provide notice to the City as far in advance as possible. If an employee is within ninety (90) days of their retirement date, the employee may only withdraw or extend the retirement date with the expressed authorization of the City. Said approval by the City shall be in the sole discretion of the City.

#### Section 2                    **Public Retirement Systems (PERS/PFRS)**

A. All eligible employees are enrolled in PERS or PFRS pursuant to the respective retirement system's regulations.

B. Contributions to PERS/PFRS are made by the City and eligible employees through payroll deduction. Deductions are based on a percentage of salary determined by the State Treasurer. Eligible employees may also elect to buy pension credit for leave of absence without pay, military or prior temporary or permanent public service. Employees enrolled in PERS/PFRS

for less than ten (10) years whose employment is separated from the City before retirement may request that their pension deductions be refunded.

C. Benefits include non-contributory life insurance that provides 1½ times that employee's annual salary. Additional contributory insurance is provided for an additional 1½ times the employee's annual salary. This contributory insurance is compulsory for the first full year of enrollment for eligible employees and optional thereafter.

D. Additional benefits and details are available in the pamphlet entitled Public Retirement in New Jersey. Copies of this pamphlet are distributed to all new employees. If you have any questions concerning PERS/PFRS, please contact the appropriate system directly.

## **ARTICLE 25**

### **RELIGIOUS HOLIDAYS**

A. Employees may utilize accrued vacation leave, personal days or compensatory time for observance of religious holidays not listed elsewhere in this Manual. Employees must notify their supervisor or department head at least five (5) days prior to the requested day off.

B. Employees with no accrued vacation, personal days, or compensatory time may request an unpaid leave of absence in order to observe their holiday(s). Employees shall not use sick leave for observance of religious holidays.

## **ARTICLE 26**

### **TIMEKEEPING**

The City's timekeeping system shall be recognized as a prominent tool in the management of employee time for the City. As such, it shall receive the proper attention by each Department Head, Supervisor and employee. The Department Head, as the leader of the Department, is responsible for the accuracy of the information contained in the system. Department Heads shall bring to the attention of subordinates any misuse of the system or abuse of their time and take corrective action, which shall include discipline up to and including termination.

All time off issues shall be addressed by the CFO/Municipal Treasurer and/or the Personnel Division, who shall have the authority to direct a Department Head to make corrections to the system or may make the corrections themselves. The procedures are as follows:

A. The Department Head, or designee, shall review daily the timekeeping records by the close of business the reporting time of the employees in order to verify and observe their time and attendance.

B. The recording of vacation time shall be completed on the first day of the vacation period through the last day of the vacation period. All vacation requests shall be made in writing consistent with the City's vacation policy or the employee's collective negotiations agreement with the City. A single vacation day shall be entered into the system no later than the end of the work day. At all times the granting of a vacation request shall be done consistent with the operational needs of the Department so that the City operations are not compromised.

C. Sick time shall be entered into the system as soon as the employee notifies the office of the need to call out of work, but no later than the end of the work day on the day of the occurrence. Additionally, an employee is required to follow City policy or the terms of the collective negotiations agreement between the employee and the City.

D. Personal and Administrative days shall be entered into the system no later than the end of the work day on the day that has been requested.

E. All employees shall punch in and out for work and in and out for lunch breaks. In those situations, when an employee is performing work outside of a location where a timekeeping machine is located, they must personally inform the Department Head or designee of the start and ending time of their lunch break. Employees who require time and a space to pump for breastfeeding, shall make arrangements with their Department Head and the Personnel Division. Employees who require said time, will not be required to punch in and out. Since these times are self-reported, the times shall be documented on a written form in at the Department Head's office and all records shall be kept in a secure area in which it can be accessed by the person recording the information. The Department Head shall review the log at the end of each week to ensure compliance of the entries and signs the same. The person designated to input information into the system shall make the time notations as required.

F. If the Department Heads call off sick or has a need for an emergent day off, they shall contact the Mayor's Office, who will then notify the next in charge of the Department Head's absence. During the Department Head absence, the operation of the Department shall run as if the Department Head was on vacation.

G. Authorized compensation time will be punched in separately, i.e. an employee is staying late, they should punch out at the end of their shift and immediately punch back in for the compensation time. The Department Heads will notify Personnel Division, so the time can be reclassified as compensation time.

H. The system is meant to be a tool to enhance the efforts of the City employees. The Department Heads should use the time and attendance records to stop bad habits before they become more disruptive. It should be used to document outstanding employees who are always on time and available to serve the public. It provides strong documentation to the public that their tax dollars are used productively and time is not lost. The system is your tool to keep your staff aware of earned sick, vacation, personal and administrative days they have left.

I. City employees shall be reminded that their respective starting time is not when they punch in, but rather when they are at their work station ready and able to serve the residents of the City.

## ARTICLE 27

### **SAFETY PROCEDURES AND EQUIPMENT**

A. The City will provide a safe and healthy work environment for all employees and shall comply with the New Jersey Public Employees Occupational Safety and Health Act (PEOSHA). The City is equally concerned about the safety of the public. Consistent with this policy, as appropriate, employees will receive periodic safety training and will be provided with appropriate safety equipment.

B. 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.

C. Any occupational or public unsafe condition, practice, procedure or act known to an employee must be immediately reported to the employee's supervisor, Department Head or City Attorney. Any on-the-job accident or accident involving City facilities, equipment or motor vehicles must also be immediately reported.

D. The involved employees shall set forth a written narrative of the circumstances and nature of the accident as soon as practical. Said report shall be submitted to the employee's supervisor who then shall forward the report to the Department Head, who shall issue a report to the appropriate Councilmatic Committee.

E. Supervisory personnel are responsible for knowing, understanding and enforcing all safety rules and regulations. All employees are required to adhere to the rules and regulations posted at each location, and contained in this and other official City issued literature. In the event that an employee does not comply with a safety requirement, the employee may receive disciplinary action up to and including termination.

F. In case of emergency, dial 911 and then notify your supervisor. The facility where you work has an emergency evacuation plan. Please review the emergency evacuation plan for the facility to which you are assigned and follow it in case of an emergency.

## ARTICLE 28

### ALCOHOL AND DRUG-FREE WORKPLACE

#### Section 1

A. The City is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any City employee improperly consumes alcohol or illegally uses drugs on the job, comes to work under their influence, or possesses, distributes or sells alcohol or drugs in the work place. Therefore, the City has established the following policy:

- i. It is a violation of City policy for any employee to possess, sell, trade, or offer for sale alcohol or illegal drugs or otherwise engage in the consumption of alcohol or illegal use of drugs or other substance on City premises, in City vehicles, or while on City business.
- ii. It is a violation of City policy for anyone to report to work under the influence of alcohol or illegal drugs.
- iii. It is a violation of City policy for anyone to use prescription drugs illegally. Nothing in this policy, however, precludes the appropriate use of legally prescribed medications.
- iv. Violations of this policy are subject to disciplinary action up to and including termination.

B. Everyone shares responsibility for maintaining a safe work environment and co-workers should encourage anyone who may have an alcohol or drug problem to seek help.

#### Section 2                      **Employees Excluded from Policy**

A. In keeping with U.S. Department of Transportation requirements, the City has adopted testing practices for applicants for positions that require a Commercial Drivers License (“CDL”) and for employees holding Commercial Drivers Licenses (“CDL”) to identify persons who improperly consume alcohol or use illegal drugs either on or off the job. All applicants for positions that require a CDL license and all employees whose job requires them to possess a CDL license shall be excluded from this Alcohol and Drug-Free Workplace policy. Instead, they are covered by the City’s Drug and Alcohol Policy for Employees Required to Possess a Commercial Driver’s License, designated as Appendix B to this Manual. Employees hired with the understanding that they must obtain a CDL license will be covered under this Alcohol and Drug-Free Workplace Policy until they obtain their CDL license.

