

# **BOROUGH OF HAWTHORNE**

## **EMPLOYEE HANDBOOK**

### **POLICIES AND PROCEDURES MANUAL**

**ALSO KNOWN AS THE**

### **BOROUGH OF HAWTHORNE EMPLOYEE MANUAL**

**Authorized by the Honorable Richard S. Goldberg  
Prepared by Borough Administrator Eric Maurer  
Adopted by the Hawthorne Municipal Council on September 21, 2016**

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# **CHAPTER 1 GENERAL INFORMATION**

## **1.1 WELCOME**

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

## **1.2 INTRODUCTION**

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

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

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

Non-union, managerial, supervisory or confidential employees entitled to benefits shall receive at least the minimum benefits equivalent to the bargaining unit that the employee would otherwise be a member of, except for longevity payments, notwithstanding their exclusion from that negotiations unit by virtue of their position on the confidential nature of their work.

The definition of policies for the Borough of Hawthorne and the consistent application of such policies by standardized procedures will result in uniformity of operations throughout all departments, increased efficiency and morale, and better service to both employees and the community. To achieve these goals, a Policy and Procedure Manual has been prepared and will be maintained for the guidance of management and personnel.

## **1.3 DISCLAIMER**

This Employee Handbook is intended to inform employees of the Borough of Hawthorne about the Borough's existing policies and procedures. It is not a contract of employment, nor is it a guarantee of any particular term of employment. Unless otherwise provided by Statute, Ordinance, regulation, individual contract or collective bargaining agreement, employees of the 09/21/2016 Handbook

Borough are "at-will employees", which means that they serve at the pleasure of the Borough. Both the Borough and the employees retain the right to terminate their employment relationship at any time, and for any reason. This Handbook is subject to review and change from time to time, which change may include additions or deletions. As these changes are adopted, employees will be notified of them, in writing and the new policies and/or procedures will be incorporated into this Employment Handbook. No agreements that are contrary to the provisions of the Handbook may be made with individual employees, except with the express and written consent of the Mayor and/or the Council.

#### **1.4 APPLICABILITY**

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

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

#### **1.5 CONTENT OF DOCUMENT**

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

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

#### **1.6 FORMAT OF DOCUMENT**

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

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

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

#### **1.8 MANAGEMENT RIGHTS POLICY**

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

- A. To manage and control the affairs of the Borough of Hawthorne and its properties and facilities, the operation of its departments, and the activities of its employees.
- B. To hire all employees for each position subject to the provisions of law, to determine their qualifications, to determine standards of performance, conditions for continued employment or assignment, and to promote and transfer employees
- C. To lay off, suspend, demote, discharge or take other disciplinary action for good and just cause according to law.

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

Nothing contained herein shall be construed to deny or restrict the Borough of its powers, rights, authority, duties and responsibilities under R.S. 40 or any other national, state, county or local laws or ordinances.

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

- A. Full-time – Permanent employees hired after 4/1/98 and work a minimum of 35 hours per week, or employees hired before 4/1/1998 and work thirty-two and a half (32.5) hours per week.
- B. Part-Time
  - Part-time Salaried– an employee, permanent or temporary, who works a fixed or variable schedule of less than 35 hours per week and receives a fixed salary.
  - Part-time Hourly – an employee, permanent or temporary, who works a fixed or variable schedule of less than 35 hours per week and receives payment compensation for voucher submitted for actual hours worked.
- C. Temporary or Seasonal – Any employee who works a fixed or variable schedule and is considered hourly regardless of the number of hours worked.
- D. Hours of Employment for Office and Administrative employees shall be 8:30 am to 4:30 pm, or as agreed or negotiated. Hours for Union employees shall be by contract.

## **CHAPTER 2 EMPLOYEE RIGHTS AND OBLIGATIONS**

### **2.1 AFFIRMATIVE ACTION**

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

### **2.2 ANTI-DISCRIMINATION POLICY**

The Borough is committed to the principle of equal employment opportunities and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD), as amended by, inter alia, the New Jersey Pregnant Worker's Fairness Act (NJPWFA). Under no circumstances will the (local unit type) discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy (including pregnancy related medical conditions), childbirth, liability for service in the United States armed forces, gender identity or expression, and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer their Department Head, the Borough Administrator, or the Mayor.

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

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

It is the policy of the Borough of Hawthorne to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and LAD. The Borough will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth, or pregnancy related medical condition. The Borough will also make

reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, and/or those who are pregnant provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the Borough of Hawthorne.

The Borough Administrator shall engage in an interactive dialogue with disabled and or/pregnant employees and prospective employees to identify reasonable accommodations. All decisions with regard to reasonable accommodation shall be made by the Borough Administrator. The Americans with Disabilities Act does not require the Borough of Hawthorne to offer permanent “light duty”, relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

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

#### **2.4 CONTAGIOUS/LIFE THREATENING ILLNESS POLICY:**

The Borough has a legal obligation and is committed to providing a safe and healthy work environment for all employees and to the public at large. In an effort to balance the needs of the Borough, the public and the employees, the Borough has adopted certain regulations with respect to contagious/life threatening illnesses. The Borough respects the dignity and work of every employee. Our Equal Employment Opportunity Policy (2.1) explains the Borough's position and practice with respect to prohibiting discrimination in every phase of employment.

