

ORDINANCE #4-24
AN ORDINANCE AMENDING CHAPTER 52 OF THE BOROUGH CODE OF THE
BOROUGH OF MAYWOOD ENTITLED "PERSONNEL POLICIES"

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MAYWOOD, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, the Mayor and Council of the Borough of Maywood desire to revise Chapter 52 of the Borough Code to incorporate the recommended edits of the Municipal Excess Liability Joint Insurance Fund.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Maywood, County of Bergen as follows:

Article II entitled "Disability and Sick Leave" and comprised of Sections 52-3 through 52-8 be and hereby is deleted in its entirety.

Article III entitled "Disciplinary and Termination Procedures" and comprised of Sections 52-9 through 52-13 be and hereby is amended by deleting the wording of the existing Article III and replacing same with the following:

Section 52-9. Disclaimer.

All of the provisions in this section concerning disciplinary and termination procedures are designed to serve as general conduct guidelines only. These guidelines are not intended to create, do not create, and should not be interpreted to imply that a contract of employment exists for any Borough employee. All employees who are not tenured or whose terms are not governed by state statute or who are not governed by individual written contracts of employment or collective bargaining agreements are employees at will and, consistent with fundamental due process, may be terminated with or without cause, except for reasons based on unlawful discrimination or acts against public policy, as provided by state and federal law. Furthermore, the Borough may change or rescind any policies, procedures, or terms and conditions of employment from time to time in its sole discretion.

Section 52-10. Policy.

Corrective disciplinary action, as appropriate, will be taken against any employee found to be in violation of established procedures. All disciplinary action shall be based upon total concern for the employee, the employee's relationship with his/her fellow workers, the employee's relationship with his/her supervisor, and the best interest of the Borough of Maywood (the "Maywood"). Such disciplinary action shall be of a positive, educational and corrective nature, and shall not be used in an abusive or vindictive manner.

Discipline is considered to be major or minor. Major discipline shall include:

- Removal
- Disciplinary demotion
- Suspension of greater than five (5) days

Minor discipline is a formal written reprimand or a suspension or fine of five (5) or less days.

This policy covers non-union employees. It also covers union employees to the extent that their collective bargaining agreements do not cover this subject matter.

Procedure in Major Disciplinary Actions – Generally, an employee will be served with a "Preliminary Notice of Disciplinary Action" ("PNDA") setting forth the charges against the employee and affording a hearing opportunity at a specified date, time and location. The employee must respond with a request for a hearing within five (5) days of the receipt of PNDA; otherwise, the hearing is waived. After the hearing (or a waiver of a hearing), a decision is made and within twenty (20) days, unless additional time is agreed to by the parties. Written notification to the employee shall be made by issuing a "Final Notice of Disciplinary Action" form.

An immediate suspension may be imposed prior to a hearing when:

1. The employee is unfit for duty or presents a hazard to any person if permitted to remain on the job or the suspension is necessary to maintain safety, health, order or effective direction of public services. However, a PNDA with opportunity for a hearing must be served in person or by certified mail within five (5) days following the immediate suspension; or
2. The employee is suspected/charged with an act of misdemeanor, felony or any form of malicious mischief which leads to arrest and/or incarceration and fails to notify his Department/Division Head or Designated Superior immediately. This failure could result in disciplinary action, up to and including termination; or
3. The employee has been formally charged with a crime of the First, Second or Third Degree or a crime of the Fourth Degree directly related to the employee's job.

Where a suspension is immediate, and is without pay, the employee must first be apprised either orally or in writing regarding the charges, the reason why an immediate suspension is sought, and a general description of the evidence in support of the charges. The employee will be provided an opportunity to respond to the charges before a representative of the Borough. The response may be oral or in writing.