B. All drug testing of law enforcement applicants and employees shall be in accordance with the New Jersey Attorney General’s Law Enforcement Drug Testing Guidelines and the Union County Prosecutor’s Office. All alcohol testing of law enforcement employees shall be in accordance with this policy.

### **Section 3**

### **Drug and Alcohol Testing**

A. The City adopts pre-employment drug testing, reasonable suspicion drug and alcohol testing, and post-accident drug and alcohol testing.

B. Drug testing will be conducted through split-sample urinalysis, saliva or hair follicle, while alcohol testing will be conducted through breath, urine or saliva screening. Testing will be conducted by an independent medical facility chosen by the City.

C. An alcohol concentration of 0.08% or greater constitutes a positive alcohol screening test.

D. If an employee receives a positive drug test result, the employee can request a second drug test from a split sample at the employee's own cost. If the results of the second test conflict with the first, the employer will schedule a third and final test at a mutually agreed independent medical lab. All parties will be bound by the result of the third and final test. Both parties will share the cost of the third test. If a false positive test result is proven to have occurred, the cost of the second test and one-half of the cost of the third test will be reimbursed to the employee.

i. Pre-Employment Drug Testing

All job applicants extended a conditional offer of employment for a position with the City will undergo testing for the presence of illegal drugs as a condition of employment. Any applicant with a confirmed positive test result will be denied employment. The City will not discriminate against applicants for employment because of a past history of alcohol or drug abuse. Therefore, individuals who have failed a pre-employment drug test may initiate another inquiry with the City after a period of no less than six months, but must present themselves drug-free. The City will cover the cost of pre-employment drug testing.

ii. Reasonable Suspicion Drug and Alcohol Testing

It shall be a condition of employment for all employees to submit to alcohol and/or drug testing when there is reasonable suspicion to believe that an employee is under the influence of alcohol or using illegal drugs. The City will cover the cost of reasonable suspicion drug and/or alcohol testing

iii. Post Accident Alcohol and Drug Testing

It shall be a condition of employment for all employees to submit to alcohol and/or drug testing when an employee is involved in an on-the-job accident where personal injury or damage to City property occurs. The City will cover the cost of post accident drug and/or alcohol testing.

E. Consistent with the City's Drug and Alcohol Policy, an employee who has a sustained positive drug or alcohol test, where no accident or injury has occurred, will be suspended for 30 calendars. A finding of a second positive drug test shall result in termination.

**Section 4**                      **Refusal to Test**

Any employee who refuses to comply with a request for alcohol and/or drug testing shall be considered as having produced a positive test result and will be discharged. Any employee who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, shall be terminated. If the laboratory detects that a substance has been added to the sample to interfere with the normal testing process, the employee will be deemed to have refused to test and the same sanctions will apply.

**Section 5**                      **Prescription Drugs**

A. If an employee takes an over-the-counter medication or a prescribed drug, the employee must consult his or her prescribing medication professional to determine whether the drug may have an adverse effect on his or her personal safety or job performance while at work. If the effects of the medication could pose a danger to the employee's safety, or the safety of a co-worker or any other person, or otherwise impair the employee's ability to perform his or her job, the employee must inform his or her Supervisor or Department Head.

B. The Supervisor or Department Head may require the employee to produce acceptable medical documentation of the employee's ability to safely and properly perform all of their job duties. Failure or refusal by an employee to properly inform the Supervisor of Department Head or to produce acceptable medical documentation, upon request, may result in discipline, up to and including termination of employment.

**Section 6**                      **Right to Inspect**

The City reserves the right to inspect, investigate and search for controlled substances at any time, with or without prior notice, on or in any and all City premises and vehicles. Refusal to cooperate with any inspection, investigation, or search that is authorized by a City representative shall result in termination of employment.

**Section 7**                      **Rehabilitation**

A. The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and alcohol/drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the improper consumption of alcohol or illegal use of drugs is incompatible with employment with the City. Therefore, the City strongly encourages an employee with a drug/alcohol abuse problem to voluntarily step forward to tell the Supervisor, Department Head or any other City official with whom the employee feels comfortable.

B. The City recognizes the health implications of alcohol abuse and drug use on its employees and considers it a treatable illness. As with other illnesses, the City's primary objective is to assist in the employee's rehabilitation. The City designed this policy to encourage employees to voluntarily seek help for any substance abuse problems.

C. An employee may voluntarily admit to the City, through their Supervisor, Department Head or any other City official with whom the employee feels comfortable, that the employee has an alcohol or substance abuse problem without fear of discipline or discharge. Upon admission of an alcohol or substance abuse problem, the City will provide the employee with information on where they may seek counseling and the individual will immediately enroll himself or herself in a rehabilitation program. The costs of counseling may be covered by the employee's medical insurance. If not, the costs of such outside services are the employee's responsibility.

D. An unpaid leave of absence will be granted for a reasonable period for treatment. The City will make every effort to hold the employee's position during the rehabilitation process. The City will not take disciplinary action against an employee who voluntarily admits having an alcohol or substance abuse problem unless that employee refuses to enroll in and complete a rehabilitation program. Employees who voluntarily enter rehabilitation on more than one occasion, however, shall be subject to disciplinary action up to and including immediate termination. It is a condition of employment for employees to submit to alcohol and/or drug testing as part of a follow-up program for treatment for drug and/or alcohol abuse. The City does not cover the cost of follow-up alcohol or drug testing.

E. It is crucial to note that the accommodations in this section apply only when an employee voluntarily comes forward. If a substance abuse problem is disclosed to the City only after there has been (1) a positive alcohol or drug test or a request to submit to an alcohol or drug test, (2) a violation of a City policy, rule or standard, (3) a violation of law, or (4) a violation of this policy, the City will not consider the employee to have voluntarily come forward.

F. As a condition of employment, employees must abide by the terms of this policy and must notify their Supervisor or Department Head in writing of any conviction of a violation of a criminal drug statute occurring in the work place no later than five calendar days after the conviction.

## **ARTICLE 29**

### **INDOOR AIR QUALITY STANDARDS POLICY AND PROCEDURES (SMOKING POLICY)**

#### **Section 1 Policy**

A. The policy of the City is to provide for an adequate level of indoor air quality when measured against nationally recognized standards adopted pursuant to the State of New Jersey Public Employees' Occupational Safety and Health Act (PEOSHA).

B. As part of this policy, smoking is prohibited in all City buildings whether owned or leased. Smoking is also prohibited in City vehicles. There are no exceptions to this policy. City employees who violate this policy are subject to discipline.

## **Section 2**

### **Procedure**

A. Employees who have a complaint about the quality of the air in their work location may file a written complaint with their supervisor, department head, municipal attorney or any elected City official. The complaint should note the work location and fully describe the problem.

B. Within five (5) business days of receipt of the complaint, the supervisor, department head, municipal attorney or elected City official will acknowledge receipt of the complaint and respond in writing to the employee. The response may include any combination of the following:

- i. a description of any corrective action already taken;
- ii. an outline of any corrective action planned but not yet taken with a timetable for completion; and/or
- iii. an order for study of the problem with a timetable for completion.

C. In buildings managed and maintained by anyone other than the City, the complaint will be forwarded to that party by the City for corrective action. Where corrective action is planned or a study ordered, it will be initiated as soon as possible. The City will report the results in writing to the employee within ten working days of completion.

D. If the condition persists or if the City fails to respond to the complaint, the employee may request further action by writing to the State of New Jersey Department of Health for health-related complaints or the State of New Jersey Department of Community Affairs for building-related complaints.

E. Employees who file a complaint pursuant to this policy will not be disciplined or otherwise adversely affected in employment for doing so. Employees who have questions concerning this policy may contact the Municipal Attorney or the State of New Jersey Department of Health or Department of Community Affairs.