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

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

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

Employees with such conditions, who are able to meet performance standards and whose continued employment does not pose a threat to their own health and safety, or that of others, are assured equal employment opportunities and reasonable accommodation in their employment. This has been and continues to be the policy of the Borough.

If an employee is able to work, they are expected to be productive. If the individual cannot work, then he or she may be eligible for health and disability benefits.

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

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

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

The Borough will take reasonable precautions to protect such information provided by employees to the Borough regarding such illnesses from inappropriate disclosure, including the following:

Medical information may be disclosed with the prior written informed consent of the person who is the subject of the information.

Information may be disclosed without the prior written consent to qualified individuals for the purpose of conducting management audits, financial audits, and program evaluations, but these individuals shall not identify, either directly or indirectly, the person who is the subject of the record in a report or evaluation, or otherwise disclose the person's identity in any manner. Information shall not be released to these individuals unless it is vital to the audit or evaluation.

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

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

## **2.5 SAFETY POLICY**

The Borough of Hawthorne will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA). The Borough is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary

action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the Borough Administrator. Any on-the-job accident or accident involving Borough of Hawthorne facilities, equipment or motor vehicles must also be immediately reported to the supervisor.

## **2.6 DRUGS, NARCOTICS, AND ALCOHOL**

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

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

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

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

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

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

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

Employees must report their use of over-the-counter or prescribed medications to their Department Head or the Borough Administrator if the use might impair their ability to perform their job safely and effectively. The Department Head or Borough Administrator is required to maintain the confidentiality of any information regarding the employee's medical condition in

accordance with the Health Insurance Portability and Protection Act. A determination will then be made as to whether the employee should be able to perform the essential functions of the job safely and properly.

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

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

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

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

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

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

## **2.7 WORKPLACE VIOLENCE POLICY**

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

Prohibited conduct includes:

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive, hostile, or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;
- Possession of a weapon while on Municipality property or while on Municipality business except with the Municipality of the Police Chief; and
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

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

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

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

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

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

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

- Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:
- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

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

If an employee is witness to or believes that the employee has experienced sexual harassment, they must immediately notify their supervisor or other appropriate person. Complainants should follow the Complaint Procedure that is set forth in Section 2.5.4 of this Handbook.

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

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

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

## **2.9 "WHISTLE BLOWER POLICY"**

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

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

Disclosing or threatening to disclose to a supervisor, Department Head, the Borough Administrator, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.) an activity, policy or practice that the employee

reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law or is fraudulent or criminal;

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

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

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

## **2.10 IMPROPER CONDUCT**

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

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

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

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

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

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

## **2.11 SUPERVISORY PERSONNEL**

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

## **2.12 INVESTIGATION PROCEDURE**

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

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

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

## **2.13 PRIVACY**

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

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

## **2.14 BOROUGH LIABILITY**

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

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

## **2.15 FALSE ACCUSATIONS**

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

## **2.16 ANTI-HARASSMENT / SEXUAL HARASSMENT COMPLAINT PROCEDURES**

Employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing under the anti-harassment / anti-sexual harassment policies should

immediately report the matter to their supervisor. If they prefer, or do not think that the matter can be discussed with their supervisor, they should contact the Department Head, the Borough Administrator, the Borough Attorney or the Borough's Safety/Training/Compliance Officer. If for some reason the employee deems it inappropriate to report the matter to any of these individuals, he or she may report it directly to the Mayor. Sexual harassment may also be reported to one of the Sexual Harassment compliance officers appointed by the Mayor. Reporting of such incidents is encouraged when an employee feels that he or she is subject to incidents, or observes such incidents in reference to other employees.

1. All complaints under the anti-harassment / anti-sexual harassment policies shall apply.
2. Employees shall be free from reprisal or retaliation by any co-employee or supervisory personnel if they report a complaint under the provisions of the Conscientious Protection Act (N.J.S.A. 34:19-1, et seq.). Additionally, all reports of harassment, sexual harassment, or other wrongdoing under these policies will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing. No employee will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files in good-faith a harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven.
3. Complaints shall be orally reported to the employee's immediate supervisor unless the complaint is against the immediate supervisor, in which case the complaint shall be orally reported directly to the Borough Administrator. If the complaint is against the Borough Administrator, the complaint shall be reported directly to the Mayor.
4. Although complaints will be kept confidential to the extent possible, it must be made clear that anonymity or confidentiality cannot be guaranteed if action must be taken against the wrongdoers; since the testimony of the victim is an essential element in disciplining, terminating, prosecuting, or taking other legal action against the wrongdoer. There also may be circumstances where disclosure is required by law. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons involved. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. There also may be circumstances where disclosure is required by law.
5. Employees shall be encouraged, but not required, to report their complaints in writing; oral complaints will also be investigated. However, if the complaint is not in writing, the Borough Administrator shall summarize the oral complaint including: the date, time and place of the alleged violations. The complainant shall be asked to initial the summary to acknowledge the accuracy of the information.
6. All personnel complaints must be reported to the Borough Administrator even if the matter is to be reviewed and decided by supervisory personnel. The Borough Administrator shall be responsible for monitoring the progress of the complaint and making the proper investigation when the matter reaches the Borough Administrator's level.