An employee may be subject to discipline, including termination, for any of the following reasons:

- Incompetency, inefficiency or failure to perform duties;
- Insubordination;
- Inability to perform duties;
- Chronic or excessive absenteeism or lateness;
- Conviction of a crime;
- Conduct unbecoming a public employee;
- Neglect of duty;
- Misuse of public property, including motor vehicles;
- Discrimination that affects equal employment opportunity, including sexual harassment;
- Violation of federal regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and state and local policies issued thereunder;
- Falsification of public records, including attendance and other personnel records;
- Failure to report absence;
- Harassment of co-workers and/or volunteers and visitors;
- Theft or attempted theft of property belonging to the Borough, fellow employees, volunteers or visitors;
- Unauthorized absences and/or chronic or excessive absences;
- Fighting on Borough's property at any time;
- Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on Borough property and at any time during work hours;
- Failure to report to work on the day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence;
- Possession, sale, transfer or use of intoxicants or illegal drugs on Borough property and at any time during work hours;
- Entering the building without permission during non-scheduled work hours;
- Soliciting on Borough premises during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and for sales of products, such as those from Avon, Amway, etc.;
- Careless waste of materials or abuse of tools, equipment or supplies;
- Deliberate destruction or damage to Borough property or the property of other employees;
- 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 your job duties;
- Violation of established safety and fire regulations;
- Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours;
- Defacing walls, bulletin boards or any other property of the Borough or other employees;

- 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 your work effort, and/or incitement of others to delay or restrict their work effort;
- Conviction of a crime or disorderly persons offense;
- The employee has taken a fee, gift or other valuable thing in the course of his or her work or in connection with it, when such a fee, gift or other valuable thing is given by any person or organization in the hope and expectation of receiving a favor or better treatment than that accorded other persons;
- The employee has been late or absent from work on an excessive number of occasions without justifiable cause;
- The employee's driver's license has been suspended or revoked and the employee's duties require his or her operation of a motor vehicle, or the employee has knowingly operated a motor vehicle while his or her driver's license was suspended or revoked;
- Violating any Borough rules, procedures, regulations or policies;
- Unauthorized use of computers, Internet, email, voicemail, telephone and cellular phone; and
- Other sufficient cause.

These are mere examples and not an exhaustive list or binding on the Borough. Additionally, the Borough reserves the right to use any and all forms of discipline on a case-by-case basis and is not obligated to use progressive discipline. Employment with the Borough may be terminated at any time with or without cause or reason by the employee or Borough.

Article IV entitled “On-the-Job Harassment” and comprised of Sections 52-14 through 52-19 be and hereby is amended by deleting the wording of the existing Article IV and replacing same with the following:

Section 52-14. Policy.

The Borough of Maywood (the “Borough”) is committed to providing a work environment that is free of discrimination. The Borough will not tolerate harassment of or by employees towards anyone, including any supervisor, co-worker, or non-employee, including vendors and citizens.

Applicability. This policy applies to all people employed by the Borough, as well as volunteers working on behalf of the Borough, and prohibits such conduct by or towards all such employees/volunteers. Independent contractors, vendors and all other parties, engaged in a professional business relationship with the Borough are also expected to abide by the policy. In addition, no employee shall be required to withstand behavior from the public which violates this policy.

Purpose. This policy is designed to ensure all employees a work environment free of any type of discrimination based upon a protected status, including freedom from sexual harassment. The purpose of this policy is to inform employees that harassment based upon a protected status is prohibited, to educate employees about harassment based upon a protected status and to provide employees with a procedure to bring complaints to management's attention.