## **ARTICLE 30**

### **CONSCIENTIOUS EMPLOYEE PROTECTION ACT POLICY**

A. In conformance with the New Jersey Conscientious Employee Protection Act ("CEPA"), and City policy, the City will not take any retaliatory action or reprisal against an employee because the employee does any of the following:

- i. discloses, or threatens to disclose to a supervisor, the Office of the Mayor, other official or to a public body, an activity, policy or practice of the City that the employee reasonably believes is in violation of a law, rule or regulation promulgated pursuant to law;
- ii. 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 promulgated pursuant to law; or

- iii. objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
  - a. is in violation of a law, or a rule or regulation promulgated pursuant to law;
  - b. is fraudulent or criminal; or
  - c. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare.

B. An employee who makes a disclosure to a public body must notify his supervisor or another City official in writing of the activity, policy or practice which is claimed to be in violation of law. This notice requirement is intended to give the City a reasonable opportunity to correct the activity, policy or practice which is the subject of the disclosure. Employees are encouraged to complain in writing using the Employee Complaint form, but may make other written complaints. Verbal complaints of any alleged wrongdoing will always be taken seriously by the City. Under this policy, employees who do not first notify their supervisor in writing may not be protected under CEPA.

C. However, employees do not first have to notify their supervisor under the following circumstances:

- i. where it is reasonably certain that the activity, policy or practice is known to one or more City supervisors;
- ii. where the employee reasonably fears physical harm as a result of the disclosure provided, however, that the situation is emergency in nature.

D. Employees who are subject to retaliatory action for exercising their rights under this law may file a legal action in an appropriate court within one year. Remedies include injunction, reinstatement, lost wages and benefits, reinstatement of seniority rights, costs, punitive damages, attorney fees and fines. In accordance with the statute, a copy of this policy will be posted in all City facilities and shall include the name of the individual to whom written.

## **ARTICLE 31**

### **HARASSMENT POLICY (INCLUDING SEXUAL HARASSMENT)**

#### **Section 1                      General Policy**

A. The City does not tolerate and expressly prohibits any form of harassment based on race, religion, color, national origin, ancestry, age, sex, marital status, domestic partnership status, political affiliation, liability for service in the United States Armed Forces, status as a Vietnam-era or special-disabled veteran, atypical hereditary cellular or blood trait, affectional or sexual orientation, physical or mental disability or handicap, genetic information or because of the refusal to submit to a genetic test or make available the results of a genetic test to the City.

B. All City officials, executives, appointees, managers, supervisors, employees, volunteers, consultants and outside contractors alike must comply with this policy and take

appropriate measures to insure that such conduct does not occur. Violations of this policy will result in disciplinary action up to and including discharge or, in the event non-employees are found to be at fault, other appropriate action.

## **Section 2                      Sexual Harassment Policy**

It is the City policy that all employees are responsible for assuring that the workplace is free from harassment, including sexual harassment. Because of the City's strong disapproval of offensive or inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment.

## **Section 3                      Managerial/Supervisory Responsibilities**

Supervisors and Department Heads must enforce this policy. Upon being informed of possible harassment, including sexual harassment, supervisors and department heads are required to immediately take appropriate action, including informing employees of their rights to file a complaint pursuant to this policy and reporting the matter to the City Personnel Committee and Municipal Attorney.

## **Section 4                      Employee Responsibilities**

A. All employees who believe that they are being or have been sexually harassed, or are aware of any other workplace wrongdoing by anyone, including supervisors, co-workers, vendors, consultants or visitors, are encouraged to promptly report all incidents. A complaint may be filed with their Supervisor, Department Head, Municipal Attorney or the Office of the Mayor. Employees are encouraged to complain in writing using the Employee Complaint form, but may make a verbal complaint at their discretion. A blank complaint form is located in Appendix A of this Manual. Employees who believe it would be inappropriate to discuss the matter with their immediate supervisor should report it to another supervisor, department head, City official, or the Office of the Mayor.

B. Employees are encouraged, whether directly or through a third party, to notify the alleged harasser that the behavior in question is offensive and unwelcome. However, failure to do so does not prevent an employee from filing a complaint.

C. Employees are encouraged to promptly report all alleged incidents of harassment, including sexual harassment, even if someone else is a possible victim.

## **Section 5                      Investigation of Complaints**

All complaints or information regarding sexual harassment will be investigated. All complaints and subsequent investigations, with the exception of EEOC and Affirmative Action matters, will be coordinated by the City's Personnel Division. The investigation will be conducted by City personnel or, in the City's discretion, by an outside investigator. An employee who is

found to have engaged in sexual harassment will be subject to appropriate disciplinary action, which may include immediate termination of employment.

## **Section 6                      Confidentiality**

To the maximum extent possible, the investigative proceedings will be conducted in a manner to protect the confidentiality of the complainant, the alleged harasser and all witnesses. All parties involved in the proceedings will be advised to maintain strict confidentiality, from the initial meeting to the final decision, to safeguard the privacy and reputations of all involved.

## **Section 7                      Remedial Action**

If the City determines that an employee is guilty of harassing another employee, appropriate disciplinary action will be taken against the offending employee, including the following:

- A. referral to counseling;
- B. verbal warning;
- C. written warning;
- D. reassignment;
- E. suspension;
- F. termination; and/or
- G. referral to the criminal justice system for possible prosecution.

## **Section 8                      Retaliation**

A. It is a violation of this policy for any employee to take reprisals against any person because they have filed a complaint, testified or assisted in any proceeding under this policy. This policy is set forth at length herein below under the heading “Conscientious Employee Protection Act Policy”. Threats, other forms of intimidation, and/or retaliation against the complainant or any other party based on involvement in the complaint process may be cause for disciplinary action, including termination.

B. However, if, after investigating any complaint of harassment, the City determines that the complaint is not bona fide or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or provided the false information.

## **Section 9                      Constitutional Rights of Freedom of Speech**

Nothing in this Policy or in this Manual is intended to infringe upon any employee’s right to express themselves, as guaranteed by the Constitution of the United States or the State of New Jersey.

## ARTICLE 32

### WORKPLACE VIOLENCE POLICY

A. The City 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 City property, at City events, anywhere while on official duty, or under other circumstances that may negatively affect the City's ability to conduct business.

B. Prohibited conduct includes, but is not limited to, the following:

- i. Causing physical injury to another person;
- ii. Making threatening remarks;
- iii. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- iv. Intentionally damaging employer property or property of another employee;
- v. Possession of a weapon while on City property or while on City business and
- iv. Committing acts motivated by, or related to, sexual harassment or domestic violence.

C. Any potentially dangerous situations must be immediately reported to a supervisor or department head. The City will actively intervene in any potentially hostile or violent situation.

## ARTICLE 33

### COMPLAINT PROCEDURE

A. Employees have the right to complain of anything they perceive to be improper. All complaints will be taken seriously and promptly investigated. Employees who have a complaint are encouraged to promptly report all incidents. A complaint may be filed with the Personnel Division, a Supervisor, Department Head, the Municipal Attorney or the Office of the Mayor. Employees are encouraged to complain in writing using the Employee Complaint form as located in appendix A of this Manual. Employees may also make a verbal complaint at their discretion.

B. Employees seeking to make a complaint regarding air quality, harassment, sexual harassment or a complaint under the Conscientious Employee Protection Act should file a complaint pursuant to the procedures as set forth in those sections of this Manual.

C. No retaliatory measures shall be taken against any employee who complains of workplace wrongdoing. The City will, to the maximum extent feasible, maintain the

confidentiality of such complaints on a need-to-know basis. However, investigation of such complaints may require disclosure to the accused party and other witnesses in order to gather pertinent facts.

## **ARTICLE 34**

### **USE OF PROPERTY**

#### **Section 1**                    **Personal Property**

The City is not responsible for theft of personal property.