7. All formal investigations shall be conducted by the Borough Administrator, unless the alleged violation is against the Borough administrator, in which case the Mayor shall conduct the investigation. The investigation shall include:
  - a. Establishing a file.
  - b. Reviewing the complaint with the complainant.
  - c. Interviewing any witnesses.
  - d. Interviewing the individual(s) against whom the complaint has been filed.
  - e. Reviewing pertinent contract language, ordinance language, or state statute with the Borough Attorney.
  - f. Review and retain any physical evidence.
  - g. Preparation of a written report in consultation with the Borough Attorney with a decision as to whether the complaint appears to be valid or not.
8. The rights of all employees including the complainant and alleged wrongdoer are to be protected throughout the process.
9. If the complaint cannot be supported by the results of the investigation, the Borough Administrator shall advise the complainant accordingly. Filing complaints that contain false allegations is a serious offense and disciplinary action may be instituted against employees who file false complaints.
10. If the complaint is justified and substantiated, a response plan shall be prepared by the Borough Administrator in conjunction with the Borough Attorney setting forth the immediate and appropriate corrective action as well as the possible disciplinary action which may ensue.
11. In some severe cases it may be necessary to report the incident to law enforcement authorities. If criminal behavior is involved such as assault, battery, threats of violence or bodily harm, use or sale of illegal drugs, theft, possession of a weapon, vandalism or intentional damage to municipal property or property of a supervisor, co-employee, elected official or any other person, then the Borough Administrator shall request the Borough Attorney to discuss the matter with the appropriate law enforcement authorities.

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

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

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

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

### **2.17.2 GRIEVANCES BY NON-UNION EMPLOYEES**

All grievances from non-union employees must be presented within five working dates after arising and failure to report a grievance within such time shall be deemed as a waiver of the grievance. In the event of a settlement or ruling that results in a determination of monetary liability, such liability shall not exceed more than thirty working days prior to the date the grievance was first presented in writing.

- **Step One:** Any employee or group of employees with a grievance shall verbally communicate the grievance to the supervisor or Department Head who will discuss the matter with the Supervisor or Department Head and the Borough Administrator. The supervisor or Department Head will communicate the decision to the employee within two working days.
- **Step Two:** If the employee is not satisfied with the decision, the employee must submit a written grievance to the Borough Administrator detailing the facts and the relief requested. The decision in step one will be deemed final if the employee fails to submit a written grievance within five days working days of the step one decision. After consulting the Borough Labor Attorney, when necessary and appropriate, the Borough Administrator will render a written decision to the employee within five working days after receipt of the written grievance.

These limitations do not apply to employee complaints made under the General Anti-Harassment Policy, the Anti-Sexual Harassment Policy or the Whistle Blower Policy.

## **2.18 AMERICANS WITH DISABILITIES ACT (ADA) GRIEVANCE PROCEDURE**

The Borough of Hawthorne recognizes its obligations under the Americans with Disabilities Act of 1990 with respect to recruitment, hiring, promotion, training, lay-off, rates of pay, disciplinary action, job assignments, granting of leave time, and fringe benefits.

Individuals who are granted rights under the ADA may file a grievance or complaint with the Borough at any time without fear of penalty or retribution. The Borough has adopted the following procedural guidelines for the filing of grievances in regard to the Borough's compliance with the ADA.

- **Step 1:** The grievant must file a complaint in writing with the Borough of Hawthorne's ADA compliance officer. The ADA compliance officer shall investigate the complaint and render a decision in writing within fifteen working days of the filing of the complaint. A copy of this decision shall be mailed to the grievant by way of certified mail.
- **Step 2:** If the grievant is not satisfied with the decision of the Borough's ADA compliance officer, the grievant may file a written complaint with the Borough Administrator. The Borough Administrator shall investigate the complaint and render a decision within fifteen (15) working days. The decision shall be made in writing. The decision of the Borough Administrator shall be final.
- **Step 3:** If the grievant is not satisfied with the decision of the Borough Administrator, the grievant may file a written complaint with the Department of Justice, Coordination and Review Section of the Civil Rights Division. A complaint must be filed within one hundred and eighty (180) days of the alleged ADA violation. All complaints shall be filed at the following address:

Coordination and Review Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. BOX 6618  
Washington, DC 2035-6118

## **2.19 EMPLOYEE PERSONNEL FILES**

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

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

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

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

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

## **2.20 CONFLICT OF INTEREST**

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

No Borough employee may use attempt to use his/her official position to secure unwarranted

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

### **2.20.1 ETHICS**

Employees are expected to devote their best efforts to the interests of the Borough of Hawthorne. Pursuant to N.J.S 40:69A-163, no employee shall have any interest, direct or indirect, in any job for work or materials being supplied to the Borough.