Provisions. All employees are expected to avoid any behavior or conduct of a harassing or discriminatory nature. The Borough prohibits any form of harassment or discrimination related to an employee's protected group status, including race, creed, color, national origin, ancestry, religion, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, familial status, genetic information, sex, gender identity or expression, disability (including perceived disability, physical, mental, and/or intellectual disabilities), atypical hereditary cellular or blood trait, or because of the liability for service in the Armed Forces of the United States, veteran status, citizenship status, or any other group status protected by law. Harassment includes, but is not limited to:

- A. Treating an individual less favorably based on a person's protected group status;
- B. Using derogatory or demeaning slurs to refer to a person's protected group status;
- C. Calling another by an unwanted nickname which refers to one or more protected group statuses, or telling ethnic jokes that harass an employee or create a hostile work environment;
- D. Using derogatory references regarding a protected group status in any job-related communication;
- E. Engaging in threatening, intimidating, or hostile acts, in the workplace, based on a protected group status; or
- F. Displaying or distributing material in the workplace that contains language or derogatory or demeaning images, based on any protected group status.

Any form of harassment or discrimination related to an employee's protected group status violates this policy.

This policy applies to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions and career development.

Violations of this policy will result in appropriate disciplinary action up to and including termination of employment.

Sexual Harassment. The Borough prohibits sexual harassment of its employees in any form. Such conduct shall result in appropriate disciplinary action up to and including dismissal from employment.

- A. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct, gestures or communications, expressed or implied, of a sexual nature when:
- (1) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment; or
 - (2) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, or
 - (3) That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating hostile or offensive employment environment.
- B. Prohibited Conduct: No supervisory employee shall threaten or insinuate either directly or indirectly, that an employee's refusal to submit to sexual advances will adversely affect the employee's continued employment, evaluation, compensation, assignment, advancement, or any other condition of employment. Similarly, no supervisory employee shall promise or suggest either directly or indirectly, that an employee's submission to sexual advances will result in any improvement in any term or condition of employment for the employee.

Other sexually harassing conduct in the workplace, whether committed by supervisory or non-supervisory personnel is also prohibited. This includes, but shall not be limited to:

- (1) Sexual flirtations, advances, propositions, subtle pressure for sexual activity, flirtatious whistling, discussing sexual activities;
- (2) Verbal abuse of a sexual nature including sexually oriented "kidding" or "teasing," "practical jokes," jokes about gender-specific traits, and foul or obscene language or gestures;
- (3) The display of sexually graphic pictures or pictures of an offensive nature, or objects in the workplace, including sexually suggestive written material such as letters, notes, facsimiles, text messages and e-mails;
- (4) Any unwelcome sexually motivated touching, including, for example, patting, pinching, hugging, cornering, blocking or impeding movement and repeated brushing against another employee's body.

Sexual harassment also occurs when one person harasses another solely because of the victim's gender. This type of sexual harassment may involve unwelcome sexual demands or overtures, but it may also take the form of other harassing conduct not necessarily sexual in nature. For example, this would include gender stereotyping such as comments about the lesser abilities, capacities, or the "proper role" of females. It also includes subjecting a woman or a man to non-sexual harassment solely because of her or his gender. Sexual harassment is prohibited whether the harasser is male or female, and whether the harassment is opposite sex or same-sex harassment.

Complaint Procedure. Any employee who feels he or she has been subject to harassment should report the incident directly to the designated Affirmative Action Officer. The designated Affirmative Action Officer will ask the employee to complete a Harassment Complaint Form. Employees, however, are not required to complete the complaint form to initiate a harassment complaint under this policy.

Alternatively, any employee who feels he or she has been subject to harassment should report the incident directly to the Chief Administrative Officer. The Chief Administrative Officer will ask the employee to complete a Harassment Complaint Form. Employees, however, are not required to complete the complaint form to initiate a harassment complaint under this policy. The names and telephone numbers of the designated Affirmative Action Officer and Chief Administrative Officer are contained in the Contact Information attached to this policy.

Any individual uncomfortable reporting an incident to the designated Affirmative Action Officer and/or Chief Administrative Officer should feel free to go to any management representative which he or she feels most comfortable to relay the problem. When any management representative learns of a violation of this policy, the management representative shall assist the victim in reporting the alleged incident(s) of harassment.