#### **Section 2**                    **Use of City Equipment and Supplies**

A. Employees may be assigned to utilize offices, desks, file cabinets, computers and other assets and property of the City. All property and assets assigned employees remain the property of the City. The City retains the right to have access to all City property and assets.

B. Employees are responsible for taking care of any assigned equipment. Employees shall not remove, or in any way assist in the removal of supplies, materials, goods or equipment belonging to the City, unless the removal has been authorized, in writing, by the department head and Councilmatic Committee. Employees shall not use City equipment, supplies, postage or other materials for non-City reasons. Unauthorized use or removal of City property shall be cause for disciplinary action, up to and including discharge.

## **ARTICLE 35**

### **USE OF CITY CELLULAR PHONES**

#### **User Qualifications:**

Employees qualify for cellular service as determined by the Personnel/Finance Committee and when at least one of the following criteria is met:

1. Timely, critical two-way communication is required by the employee.
2. The employee is very mobile and may have limited access to land based telephone services.
3. Employee requires immediate communication in case of emergency.

There must be available funds to cover the added costs of the equipment and services.

#### **Procurement:**

1. The City has deemed it appropriate for certain positions/employees to be provided with cell phones in order for the employee to perform the tasks assigned.

2. Employees who wish to receive a City cell phone must make a written request to their immediate supervisor who, in turn, will pass such request on to the Personnel/Finance Committee. All requests for cellular service must be kept on file.

#### Use of Cell Phones:

1. City cell phones are provided for necessary, official City business purposes only.
2. Employees will be responsible for the safekeeping, care and custody of the cell phone, equipment and cell number assigned to them. If a City issued cell phone, or any component thereof, is lost or damaged do to the lack of care or negligence of the employee, the employee must reimburse the City for the cost of the repair or replacement of the phone.
3. Cell phones are City property and are to be returned to the responsible department when employee separates from the City or no longer requires use of the cell phone. City cell phones cannot be transferred to private ownership or upgraded.
4. Cell phone numbers are owned by the City and cannot be transferred to private ownership or phones.
5. Department Heads are responsible for reviewing employee call detail reports.
6. Improper use of City cell phones may result in disciplinary action, up to and including termination.
7. Cell phones shall not be used while driving unless a headset is used. Please be aware in many states, including New Jersey, the use of a cell phone while driving is prohibited.
8. The City reserves the right to require an employee to return the assigned cell phone for any reason.

#### Impermissible Use of City Cell Phones:

1. The use of a City owned cell phone for personal use is strictly prohibited.
2. An employee may not utilize a City cell phone to download and/or play music, pictures, games or other non-City related activities.
3. An employee may not utilize a City cell phone to send or receive text messages or call 411.
4. Upon the receipt of a City cell phone, an employee shall be advised of the type of calling plan associated with the cell phone and the number of minutes permitted to be utilized. An employee is prohibited from altering or upgrading the City plan assigned to the employee.
5. a) An employee is not permitted to exceed the number of minutes associated with the employee's plan. If an employee exceeds the number of minutes associated with the employee's plan, the employee shall be disciplined up to and including termination.  
b) If the City's plan is a shared minutes plan, the City shall establish a cap on the amount of minutes an employee may utilize per month. It is the employee's responsibility to track utilized minutes. If an employee is within 50 minutes of the City imposed cap, the employee must notify the Department Head, who shall contact the City Treasurer's Office for consent to permit the employee to exceed the City cap. For phones that have the ability to track the amount of minutes utilized, it is the responsibility of the Department Head to track the weekly phone usage of the employee.

#### Reimbursement for Personal Use of City Cell Phones:

If an employee is found to utilize a City owned cell phone for personal use, the employee is subject to disciplinary action, up to and including termination. Further, an employee shall be required to

reimburse the City for any personal use of a City assigned cell phone within 30 calendar days of the statement date based upon the formula below.

The employee will reimburse for costs related to each personal call either by paying actual charge, as it appears on the vendor invoice or by applying a “per minute cost”, if the call is within plan minutes. “Per minute cost” is calculated by dividing the monthly calling plan charge by the minutes allowed. Multiply the cost-per-minute times the business minutes used on the personal cell phone to determine the total owed the City.

## **ARTICLE 36**

### **USE OF CITY VEHICLES**

A. City vehicles shall at all times be used for City business only. Only the employee assigned a City vehicle or a fellow employee temporarily designated by the assignee may operate the vehicle. Only City employees may be driven in a City vehicle. City employees assigned or otherwise operating City vehicles shall observe the following practices.

- i. Possess a valid driver’s license.
- ii. Operate vehicle safely and economically and in strict compliance with all traffic and parking regulations.
- iii. Comply with routine maintenance schedules as established by the Superintendent of Municipal Garage or Superintendent of Public Works.
- iv. Assume responsibility for reporting accidents or needed repairs to the Superintendent of Municipal Garage or Superintendent of Public Works and maintaining the cleanliness of the exterior of the vehicle.
- v. Radio equipped vehicles shall maintain radio contact with an appropriate base station when on duty or on call.
- vi. No posters, stickers, or advertisements shall be placed upon City vehicles without prior approval of the City Council.
- vii. Except in emergency or when special circumstances of the position require, no City vehicle is to leave the immediate vicinity of Linden without notification to the Department Head.

B. An employee may be assigned a City owned vehicle with which the employee may commute from home to the employee’s assigned duties with the City. The employee will be charged the IRS rate under the “Commuting Rule” which will be deducted from the employee’s pay in equal quarterly installments. The employee is responsible for all IRS tax implications regarding the use of the vehicle. Vehicles may only be assigned to an employee upon a written request from the employee’s Department Head to the Chairman of the Vehicle Maintenance Committee, who shall approve the request at the Chair’s sole discretion.

C. It shall be the responsibility of the Department Head to notify the City Treasurer of the assignment of a vehicle or return of said vehicle to the Director of Automotive Services. Said notification must be provided to the City Treasurer within two (2) weeks of the assignment or return of the vehicle in order for the Treasurer to make the appropriate adjustments to the employee's wages.

D. When a Department Head assigns an employee to attend a school, seminar, conference, convention or some other temporary assignment which would require the employee to begin the assignment from his residency and travel to an assignment outside of the City limits, the Department Head, at his discretion, is permitted to assign a vehicle to the employee. The Department Head is required to notify the Director of Automotive Services to ensure that a vehicle may be assigned. Under the provisions of this paragraph, a temporary assignment shall not last more than five (5) business days. An employee utilizing a vehicle on a temporary basis shall not be charged for the use of the vehicle under the "Commuting Rule".

E. a. The City will periodically request driving abstracts of our employees from the Division of Motor Vehicles. In the event a driving abstract shows a suspended or revoked license and the employee has not notified his Department Head of the suspension or revocation, then appropriate disciplinary action will follow. Excessive traffic violations will be cause for disciplinary action and possible removal from the position.

b. If a driving abstract shows a suspended license, it is the employee's responsibility to provide original documentation from the Division of Motor Vehicles that the suspension is incorrect, or has been lifted.

F. Smoking is prohibited in City vehicles, without exception.

## ARTICLE 37

### **Operation of Motor Vehicle and Driver's License Policy**

A. All employees whose duties require the operation of a City-owned motor vehicle or who operate a privately owned vehicle while conducting official business as part of their employment with the City or whose Civil Service title requires them to maintain a valid driver's license must possess a valid New Jersey driver's license and a safe driving record. The license must be appropriate to the type of vehicle operated.

B. Employees operating City-owned motor vehicles or privately owned vehicles while conducting official business shall observe all traffic laws, rules and regulations, and the dictates of common sense and good judgment.

C. Any employee who has permission to drive a City-owned vehicle to the employee's domicile shall not drive the vehicle for personal use. Only the Mayor, Police Chief and Fire Chief may drive a City vehicle home, with the exception of employees in the Police and Fire Departments

designated by the Police Chief or Fire Chief who must be available. All employees, with the exception of the Police Chief and Fire Chief, must be domiciled in the City in order to take a take a City vehicle home.