Employees, including Borough of Hawthorne officials, must conduct business according to the highest ethical standards of public service, in accordance with N.J.S. 40A:9-22.1 et seq. Under the Act, certain employees and officials are required to annually file with the Borough Clerk, a state mandated disclosure form. The Borough Clerk will notify employees and local Borough officials subject to the filing requirements of the Act.

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

### **2.20.2 GIFT POLICY**

Borough employees shall refrain from accepting any gift from a vendor, developer, property owner or other party with whom the Borough conducts or might expect to conduct official business when the acceptance of that gift might appear to bring into question the exercise of proper and impartial judgment in the exercise official duties, and in no case should solicit any gift. Examples of official business include but are not limited to: procurement of goods or services; insurance claims; pending litigation; enforcement actions; development applications; permit applications and related inspections; hiring decisions or other personnel actions. The acceptance of gifts of modest value will not always constitute a violation of this policy. The following guidelines shall be applied to determine whether a particular gift is permissible.

- a) An employee shall not accept any gift whatsoever of any value from a party who has any matter pending before the Borough when the employee is in a position to make or influence a decision on the matter, either while the matter is pending or immediately upon a decision being made.
- b) Generally, gifts of a value greater than \$25 for the personal use of an individual employee should be refused.
- c) Gifts of food, such as holiday gift baskets, even when above the \$25 dollar limit, may be accepted only if shared with other people, including visitors, in the municipal office. Alternatively, when practical, such gifts may be donated to the community food bank.
- d) Nothing herein shall preclude an employee from accepting an invitation to represent the Borough at an event being held by another governmental or quasi-governmental agency, or a not-for-profit organization, as the invited guest of such an entity, even if the presumed value of attending the event exceeds the \$25.
- e) Employees may accept meals paid for by another party, even in excess of the \$25 limit, provided there is reciprocity in that the employee pays at other times..

- f) Nothing in this policy shall prohibit an employee from accepting a gift of reasonable value from the employee's family member or a friend. The criterion here should be whether the gift would be offered to the employee even if he or she were not an employee or official of the Borough. If not, than all of the other guidelines herein should be followed.
- g) In no case shall an employee accept a gift of cash, gift certificates or gift cards or other similar item.

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

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

## **2.21 POLITICAL ACTIVITY POLICY**

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

## **2.22 DISCLOSURE OF INTEREST IN LEGISLATION**

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

## **2.23 EMPLOYEE EVALUATIONS**

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

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

Annual job performance evaluations shall be completed and submitted to the Administrator no later than June 30th of the current year. Evaluations that exemplify established standards with no

need for improvement shall suffice for a period of one year unless a problem arises before the next evaluation period. Should a problem precede the scheduled evaluation period, then an evaluation shall occur and any corrective action will be noted. On all evaluations requiring corrective action, ninety-day reviews shall occur until the noted deficiency is eliminated.

## **2.24 EMPLOYEE DISCIPLINE/TERMINATION**

The Borough of Hawthorne has a duty and responsibility to take disciplinary action against Borough employees who violate federal and state laws as well as Borough policies, rules, regulations and procedures. Disciplinary action shall only be administered when the measure is in the best interest of the Borough. The Borough of any of its employees shall never utilize such action as a retaliatory measure. The Borough Administrator and Mayor are the only Borough officials authorized to dispense final disciplinary action. Department Heads may make recommendations to the Borough Administrator regarding disciplinary action, but may only dispense such action that is approved by the Borough Administrator or Mayor.

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

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

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

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

Disciplinary action may take the following forms:

- A. Oral Reprimand
- B. Written Reprimand
- C. Suspension With Pay Pending an Investigation

- D. Suspension Without Pay
- E. Demotion
- F. Dismissal or Termination of Employment

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

Neither this manual nor any other Borough guidelines, policies or practices create an employment contract. Employment with the Borough may be terminated at any time with or without cause or reason by either the employee or the Borough.

## **2.25 WORK FORCE REDUCTIONS AND LAYOFFS**

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

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

## **2.26 DRIVER'S LICENSE POLICY**

Any employee whose work requires the operation of Borough vehicles must hold a valid New Jersey State Driver's License of the appropriate class.

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

Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks shall be made by the Department of Insurance, Compliance, and Education. Any employee who does not hold a valid driver's license of the appropriate class will not be allowed to operate a Borough vehicle until such time as a valid license is obtained.

Any employee performing work which requires the operation of a Borough vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee that fails to report such an instance is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report such revocation or suspension to their supervisor and continues to operate a Borough vehicle shall be subject to possible termination. Any information obtained by the Borough in accordance with this section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. S 2721 et seq.)

## **CHAPTER 3 WORKPLACE POLICIES**

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

The Borough of Hawthorne is an equal opportunity employer and complies with the Civil Rights Act of 1964, all State and Federal regulations governing Affirmative Action and equal employment opportunity and provisions of the Federal Americans With Disabilities Act of 1990 (ADA) and the New Jersey Law Against Discrimination (“LAD”).