All Borough employees should notify the alleged harasser that the behavior in question is thought to be offensive and unwelcome. However, failure to inform the alleged harasser that the behavior is unwelcome does not prevent the victim from filing a complaint pursuant to this policy. The harassment or discrimination does not have to occur on the Borough's property during regular work hours for an employee to file a complaint under this policy.

The Borough strongly encourages employees who witness conduct which they believe violates the Borough's Policy Against Harassment to report the violation pursuant to this complaint procedure. The Borough encourages the prompt reporting of complaints so that rapid response and appropriate action may be taken. Any complaint should be reported within sixty (60) days to be considered current. Nevertheless, due to the sensitive nature of these problems, all complaints will be investigated, regardless of when they are filed.

Action pending an investigation. It may be necessary to undertake intermediate measures before completing the investigation to ensure that further harassment does

not occur. Examples of such measures are: making scheduling changes so as to avoid contact between the parties; transferring the alleged harasser; or placing the alleged harasser on nondisciplinary leave with pay pending the conclusion of the investigation. The complainant should not be involuntarily transferred or otherwise burdened, because such measures could constitute unlawful retaliation.

Investigation Procedure. The Borough shall conduct an investigation into the harassment complaint to determine the merits of the allegations. The designated Affirmative Action Officer and/or Chief Administrative Officer shall designate an objective investigator to determine the validity of any complaint. The objective investigator may include any third party deemed appropriate. The individual who conducts the investigation will objectively gather and consider the relevant facts. The alleged harasser should not have supervisory authority over the individual who conducts the investigation and should not have any direct or indirect control over the investigation. Whoever conducts the investigation should be well-trained in the skills that are required for interviewing witnesses and evaluating credibility.

The investigation shall be completed in a reasonable time to resolve the issue and minimize the effects of such investigation on the parties involved. The investigation will, at a minimum, include an interview with the employee bringing the complaint and the accused.

A. Questions to ask parties and witnesses.

- (1) When detailed fact-finding is necessary, the investigator should interview the complainant, the alleged harasser, and third parties who could reasonably be expected to have relevant information. Information relating to the personal lives of the parties outside the workplace would be relevant only in unusual circumstances. When interviewing the parties and witnesses, the investigator should refrain from offering his or her opinion.

B. The following are examples of questions that may be appropriate to ask the parties and potential witnesses. Any actual investigation must be tailored to the particular facts.

(a) Questions to ask the complainant:

Who, what, when, where, and how: Who committed the alleged harassment? What exactly occurred or was said? When did it occur and is it still ongoing? Where did it occur? How often did it occur? How did it affect you?

How did you react? What response did you make when the incident(s) occurred or afterwards?

How did the harassment affect you? Has your job been affected in any way?

Are there any persons who have relevant information? Was anyone present when the alleged harassment occurred? Did you tell anyone about it? Did anyone see you immediately after episodes of alleged harassment?

Did the person who harassed you harass anyone else? Do you know whether anyone complained about harassment by that person?

Are there any notes, physical evidence, or other documentation regarding the incident(s)?

How would you like to see the situation resolved? Do you know of any other relevant information?

(b) Questions to ask the alleged harasser:

What is your response to the allegations?

If the harasser claims that the allegations are false, ask why the complainant might lie.

Are there any persons who have relevant information?

Are there any notes, physical evidence, or other documentation regarding the incident(s)?

Do you know of any other relevant information?

(c) Questions to ask third parties:

What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the complainant and toward others in the workplace.

What did the complainant tell you? When did s/he tell you this? Do you know of any other relevant information?

Are there other persons who have relevant information?

C. Credibility determinations.

- (1) If there are conflicting versions of relevant events, the employer will have to weigh each party's credibility. Credibility assessments can be critical in determining whether the alleged harassment in fact occurred. Factors to consider include:

- (a) Inherent plausibility: Is the testimony believable on its face? Does it make sense?