D. All new employees who will be assigned work entailing the operating of a City vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment.

E. Annual checks of employees', drivers', licenses through visual and formal Department of Motor Vehicles review checks shall be made by the City of Linden Insurance Commission. Each employee shall annually, except as noted above, provide the Commission with a copy of their Driver's License. Any employee who does not hold a valid driver's license will not be allowed to operate a City vehicle until such time as a valid license is obtained. A report indicating a suspended or revoked license status within the last 24 months may be cause for discipline, up to and including termination. Drivers with unacceptable driving records will not be permitted to operate a City vehicle or a privately owned vehicle to conduct business of the City.

F. Any employee performing work which requires the operation of a City vehicle must notify, in writing, the immediate supervisor and the Insurance Commission in those cases where a license is expired, suspended or revoked. An employee that fails to report such an instance is subject to disciplinary action, including demotion or termination.

G. Any information obtained by the City in accordance with this section shall be used by the City only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act.

## **ARTICLE 38**

### **REPORTING OF VEHICULAR ACCIDENTS**

One of the City's missions is to ensure the welfare and safety of its employees. As such, the City desires to track all motor vehicle accidents involving all City vehicles. Department Heads are responsible for the completion of the City's adopted form. The City's form is attached to this Personnel Policy. Further, the Department Head is responsible for causing the accident information to be inputted into the City's computerized accident software.

All City employees involved in a vehicular accident in a City vehicle must immediately report the accident to the employee's Department Head by the end of the employee's work day. The accident investigation form must be completed, reviewed and signed by the Department Head, and submitted to the department's respective councilmatic committee, the Insurance Committee secretary and the Accident Review Committee within forty-eight (48) hours of the reporting of the accident.

The information presented on the form shall minimally consist of the following information:

- Department
- Date
- Time
- Name of driver
- Names of any passengers in vehicle
- Names of witnesses
- Location of accident
- Type of vehicle
- Vehicle license plate
- Detailed narrative of the accident and any damages to the City vehicle
- Personal injuries as identified at the scene
- Whether the police were contacted
- Corrective action, if any
- Recommended discipline, if any

It is the responsibility of the Department Head to follow up with the police department where the accident occurred in order to provide the Insurance Commission with a copy of any accident reports written regarding the accident.

## **ARTICLE 39**

### **ELECTRONIC DATA AND VOICE SYSTEMS POLICY (INCLUDING INTERNET, SOCIAL MEDIA AND E-MAIL POLICY)**

#### **Section 1**

A. In order to improve efficiency and productivity, the City provides selected employees with access to electronic data and voice transmission devices which include, but are not limited to, computers with Internet and e-mail capabilities, telephones, mobile phones, beepers and cameras. Employees shall use these devices for business purposes only. Equipment provided by the City and all information gathered via on-line resources belong to the City. Additionally, all information created, transmitted, received and stored on City computers and other electronic data and voice devices belongs to the City. Personal material and electronic mail should not be created or kept on such devices issued by the City. The City may inspect all electronic data and voice devices at any time as necessary for the conduct of its business.

B. Except for obtaining City emails on a personal computer, tablet, cell phone or other electronic device, employees are required to only utilize City equipment to access by any electronic means City servers, files, documents, records, data or information. If an Employee requires to have access to City servers, files, documents, records, data or information on a personal or home electronic device, the employee must receive the express written approval of the Department Head and consent of the Council.

C. The City retains the right to monitor all computer activity to ensure that employees pursue only appropriate business purposes. Monitoring includes, but is not limited to, reviewing e-mail content and attachments, e-mail addresses, tracking Internet sites visited, chat rooms, instant messaging, “blogging” and newsgroup activity, as well as the frequency and time spent on-line by each user. In addition, the City, in its discretion, may limit or prevent access to certain types of sites and online activity to ensure compliance with this Policy.

## **Section 2                      General Principles**

A. Correspondence via e-mail, instant messaging and other forms of on-line communication is not guaranteed to be private. Confidential e-mails, instant messaging and any other forms of on-line communication should not be sent without encryption or password protection of attached information.

B. City supplied e-mail accounts, as well as network and Internet IDs and passwords, should not be used for anything other than City-sanctioned activities, and may only be used by the individuals to whom such accounts, ID's and passwords have been assigned.

C. All on-line activity will be monitored for security and/or management reasons. Users are subject to limitations on their use of such resources.

D. The distribution of any information through the Internet, computer-based services, e-mail, and messaging systems is subject to all policies and procedures applicable to dissemination of information by non-electronic means. The City reserves the right to determine the suitability of this information.

E. Use of any Internet related capabilities for personal use is discouraged by the City. Employees should use their discretion on its use, while understanding that the City will monitor such usage.

F. Except for obtaining City emails on a personal computer, tablet, cell phone or other electronic device, employees are prohibited from accessing by any electronic means City servers, files, documents, records, data or information without the express written approval of the Department Head and consent of the Council.

## **Section 3                      Rules of Usage**

A. The City prohibits any employee using City issued computers or other electronic data and voice transmission devices and/or the City's on-line resources from:

- i. Visiting Internet sites that contain obscene, hateful or other objectionable materials; displaying, downloading, uploading, storing or transmitting any material that is obscene or defamatory or which is intended to annoy, harass or intimidate another person; displaying, downloading, uploading, storing or transmitting sexually-explicit images, messages, ethnic slurs, racial

epithets or any thing which could be construed as harassment or as disparaging of others;

- ii. Engaging in on-line communications unrelated to City business activities other than occasional personal communications;
- iii. Soliciting non- City business for personal gain or profit;
- iv. Using the Internet or e-mail for any illegal purpose;
- v. Representing personal opinions as those of the City;
- vi. Making or posting indecent remarks, proposals, or materials;
- vii. Uploading, downloading, storing or otherwise transmitting commercial software or any copyrighted materials belonging to parties outside of the City, or not licensed to the City;
- viii. Displaying, uploading, downloading or otherwise transmitting any software or electronic files without implementing virus protection measures that have been approved in advance by the Department Head and the Department's Councilmatic Committee;
- ix. Intentionally interfering with the normal operation of the City's computers;
- x. Revealing or publicizing confidential or proprietary information which includes, but is not limited to, financial information, investigative and enforcement related information, new business and product ideas, marketing strategies and plans, databases and the information contained therein, customer lists, technical product information, computer software source codes, computer/network access codes, and business relationships, related to the City;
- xi. Examining, changing or using another person's files, output, or user name without explicit authorization from the individual involved, the Department Head and the Office of the Municipal Treasurer;
- xii. Performing any other inappropriate uses;
- xiii. Wasting time on non-City business, including but not limited to: playing computer games, accessing computer programs which are not directly related to City operations or "surfing" the Web for fun on City time.

C. Employees learning of any misuse of the City's Internet access or e-mail resources shall notify the Department Head, Municipal Attorney or any elected City official.

D. Users who violate any part of this internet and e-mail policy may be subject to disciplinary action up to and including termination of employment. The City also retains the right to report any illegal violations to the appropriate authorities.

**Section 4**                      **Social Media**

A. Because the Mayor and City Council of the City have an overriding interest and expectation in deciding who may “speak” and what is “spoken” on behalf of the City on social media sites, this policy is established for the use of all social media.