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

This Policy shall apply to all phases of employment, including recruitment, selection, appointment, placement, promotion, demotion, transfer, training, salaries and wages, benefits, working conditions, lay-off and reductions in force, recall, disciplinary and dismissal actions, job performance evaluations, and the utilization, accessibility, and accommodation of all municipal buildings and facilities within the Borough.

### **3.2 JOB DESCRIPTIONS**

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

### **3.3 VEHICLE USAGE POLICY**

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

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

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

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

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

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

1. It is the responsibility of every Borough employee / volunteer who drives a Borough owned/leased vehicle or personal vehicle on official Borough business to:
  - A. Operate the vehicle in a safe and courteous manner.
  - B. Know and obey all applicable State of New Jersey motor vehicle laws.
  - C. Abide by Borough of Hawthorne safety rules.
2. All drivers will possess a valid Driver's license appropriate to the classification of vehicle to be operated.
3. The operator shall make a visual inspection of the vehicle, prior to use, to ensure that the vehicle is in a safe operating condition.
4. In the event of an accident, proper risk control procedures will be followed to minimize the possibility of loss to life and property.
5. All vehicle collisions or property damage accidents must be reported to the police and internally for investigation.
6. No Borough vehicle will be left unattended with the keys in the ignition. Vehicles should be kept locked when not in use with interior contents out of sight.
7. Employees shall be held accountable by their Supervisor / Department Head for occurrences of poor driving involving Borough owned/leased vehicles or their personal vehicles on Borough business. Documentation of corrective action (including counseling) taken should be kept in individual's personnel file.
8. Smoking is not permitted in Borough vehicles.

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

The Borough of Hawthorne's communication media are the property of the Borough of Hawthorne and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms

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provided by the Borough of Hawthorne such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, fax, etc. and such communication media outlets dedicated to the Borough of Hawthorne, including but not limited to, websites, social media, social publishing, social networking, discussion forums, media sharing networks, blogs, etc.

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

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

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the Borough of Hawthorne are required to use the assigned municipal email account for ALL Borough business and correspondence. The use of private email accounts for ANY Borough business or during business hours is strictly prohibited.

Employees can only use the Borough’s Communication Media for legitimate business purposes. Employees may not use Borough’s Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Borough rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

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

All employees may access only data for which the Borough has given permission. All employees must take appropriate actions to ensure that the Borough’s data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not

access or retrieve any information technology resource and store information other than where authorized.

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

Employees may not install or modify ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough, or licensed to the Borough. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

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

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

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

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

No Borough employee shall post internal Borough documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/or actual documents themselves without the prior approval of the Borough Administrator. In addition employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Borough's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the Administrator. Except in "emergency situations," employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the Borough's Communication Media. If such situation occurs, employee agrees that

any images belong to the Borough and agree to release the image to the Borough and ensure its permanent deletion from media device upon direction from the Borough.

No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the Borough or on behalf of the Borough, whether through the use of the Borough's Communication Media or otherwise, may be issued unless it has first been approved by the Borough Administrator. Employees may however share information initiated by the Borough through sharing, retweeting, or linking to the information on the Borough's official website, official Facebook account, or official Twitter account. This will provide a uniform message and source for all Borough information.

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

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

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

To the extent that employees use social media outside of their employment and in so doing if employees choose to identify themselves as a Borough of Hawthorne employee on their personal social media accounts, and even those that do not, should be aware that he or she may be viewed as acting on behalf of the Borough. As such, no employee shall knowingly represent themselves as a spokesperson of the Borough, post any comment, text, photo, audio, video or other multimedia file that negatively reflects upon the Borough, expresses views that are detrimental to the Borough's mission or undermine the public trust, or is insulting or offensive to other individuals or to the public in regard to religion, sex, race or national origin. Borough employees are encouraged to exercise extreme caution posting photographs of themselves in uniform or in situations where they can be readily identified as Borough employees.

Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Borough employees have the right to engage in or refrain from such activities.

### **3.4.1 TELECOMMUNICATIONS POLICY**

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

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

Unless otherwise indicated, the phones provide minutes of cell phone time (outgoing and incoming time is charged). Some Borough issued cell phones shall have text enabled capabilities, at the sole discretion of the Borough, and are subject to the same rules contained in this policy. If you go over the amount of time or texts, your business calls / texts will be deducted, and for the personal time / texts over the limit, employees are subject to being charged for non-business usage. You will be required to write a check reimbursing the Borough and you will need to provide a memo explaining the excessive use of the phone.

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

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

### **3.5 BULLETIN BOARD POLICY**

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

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

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

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

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

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

- A. They may be used only for the conduct of Borough business and shall not be used by anyone for other purposes without specific supervisory authorization.
- B. Each employee must take all necessary steps to prevent the theft, loss, and damage to or misuse of Borough property. Such steps include seeing that buildings, and storage areas are locked before leaving, that parked vehicles are locked, that tools, supplies and equipment are properly used, stored and safeguarded.
- C. No employee may take, sell or give away Borough property regardless of its condition, without specific authorization by the Borough Administrator and Council, as outlined by the Division of Local Government Services (DLGS) and New Jersey Statutes Annotated (N.J.S.A. 40A:1-1 et seq.).