- (b) Demeanor: Did the person seem to be telling the truth or lying?
 - (c) Motive to falsify: Did the person have a reason to lie?
 - (d) Corroboration: Is there witness testimony (such as testimony by eyewitnesses, people who saw the person soon after the alleged incidents, or people who discussed the incidents with him or her at around the time that they occurred) or physical evidence (such as written documentation) that corroborates the party's testimony?
 - (e) Past record: Did the alleged harasser have a history of similar behavior in the past?
- (2) None of the above factors are determinative as to credibility. For example, the fact that there are no eyewitnesses to the alleged harassment by no means necessarily defeats the complainant's credibility, since harassment often occurs behind closed doors. Furthermore, the fact that the alleged harasser engaged in similar behavior in the past does not necessarily mean that he or she did so again.

If the Borough determines that the complaint has merit, the accused shall face appropriate disciplinary action based upon the severity of the complaint and any prior history of past charges against the individual. Disciplinary action may include a written warning, suspension, demotion, and/or termination of employment. Any disciplinary action shall be consistent with applicable collective bargaining agreements, regulations and applicable due process safeguards. Upon completion of the investigation, the entire file shall be maintained in a secure location with the Borough.

In the event that the Borough determines the complaint to be intentionally dishonest, appropriate disciplinary action may be taken against the employee who caused the complaint to be filed.

Assurance of immediate and appropriate corrective action.

- (1) The Borough will undertake immediate and appropriate corrective action, including discipline, whenever it determines that harassment has occurred in violation of the employer's policy.
- (2) Remedial measures will be designed to stop the harassment, correct its effects on the employee, and ensure that the harassment does not recur. These remedial measures need not be those that the employee requests or prefers, as long as they

are effective.

- (3) To balance the competing concerns, disciplinary measures should be proportional to the seriousness of the offense. If the harassment was minor, such as a small number of "off-color" remarks by an individual with no prior history of similar misconduct then counseling and an oral warning might be all that is necessary. On the other hand, if the harassment was severe or persistent, then suspension or discharge may be appropriate.
- (4) Remedial measures should not adversely affect the complainant. Thus, for example, if it is necessary to separate the parties, then the harasser should be transferred (unless the complainant prefers otherwise). Remedial responses that penalize the complainant could constitute unlawful retaliation and are not effective in correcting the harassment.

Privacy. To the extent possible, all persons involved in a harassment complaint will be given the utmost protection of privacy. Specifically, the Borough will strive, both during and after the investigation, to maintain confidentiality to the fullest extent possible, including confidentiality of the identities of all persons involved or alleged to be involved in the incident, revealing only those particulars of the matter to the extent necessary for a thorough investigation. Any employee who unnecessarily compromises the confidentiality of an investigation will be subject to appropriate discipline.

Responsibility of Supervisory Personnel. Supervisors are to monitor the work environment to ensure that all subordinates comply with this Policy Against Harassment. When a supervisor learns of a violation of this policy, the supervisor shall assist the victim in reporting the alleged incident(s) of harassment.

Alternatively, the supervisor shall report the matter to the designated Affirmative Action Officer and/or Chief Administrative Officer for resolution.

Retaliation Prohibited. The Borough encourages victims of harassment to bring their complaints to management by ensuring that no reprisals or retaliation will result from the good faith reporting of harassment. The filing of a complaint, in good faith, shall not, under any circumstances provide cause for discipline. Additionally, it is a violation of this policy for any personnel to retaliate against another because he or she filed a complaint or otherwise participated in the complaint procedure.

Any supervisor who receives a harassment complaint from any employee must bring it to the attention of the designated Affirmative Action Officer and/or Chief Administrative Officer for resolution. Supervisors shall closely monitor the work environment for any forms of retaliation once an allegation has been made. This will include but not be limited to verbal remarks, irregular assignments or any other activity that may contribute to a hostile work environment.