- i. The official public webmaster for the City shall be designated by the City Business Administrator (if no Business Administrator has been appointed, then by the City Council) and shall recommend to the City for approval of social media technologies that may be suitable for use by City departments, affiliated boards, commissions and authorities.
- ii. The City shall have a single presence on social media sites deemed appropriate for use. Requests for individual departmental or agency pages or sites must be approved by the City Business Administrator (if no Business Administrator has been appointed, then by the City Council).
- iii. All official City presence on social media sites or services are considered an extension of the City’s information networks and are governed by all policies applicable to the use of City computers and electronic media (as applicable), as well as the City internet access and use guidelines (as applicable).
- iv. Departments that use social media are responsible for complying with applicable federal, state and county laws, regulations and policies. This includes adherence to established laws and policies regarding copyright, records retention, Freedom of Information Act (“FOIA”), Open Public Records Act (“OPRA”), First Amendment, privacy laws, sunshine laws and information security policies (if applicable) established by the City, its departments, affiliated boards, commission and authorities.
- v. Wherever possible, links to “more information” should direct users back to the City’s official website for more information, forms, documents or online services necessary to conduct business with the City.
- vi. Employees representing the City government on social media outlets must identify themselves by name and, when relevant, by role at the City. All City policies are applicable to interactions on social media sites when acting in an official capacity and representing the City.

- vii. The official City webmaster shall monitor content on all social media sites to ensure adherence to the Social Media Policy for appropriate use, message and branding consistent with the goals of the City.
- viii. The City webmaster may have the authority to remove any information that violates this Social Media Policy or Terms of Services at any time from any City social media site in accordance with archiving and retention requirements. See Section B., Prohibited Content. Once removed, an e-mail will be sent to the City Clerk's office for notification.

B. Prohibited Content

The following is prohibited and subject to removal:

- i. Comments not topically related to the particular post being commented upon.
- ii. Comments that promote, foster or perpetuate discrimination on the basis of creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation.
- iii. Comments that include vulgar, offensive, threatening or harassing language, personal attacks or unsupported accusations.
- iv. Obscene or sexual content or links to obscene or sexual content.
- v. Illegal activity or encouragement of illegal activity.
- vi. Information that may tend to compromise the safety or security of the public or public systems.
- vii. Comments from children under 13 cannot be posted in order to comply with the Children's Online Privacy Protection Act. By posting as a City social media site, users acknowledge that they are at least 13 years old.
- viii. Content that violates a legal ownership interest of any other party.
- ix. Content or comments that promote a private business interest or service.

Users who violate any part of this social media policy may be subject to disciplinary action up to and including termination of employment. The City also retains the right to report any illegal violations to the appropriate authorities.

C. While the City acknowledges that employees do not waive their constitutional rights upon becoming employees of the City, employees do not have an unfettered right to make comments about the City or its employees, officials or agents.

- (i) Employees are prohibited from posting on social media comments, pictures or depictions towards the City, its employees, officials or agents that can be considered defamatory, disparaging, derogatory, insubordinate, conduct unbecoming a public employee or that may interfere with the safe and orderly operations of the City.
- (ii) Employees are prohibited from posting pictures involving children pursuant to the Children's Online Privacy Protection Act, or any pictures of minors without the express written permission when said picture was taken at City run or sponsored event.
- (iii) Employees are prohibited from posting any pictures taken at a City run or sponsored event for private use.

## **Section 5 Constitutional Rights of Freedom of Speech**

Nothing in this Policy or in this Manual is intended to infringe upon an employee's rights to express themselves as guaranteed by the Constitutions of the United States and the State of New Jersey. This right is not an unlimited, unfettered right of free speech. Employees are prohibited from portraying the City, its elected officials or employees, or City policies or procedures in a derogatory or unfavorable light. Employees are prohibited from identifying themselves, on social media or elsewhere, as City employees and expressing or making derogatory, inflammatory, offensive, or prejudicial comments against any protected classification, including but not limited to race, gender, sexual identity, national origin or religion, as defined under any Federal or New Jersey State discrimination law.

## **Section 6 Telephone Policy**

A. Telephones are for the purpose of conducting City business, and not for the personal use of the employees. Outgoing or incoming personal calls are not permitted, except in an emergency. In the case of an incoming emergency call, the emergency situation must be relayed to the person answering the phone and a message will be forwarded to the employee as soon as possible.

B. Each employee of the City may, at some point, have to deal with the public over the telephone. Employees are to attempt to answer the telephone within five (5) rings, keep the call as brief as possible, and be courteous at all times.

C. The City realizes there may be occasions when an employee may need to use the telephone. Employees may utilize City telephones for personal calls on a limited and reasonable basis. Said use of telephones shall not interfere with the operations of the City or an employee's performance. Collect and long distance calls are prohibited unless in the course of City business.

D. All non-authorized communication devices shall not be utilized while an employee is on duty. Such devices include but are not limited to cellular phones; PDAs; beepers; Blackberry devices; e-mail devices; and, text messaging devices. Non-authorized communication devices may be utilized by employees while on approved City breaks.

E. The use of personal communication devices while on duty shall subject the employee to disciplinary penalties, up to and including termination.

## **Section 7                      Emergency Recordings**

The City of Linden wants to ensure that during emergency situations, the victims of accidents, emergent situations and criminal activity have their privacy protected. Further, the City wants to ensure that the City employees on the scene of any such event are performing their requisite job duties. As such, all City employees are prohibited from taking photos, videos or other recordings of victims at accidents, other emergency situations or crime scenes. Employees are also prohibited from taking photos, videos or other recordings of the scenes of these events.

Only official photos, videos and other recordings taken by authorized officials for official documentation are allowed. Only the Chief of Police, the Fire Chief, or an employee's Department Head may authorize the taking of such photos, videos and other recordings.

The use of those photos, videos and other recordings shall be "For Official Use Only" and are not to be shared or reproduced in any manner.

Violators will be subject to disciplinary charges.

## **ARTICLE 40**

### **BULLETIN BOARDS**

The bulletin boards located in the City offices are intended for official notices regarding policies, procedures and notices of meetings and special events. Only personnel authorized by the Office of the Mayor may post, remove, or alter any items posted on the bulletin boards.

## **ARTICLE 41**

### **TRAVEL EXPENSE**

Employees who are required to use their personal automobiles in the performance of their official duties shall be reimbursed at a rate set by the City per mile for the mileage traveled. Such employees shall also be reimbursed for necessary parking and toll expenses incurred, provided receipts are submitted to their Department Head within five (5) working days from the date the expenses are incurred.

## **ARTICLE 42**

### **NON-TRAVEL EXPENSES**

With the exception of travel expenses referred to in the paragraph immediately above, employees must receive written authorization prior to incurring any expenses on behalf of the City. All employee expenses require the written authorization of the Department Head. All executive/managerial personnel expenses require authorization from the Office of the Municipal Treasurer. Any expense incurred without authorization may not be reimbursed. In addition, all expenses incurred must be documented by invoices, receipts or other acceptable billing record. Authorized expenses for which no documentation is provided will not be reimbursed.

## **ARTICLE 43**

### **INCLEMENT WEATHER/OFFICE CLOSINGS**

In order to ascertain whether the City has closed its offices during a regularly scheduled business day due to inclement weather or other unforeseen circumstances, employees should contact their respective department head or the Office of the Mayor. All employees shall be provided with emergency contact numbers.

If City Hall closes early due to inclement weather or some other unforeseeable emergency, any employee who has been approved for the use of any benefit time on that day will not be credited any time, whether the closing is for a half or a full day. Any employee taking time off will continue to be charged the benefit time taken with no regard for the closing of City Hall.

## **ARTICLE 44**

### **NEWS RELEASES**

No employee is to speak to the news media on behalf of or as a representative of the City without the specific approval of the Office of the Mayor or the City Council President. If an employee is approached by a reporter, he or she should direct all questions or comments to the Office of the Mayor or the City Council President. Questions or comments concerning Administration should be directed to the Office of the Mayor or the City Council President.