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

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

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

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

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

### **3.9 CONFIDENTIALITY**

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

### **3.10 COMPLIANCE WITH LAW**

The Borough complies with all State and Federal wage and hour laws, including but not limited to: the Fair Labor Standards Act, the Americans With Disabilities Act of 1990, the New Jersey Law Against Discrimination, the Age Discrimination in Employment Act of 1967, the Civil Rights Act of 1964, the Public Employee Occupational Safety and Health Act, the New Jersey Workers' Compensation Act, State Unemployment laws, the New Jersey Family Leave Act, the Federal Family Medical Leave Act, 42 U.S.C. §1981, as amended, 42 U.S.C. §1983, as amended, 42 U.S.C. §1985, as amended and the Federal Equal Pay Act of 1963, the Older Worker Benefit Protection Act, the New Jersey Local Public Contracts Law, State and Federal Anti-discrimination Laws, State and Federal environmental laws and all other applicable State and Federal laws. If an employee believes that an action of the Borough violates State or Federal law, the employee has an obligation to bring the alleged action to the attention of his/her department head and/or the Borough Administrator.

### **3.11 PERSONAL INTEGRITY**

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

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

### **3.12 IMPROPER USE OF OFFICIAL POSITION**

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

### **3.13 ID CARDS**

All employees acting on behalf of the Borough of Hawthorne will be issued an official Identification (I.D.) Card. The I.D. Card will be issued by Administration and as directed must be worn prominently on the outer clothing between the shoulder and waist with the photo side facing out when an employee is in an official capacity.

Use of the Identification Card will provide reliable and controlled identification. The I.D. Card may not be defaced or visually obstructed in any manner. Stickers, pins or other items affixed to the I.D. Card will impair its purpose and performance.

The I.D. Card will be used solely by the person authorized by the issuing official, and under no instances will it be transferred to another individual. The I.D. Card will be maintained until the relationship with the Borough of Hawthorne has been terminated and will be relinquished at such time.

The first Identification Card will be issued free of charge. Lost, stolen or damaged cards must be reported to Administration at the earliest possible time, during regular business hours. The cost of replacement will be borne by the employee or the department, at the Department Head's discretion. There will be no charge for a replacement card due to a name change (marriage, divorce) or job reclassification.

The form of the ID card will be as prescribed by the Borough Administrator.

### **3.14 OPEN PUBLIC MEETINGS ACT PROCEDURE - PERSONNEL MATTERS**

Discussions by the Governing Body or any body of the Municipality concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee shall be in closed session unless the individual requests in writing that the discussion be held in open session. Such request must be granted. Prior to the discussion by the Governing Body or any body of the Municipality concerning such matters, the Clerk shall notify the affected person(s), within a reasonable period of time, of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session.

In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session, then the discussion shall be in closed session. If the individual(s) does not request that the discussion be held in open session, the Governing Body or other body of the Municipality may at its sole discretion invite the affected individual(s) to attend the applicable portion of the closed session.

### **3.15 EMPLOYEE DATING POLICY**

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

No elected official, officer or employee holding a supervisory, administrative, or managerial position having the authority to affect or recommend changes in the terms and conditions of employment, shall engage in a romantic, dating, or intimate/sexual

relationship with another employee of the Borough whom he/she supervises, or whose terms and conditions of employment he or she can influence. Examples of terms and conditions of employment for purposes of this policy include but are not limited to promotion, evaluation, assignment, review or allocation of work, termination, training, discipline and compensation.

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

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

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

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

## **CHAPTER 4 PROCEDURES FOR HIRING**

### **4.1 RECRUITMENT**

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

### **4.2 APPLICATIONS**

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

#### **4.2.1 BAN THE BOX LEGISLATION**

Borough of Hawthorne shall comply with New Jersey's "Ban the Box" legislation, and will not ask about a candidate's criminal background on a standard employment application.

### **4.3 INTERVIEWS**

The Borough Administrator or Department Head will coordinate the interview process including the scheduling of applicants, development of interview questions and standards to measure candidate responses. All questions must be in accordance with the New Jersey Division of Civil Rights Guidelines for Pre-Employment Inquiries and the Americans with Disabilities Act of 1990. The Borough will make reasonable accommodations to known physical and mental limitations of all applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided the accommodation does not impose an unreasonable hardship on the Borough.

### **4.4 PHYSICAL EXAMINATIONS**

Pursuant to the Americans with Disabilities Act of 1990, after an offer of employment is made and prior to commencing employment, the Borough Administrator may require applicants to pass a physical examination in order to insure that they can perform the duties of their position without injury to themselves or others. The same post-offer physical examination must be performed on all applicants for a particular position.

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

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

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

### **4.6 JOB OFFERS**

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

### **4.7 ACCEPTANCES AND REJECTIONS**

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

#### **4.7.1 EMPLOYABILITY PROOF**

After acceptance of a job offer, but no later than the first day of employment, all new employees shall be required to fill out an employment verification form (I9) and provide any necessary accompanying documentation of the employee's authorization to work in the United States.