## **ARTICLE 45**

### **LEGAL REPRESENTATION**

An employee who requires, or believes she may require, legal representation for a matter arising out of their employment with the City, but which is not initiated by the employee, must

notify the Department Head, City Clerk and City Attorney immediately. This notification must be made prior to the employee retaining the services of an attorney so that the City may determine whether or not legal counsel will be provided by the City on the employee's behalf.

## **ARTICLE 46**

### **CITY COMMUNICATIONS ON RELIGIOUS AND POLITICAL MATTERS**

A. In accordance with the New Jersey Worker Freedom from Employer Intimidation Act, the City does not require any of its employees to attend any City-sponsored meeting or participate in any communications with the City or its representatives, whose purpose is to communicate the City's opinion about religious or political matters. Political matters include political party affiliation and decisions to join or not join or participate in any political, social or community organization or activity. This definition of political matters includes obvious political activities, such as contributing to a political fund or attending a political speech by a candidate. It also includes fund raising and community events, such as the March of Dimes and walk-a-thons. Naturally, employees may voluntarily make fund raising contributions and attend political or community events of their choice, and the City encourages such employee involvement.

B. City employees are prohibited from requiring, either expressly or implicitly, that a City employee attend meetings on religious, political, social or community matters. The City further prohibits employees from sending communications, such as e-mails and/or flyers, to co-workers asking for them to participate in such activities or fund raising, without including language in that communication that expressly notifies the employees that they may refuse to participate and/or contribute without penalty.

C. Employees should report violations or suspected violations of this policy to the City Attorney. The City will not discharge, discipline or any in any way penalize an employee who makes a good faith report, verbally or in writing, of a violation or suspected violation of this policy.

## **ARTICLE 47**

### **BONDING OF OFFICERS AND EMPLOYEES**

A. Every officer or employee of the City, who, by virtue of their office or position, is entrusted with the receipt, custody or expenditure of public monies or funds, and any other officer or employee who may be required to do so by the Mayor and Council shall, before entering upon the duties of the office or position, execute and deliver a surety bond in such amount as may be fixed by the Mayor and Council, binding him to the City in its corporate name and conditioned upon the true and faithful performance of his duty. Each officer or employee required by law to give bond shall execute such bond with sufficient surety and deliver the same to the City Clerk, except that the Clerk shall deliver his bond to the City Treasurer, before he enters upon the discharge of his duties of the office or employment.

B. If any officer or employee shall neglect to execute and deliver his bond as herein required within thirty (30) days after due notification of his election or appointment, the City may move to declare the office or position vacant.

C. In every case in which any person required by the laws of the State or any ordinance of the City to give a bond for the faithful performance of his duties, such bond shall be secured by a corporate surety authorized to do business in this state and the premium shall be paid by the City. Each such bond shall be approved by the City Attorney as to form and sufficiency and nothing in this ordinance shall be construed to prevent the use of one or more blanket bonds when so approved.

## **ARTICLE 48**

### **CODE OF ETHICS**

#### **Section 1                      Standard**

All employees shall comply with the Standards of Conduct as set forth in the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et. seq. Employees who meet the definition of a Local Government Officer, as defined in the Local Government Ethics Law, shall annually file a financial disclosure statement in accordance with said law. The Clerk to the City will notify employees and all other City officials and employees who are subject to the filing requirements. Under the Act, certain employees and officials are required to annually file with the Clerk of the City a state-mandated disclosure form.

#### **Section 2                      Conflict of Interest**

A. No employee of the City of Linden shall engage in any business transaction, professional activity, or have a financial or other private interest, either direct or indirect, which is in substantial conflict with the proper discharge of his official duties.

B. A potential or actual conflict of interest occurs whenever an employee is in a position to render or influence a City's decision that may result in a personal gain for the employee or member of employee's immediate family, including a spouse or significant other, dependent, or child residing in an employee's household. Employees are required to disclose possible conflicts regarding business interests that may result in personal gain, so that the City may assess and prevent potential conflicts.

C. If there are any questions as to whether an action or proposed course of conduct would create a conflict of interest, the employee must immediately contact the City Attorney to obtain clarification.

**Section 3**                    **Employment or Investments Affecting Duties**

A.     The City recognizes the right of employees to engage, on their own time, in outside activities that are private in nature and unrelated to City business.

B.     No employee of the City shall accept employment, engage in any business transaction or make any investment which will be detrimental to the City in the exercise of his official duties or which will interfere in any manner whatsoever with the discharge of his official duties. However, an employee’s employment with the City shall be the employee’s primary business.

**Section 4**                    **Representation of Private Interests Before  
City Agencies, Departments or Municipal Court**

No employee of the City of Linden shall represent any private interest to the detriment of the City or for the purpose of unwarranted personal gain before any City agency, or department or the municipal court or in any litigation to which the City is a party.

**Section 5**                    **Improper Use of Official Position**

No employee of the City shall improperly use his official position in order to obtain a personal discount or other benefit from any person or persons whatsoever.

**Section 6**                    **Acceptance of Gifts or Donations**

Officials, officers and employees may not accept donations, tips, gratuities, contributions or gifts that could be interpreted to affect their City duties. Officials, officers and employees may not, under any circumstances, accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the City or any person or firm seeking to influence City decisions, with the exception of trivial or minimal gifts or food generally available and open to all members of the public at conventions, seminars or similar events. Any gifts or services, as defined by the NJ State Ethics (NJSA 19:25-1 et seq.) valued in excess of \$400.00 are also prohibited. Official, officer and employees are required to immediately report to the City Attorney any offer of a donation, tip, gratuity, contribution or gift including meals, entertainment or other services in violation of this policy.

**Section 7**                    **Advice and Comments/Department Heads/Employees**

A.     The Council recognizes the experience and expertise of its Department Heads and employees and not only welcomes, but also solicits their advice and comments on issues that are continually faced by the City Council.

B.     Council Conferences are on the third Tuesday of each month at 6:00 p.m. and this is the time and place for Department Heads and employees through their respective Department Heads to offer their advice and comments.

C. While recognizing the individual's right free speech, any comments as a matter of policy require the Department Head to present their comments to Council prior to issuing any public statements on the issue. Any violation of this policy will be considered a breach of said policy.

## **ARTICLE 49**

### **POLITICAL ACTIVITY**

A. The City prohibits any discriminatory action against any employee based upon one's political affiliations or allegiances or lack thereof. Employees enjoy the right to join any political organization and participate in political activities. Employees are prohibited from engaging in any political business or activities while on duty for the City. Employees are prohibited from using their position at the City for endorsement of any political candidate or organization.

B. Any violation of this policy shall result in disciplinary action, up to and including termination.

## **ARTICLE 50**

### **COUNCIL MEMBERS INTERACTIONS WITH CITY EMPLOYEES**

#### **Section 1** Council Members Interactions with City Employees

In order to ensure the smooth and consistent operations of the City, any Councilperson who requires work to be performed by a non-supervisory City employee, in the Councilperson's official capacity, must make such request for work to be performed to the Department Head and/or the Chair of the non-supervisory employee's Councilmatic Committee. If the Department Head is unavailable for any reason, the Councilperson may make the request to the Department Head's assigned designee.

All Department Heads shall designate a chain of command of their supervisors who may act as a designee in the event of the Department Head's unavailability.

No non-supervisory employee shall be disciplined for adhering to this policy.

Notwithstanding the above, if the health, welfare and/or safety of the City or its citizenry will be adversely affected, a Councilperson may give instructions to a non-supervisory employee who shall in turn immediately notify his supervisor after taking prudent emergency action.

## **Section 2**

### Council Communications with Department Heads and Staff

In order to maintain proper communications between City employees, Department Heads and Council Members, a consistent policy should be maintained in order for the City's daily operations to be effective for the residents of Linden. The individual Council Members should not be in the practice of directing the minutia of the daily operations of the City, as the scope of duties of the Council is maintain an overall picture of the City's business and workings.

Council Members, unless an urgent matter exists, shall deal directly with a Department Head, or their designee. At no time should a Council Member make inquires of persons under the level of Supervisor and no Department Head should designate a non-Supervisor, including but not limited to clerks 1, 2 or 3; laborers; and other non-Supervisory titles as their designee. Council Members shall contact the Department Head for any ideas, questions, or issues. If possible, the Council Member making the inquiry should contact the appropriate Councilmatic Committee Chairperson in order for the Department Head's Committee to remain up to date on matters of concern in the Department they are overseeing.

All initial inquiries made shall be responded to within 48 hours of the inquiry. If the matter can be cannot be resolved within that timeframe, the Department Head shall notify the Council Member making the inquiry of the situation and the timeframe when the matter will be resolved.

If a Council Member has discussions of potential discipline with the Department Head, the Council Member shall also notify the Division of Personnel so that the matter shall be catalogued and an investigative file opened.

## **ARTICLE 51**

### **DISCIPLINARY PROCEDURES**

A. Causes for Disciplinary Actions: Unfortunately, employees sometimes engage in activities which require that disciplinary measures be taken in order to prevent future offenses, misconduct or poor work performance. All employees are expected to meet the standards described in the City's Employee Handbook for work performance, punctuality, attendance and personal conduct.

B. The following actions shall be cause for disciplinary action, including discharge from employment:

- i. Neglect of duty;
- ii. Incompetence and/or inefficiency;
- iii. Insubordination or breach of discipline;
- iv. Being under the influence of alcohol or drugs while on duty;
- v. Possession or being under the influence of alcohol or illegal drugs while on duty or on City property;

- vi. Chronic or excessive absenteeism, tardiness or other abuse of paid leave policies;
- vii. Conviction of any criminal offense;
- viii. Negligent or willful damage to public or City property;
- ix. Conduct unbecoming an employee in the public service;
- x. Violation of the Local Government Ethics Law;
- xi. Threatening, intimidating, coercing, or interfering with the proper performance of job duties by employees of the City or its contractors;
- xii. Harassment of any kind, including sexual harassment;
- xiii. Violation of safety rules;
- xiv. Conflict of interest;
- xv. Violation of the City's confidentiality rules;
- xvi. Absence without leave or failure to report to work after either an authorized leave has expired or a request for such leave has been denied or revoked.
- xvii. Any other cause not prohibited by law.

This is only a partial list of sample offenses and is not the sole grounds for which discipline may be taken. Discipline, including discharge, may be imposed for other good and sufficient causes.

#### C. Disciplinary Actions and Appeals Procedure

- i. The City utilizes the system of progressive discipline and adopts the procedures and time frames as promulgated by the New Jersey Department of Personnel for disciplinary matters. However, the City states that some offenses are of such a nature that they fall outside of progressive discipline. When the New Jersey Department of Personnel Regulations are not applicable to an individual employee, the City's disciplinary procedures shall apply.
- ii. Employees shall receive notice for any proposed disciplinary actions.
  - a. Minor Disciplinary Action includes any oral or written reprimand; fine; or suspension of five (5) days or less. All minor disciplinary action shall be reviewed by the Personnel Committee prior to implementation of any penalty.
  - b. Major Disciplinary Action includes:
    - (1) termination;
    - (2) disciplinary demotion;
    - (3) suspension of six (6) or more days at any one time;
    - (4) any suspension which causes the aggregate number of days fined or suspended in a calendar year to exceed fourteen (14) days.

- iii. In the event of Major Disciplinary Action, an employee may appeal the disciplinary action and request a hearing by submitting a written appeal and/or written request for hearing to the Personnel Committee within five (5) calendar days of the employee's receipt of notice of the disciplinary action. Failure to timely file an appeal will be considered a waiver of the employee's right to appeal. The Personnel Committee shall act as the hearing tribunal.
- iv. Within thirty (30) calendar days following the conclusion of any such hearing, the Personnel Committee will render a written recommendation to the City Council and provide a copy to the employee. The City Council shall issue its decision no later than the second regular session of the City Council following the Council's receipt of the written decision. The City Council shall notify the employee of its decision in writing. Subject to applicable laws, the City Council's decision is final and binding.

## **ARTICLE 52**

### **GRIEVANCE PROCEDURE**

A grievance within the meaning of this Manual shall be any difference of opinion, controversy or dispute arising between an employee and the City involving the employee's duties, responsibilities, terms and conditions of the employee's job description, office and/or position.

Step 1: An aggrieved employee shall present her grievance to her Supervisor within twenty (20) working days of its occurrence or such grievance shall be deemed waived. If the aggrieved employee's Supervisor is the Department Head, this grievance procedure shall begin with Step 2. In the event the grievance is not satisfactorily settled with a written determination from the Supervisor within five (5) working days of its presentation, the grievance shall move to Step 2.

Step 2: The aggrieved employee shall present her grievance to her Department Head within five (5) working days of the completion of Step 1. If the Department Head is hearing the initial grievance as the aggrieved employee's Supervisor, the aggrieved employee shall have twenty (20) working days from its occurrence to present the grievance to the Department Head. In the event the grievance is not settled with a written determination from the Department Head within five (5) working days of its presentation, the grievance shall move to Step 3.

Step 3: The aggrieved employee, along with her Supervisor and/or Department Head, shall present her grievance to the City Council's Personnel Committee within ten (10) working days of the completion of Step 3. In the event the grievance is not settled with a written decision from the City Council's Personnel Committee within twenty (20) working days of its presentation, the grievance shall move to Step 4.

Step 4: The aggrieved employee, along with her Supervisor and/or Department Head, shall present her grievance to the City Council within ten (10) working days of the completion of Step 4. The City Council shall review the matter in closed session no later than the second Council

meeting from the day the grievance was presented. At the City Council's sole discretion, the employee may be requested to present statements supporting her position. The City Council shall issue a written decision within thirty (30) days thereafter. The decision of the City Council shall be final and binding upon the employee and the City.

## **ARTICLE 53**

### **MERITORIOUS ACTIONS**

It is hereby declared a policy of the City to recognize and encourage meritorious actions on the part of its officers and employees. To this end, letters of commendation concerning City employees, from their superiors and from members of the public with whom they deal shall be directed to the attention of the Mayor and Council of the City, and then recorded in the employee's personal file. In addition, the Mayor or Council may, of his/its own motion, commend the work of particular employees and cause such commendation to be inserted in their personal files.



**APPENDIX B**

**DRUG AND ALCOHOL POLICY FOR EMPLOYEES REQUIRED  
TO POSSESS A COMMERCIAL DRIVER'S LICENSE**

Said policy can be requested by those affected employees.

**APPENDIX C**

**EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT OF  
CITY OF LINDEN EMPLOYEE POLICY MANUAL**

[Note: this page to be inserted into but not be a permanent part of the Manual. Signed form to be retained by City in employee's personnel file.]

I acknowledge that I have received a copy of the City of Linden Employee Policy Manual. I acknowledge that I have read and understand the Policy Manual page entitled "**DISCLAIMER**". I agree to read this Manual thoroughly and if there are any policies or provisions in the Manual that I do not understand, I will seek clarification from the Department Head or Office of the Municipal Treasurer. I understand that the City is an "at will" employer and consistent with applicable Federal and State law as well as any applicable collective bargaining unit agreements or other written contractual arrangement, my employment with the City is not for a fixed term or definite period and may be terminated at the will of either the City or Myself, with or without cause, and with or without prior notice. I understand that only the City and no supervisor or other representative of the City has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above. In addition, I understand that this Manual sets forth the City's personnel policies in effect on the date of publication. I understand that nothing contained in the Manual may be construed as creating a promise of future benefits or a binding contract with the City for benefits or for any other purpose. I also understand that these policies and procedures are continually evaluated and may be amended, modified or terminated at any time.

Please sign and date this receipt and return it to the Department Head.

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

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

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

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