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

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

#### **4.9 BACKGROUND CHECKS**

Background checks shall be made prior to employment and will be completed according to a procedure established and approved by the Borough Administrator and / or governing body. Law enforcement candidates shall be subject to additional background check procedures as mandated for their positions. Law enforcement background checks shall be conducted pre-offer.

The Borough of Hawthorne remains committed to complying with the provisions of the New Jersey Rehabilitated Convicted Offender Act, N.J.S.A. 2A:168A-1, et. seq.

The Borough of Hawthorne is committed to compliance with the policy set forth in Title VII, 42.U.S.C. 1981(a) that hiring and retention decisions be made on the basis of job-related factors.

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

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

All new regular full-time and regular part-time employees will be scheduled to meet with the Borough Administrator, or designee, on their first day for a general orientation. Copies of all forms and acknowledgements must be returned to the Borough Administrator for inclusion in the employee's official personnel file. The orientation will include:

- A tour of the appropriate facilities, by Supervisor or Department Head, to acquaint the new employee with overall operations as they relate to the specific position;
- The completion of all pertinent personnel, payroll, insurance and pension forms satisfied through the Finance Department;
- A review of the Employee Handbook and acknowledgement of receipt;
- A safety orientation and acknowledgement; and

- Arrangements for the new employee to complete required PEOSHA safety training as arranged by the Safety Officer

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

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

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

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

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

#### **5.1.2 STATUS OF EMPLOYEES IN NON-BARGAINING UNIT**

For determining eligibility for benefits that accrue to full-time employees, full-time employees shall be considered those with a regular schedule of thirty-five (35) or more work hours per week if hired on or after 4/1/1998, and of thirty-two and a half (32.5) or more work hours per week if hired before 4/1/1998.

### **5.2 PAID HOLIDAYS**

Employees shall be paid for the holidays listed in the negotiations agreements or contract. The Borough shall adhere to all state and federal holidays as declared by either the President of the United States or the Governor of the State of New Jersey.

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

#### **5.2.1 WEATHER EMERGENCIES**

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

If an employee cannot or does not report to work during a severe weather event and the Borough issues a salary payment to the employee(s) for that day, then the employee(s) must use a personal, comp, or vacation day, or with the approval of his or her Department Head, may make up that time.

### **5.3 LEAVES OF ABSENCE**

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

### **5.3.1 PAID LEAVES OF ABSENCE-Vacation, Personal Days, Holidays, Bereavement, Jury Duty, Sick Leave**

Full-time employees are entitled an annual allotment of paid Leave of Absence in accordance with the schedules contained in their negotiations unit or Borough Policy.

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

Part-time hourly employees are not entitled to paid leaves of absence

Seasonal or Temporary employees are hourly employees hired to accomplish a specific task or seasonal assignment. They are not entitled to paid leaves of absence.

### **5.3.2 UNPAID LEAVES OF ABSENCE**

If an employee needs additional time off and the employee has utilized all sick leave, personal days, vacation leave, bereavement leave, FMLA leave, NJFLA leave (If applicable), domestic violence leave (If applicable), and disability leave (if applicable), then the employee may request an unpaid leave of absence from the Borough Administrator. Unpaid leaves of absence would only be considered in cases of medical problems or difficulties, or under applicable conditions contained in Federal Family and Medical Leave Act (FMLA), the New Jersey Family Leave Act (FLA), or NJ SAFE Act, and would not normally last beyond thirty (30) days. The granting of unpaid leaves of absence shall be at the sole discretion of the Borough. Although insurance benefits would be continued, there will be no accumulation of leave time during an unpaid leave of absence.

### **5.3.3 SICK LEAVE / DISABILITY LEAVE**

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

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

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

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

### 5.3.4 FAMILY LEAVE

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

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

#### **An unpaid leave may be taken for the following purposes:**

1. The birth of an employee's child and the care of the child. This provision is applicable to both mothers and fathers;
2. The placement of a child with the employee for adoption or foster care;
3. The care of the employee's spouse, civil union partner, same-sex spouse, child or parent, who has a serious health condition;
4. A serious health condition that renders the employee unable to perform his or her job.
5. Reasons related to a covered family member’s active duty or call to active duty in the Armed Forces.
  - A. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member’s call-up or service. Reasons related to the call-up or service includes helping the family member prepare for departure or caring for children of the service member. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave, except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12month period.
  - B. Employees requesting this type of FMLA leave must provide proof of the qualifying family member's call-up or active military service before leave is granted.
6. The care of an injured or ill service member.

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

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

The period of leave must be requested using the appropriate FMLA forms provided by the Borough and will include a certification provided by a physician. An extension past twelve weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The Borough retains the right to designate qualifying leave as FMLA leave. Additional information concerning the Family Leave Policy and eligibility requirements are available from the Borough Administrator.

Eligible employees, who are caring for a seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child can apply for Family Temporary Disability (“FTD”) payments for up to six (6) weeks in a twelve (12) month period. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1000 times the minimum wage. FTD will run concurrently with FMLA and/or FLA leaves and there is a one week waiting period. Employees may also be required to use accrued sick, vacation or personal leave for up to two weeks.

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

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

1. a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service-member unable to perform the duties of the service-member's office, grade, rank, or rating; *or*
2. a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; *or*
3. a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; *or*
4. an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **5.3.6 WORKER'S COMPENSATION LEAVE**

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

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

Employees who are entitled to receive one hundred percent (100%) of salary while on Worker's Compensation for a work related injury shall receive a separate check from the Borough for the balance owed to the employee after the Worker's Compensation Benefit has been paid. Except as provided by employee contract or collective bargaining agreement, Part-time, temporary, and seasonal employees, shall receive Worker's Compensation benefits for any work related injury as provided by NJSA 11A:6-8.

### **5.3.7 LIGHT DUTY / RETURN TO WORK POLICY**

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

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

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

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

### **5.3.8 BEREAVEMENT LEAVE**

Employees shall receive time off with pay for a death in the family in accordance with the schedules contained in the collective negotiations agreements or employment contract.

### **5.3.9 VACATION LEAVE AND PERSONAL DAYS**

Employees shall receive an annual allotment of vacation leave and personal days in accordance with the schedules contained in bargaining agreements or employment contract.

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

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

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

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

### **5.3.10 MILITARY LEAVE**

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

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

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

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

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

calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

### **5.3.11 JURY DUTY**

Employees called for jury duty will be excused from work for the period actually in attendance in court and he/she will be paid the difference between jury duty fees received and his/her regular daily compensation. Employees must present satisfactory proof to the Borough of his/her jury service and the amount paid him/her for such service. Employees who are dismissed by the Court in such cases must return to work to complete the balance of their regularly scheduled shift provided at least one half (1/2) of their shift remains.

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

### **6.1 BENEFITS**

Employees and their immediate family members, including civil union partner, are provided health and dental insurance coverage after sixty (60) days of employment. The Borough reserves the right to change provider networks, claims agents, and insurance mechanisms (fully insured versus health insurance fund, e.g.). The complete benefit plan is on file in the Treasurer's office and a Summary Plan Description will be provided to all employees.

### **6.2 MEDICAL AND DENTAL BENEFITS**

Employees must be Full Time to be entitled to Medical and Dental Benefits. Seasonal or Temporary employees are not entitled to Medical or Dental Benefits. Appointed officials and elected officials are not entitled to benefits. Employees or officials not otherwise entitled to benefits may continue to receive them if they were in effect prior to the effective date of this policy, or if negotiated as part of an employment contract or agreement until the expiration date of that agreement or the end of their current term. Pursuant to the Federal "Affordable Care Act", Part-time employees who worked more than one-thousand-five-hundred-sixty (1560) hours are entitled to Borough provided medical and dental insurance benefits.

All employees receiving medical and dental benefits, shall be required to contribute to the cost of medical and dental coverage at the minimum level required by Chapter 78 of PL2011 of the State of New Jersey, or at such higher levels as included in an employee's collective negotiations agreement.

Health insurance coverage for employees on a Leave of Absence or who cease Borough employment will terminate at the end of the month in which the leave begins or employment is terminated except coverage will continue for up to twelve weeks for employees on leave pursuant to the Family and Medical Leave Act and up to thirty weeks for employees on Military Leave. Upon termination of employment, coverage shall continue for thirty (30) days. Upon termination of coverage, employees may extend health insurance coverage for themselves or their dependents by taking advantage of the Public Health Services Act provision for a period of up to eighteen months to thirty-six months. All newly hired employees and their spouses shall receive a notice of Cobra rights upon being hired. For more information, consult the Treasurer's Office.

Employees shall make themselves aware of the terms and conditions that apply for their specific coverage, and follow such terms and conditions which may limit coverage under the employee's selected plan.

### **6.3 OVERTIME COMPENSATION POLICY**

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

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

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

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

### **6.4 TUITION**

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

### **6.5 PENSION**

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

# Conscientious Employee Protection Act “Whistleblower Act”

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

1. New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:
  - a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
  - b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
  - c. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
  - d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
  - e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
    - (1) is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
    - (2) is fraudulent or criminal; or
    - (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.
2. The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergency in nature.

### CONTACT INFORMATION

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

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

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

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



AD-270 (8/11)

# La Ley de protección al empleado consciente

## “Ley de protección del denunciante”

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

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

#### Información del Contacto

Su empleador ha designado a la siguiente persona para recibir notificaciones de acuerdo al parágrafo 2, de la ley (N.J.S.A. 34:19-4):

Nombre: Eric Maurer

Dirección: 445 Lafayette Avenue  
Hawthorne, NJ 07506

Número de teléfono: (973) 427-1168

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

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



AD-270.1 (8/11)

**BOROUGH OF HAWTHORNE 2016 EMPLOYEE HANDBOOK**

**ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK**

I HEREBY ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THE BOROUGH OF HAWTHORNE'S EMPLOYEE HANDBOOK ON THE DATE INDICATED BELOW, INCLUDING THE FOLLOWING NEW SECTIONS: 3.4.a, 3.15, 4.2.1, 4.7.1.

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

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

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

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

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

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

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