Legal Effect. This Policy Against Harassment is to be construed as a unilateral expression of the policy of the Borough concerning harassment in the workplace. It is not intended to create any contractual rights or duties and any such intention or effect is hereby disclaimed. This policy may be amended, supplemented, modified and/or revised at any time. Any employee with questions regarding the Borough's Policy Against Harassment should contact the designated Affirmative Action Officer and/or Chief Administrative Officer.

Training. The Borough recognizes the need to reinforce its policies with effective training. Training is to be provided to all supervisory and non-supervisory employees. Ultimately, the goal of effective training is to build a culture in which all employees feel safe. Training may be conducted in person or through electronic means. To the extent economically and operationally feasible, training should be conducted live whenever possible. Training should empower participants to intervene appropriately when they witness harassment or discrimination. This means not only training participants on the requirements of the policy prohibiting harassment and discrimination, but also training participants on tools for response and lodging complaints. Training should emphasize the negative impact of harassment and discrimination on employees, workplace productivity, workplace culture, and encouraging those employees who either experience harassment/discrimination or witness it to report it.

Monitor for Compliance. The Borough acknowledges the importance of ensuring that employers' policies and procedures are actually working as intended to prevent sexual harassment and other forms of discrimination from occurring in the workplace. It is the expectation of the Borough that all supervisors shall enforce anti-harassment policies and that setting the proper example is part of their job description and part of the evaluation of their job performance. The Borough will engage in proactive efforts to monitor and ensure compliance with its policies within their workplaces.

Other preventive and corrective measures: Duty of care.

The Borough recognizes that its responsibility to exercise reasonable care to prevent and correct harassment is not limited to implementing an antiharassment policy and complaint procedure.

- A. An employer's duty to exercise due care includes instructing all of its supervisors and managers to address or report to appropriate officials complaints of harassment regardless of whether they are officially designated to take complaints and regardless of whether a complaint was framed in a way that conforms to the organization's particular complaint procedures. For example, if an employee files an EEOC charge alleging unlawful harassment, the employer should launch an internal investigation even if the employee did not complain to management through its internal complaint process.

- B. Furthermore, due care requires management to correct harassment regardless of whether an employee files an internal complaint, if the conduct is clearly unwelcome. For example, if there are areas in the workplace with graffiti containing racial or sexual epithets, management should eliminate the graffiti and not wait for an internal complaint.

Other complaint procedures. Complainants may choose to use both the Borough complaint procedures and external procedures available under federal or state law. The time periods within which complaints may be filed with state or federal civil right agencies are short (within 180 days for the New Jersey Division on Civil Rights and within a maximum of 300 days under most circumstances for the U.S. Equal Employment Opportunity Commission), although suits under the New Jersey Law Against Discrimination filed in Superior Court must be filed within two years of the events complained of. Use of the Borough complaint procedures does not stop those time periods from running.

These deadlines in state and federal law run from the last date of the unlawful harassment, not from the date that the complaint to the employer is received or resolved.

Contact Information

1. CHIEF ADMINISTRATIVE OFFICER

Adrian Febre
(201) 845-2900 ext. 203

2. AFFIRMATIVE ACTION OFFICER

Barbara Dispoto
(201) 845-2900 ext. 201

Article VI entitled “Political Activities of Borough Employees,” specifically Section 52-26, be and hereby is amended by adding a new subsection D. as follows:

Section 52-26. Example of Prohibited Conduct.

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- D. In accordance with the Hatch Act and Federal regulations, an employee whose principal employment is with a program financed in whole or in part by Federal funds or loans shall not:
- (1) Be a candidate for public office in a partisan election. (This provision does not apply to the elected head of an executive department or an individual holding elective office, where that office is the sole employment connection to federally funded programs.)
 - (2) Use his/her official authority to influence, to interfere with or affect election results or nominations for office.

- (3) Directly or indirectly coerce contributions from any employee to support a political party or candidate. See The Hatch Act, 5 U.S.C. § 1501 et seq.

Article VI entitled “Political Activities of Borough Employees” be and hereby is amended by adding a new section, Section 52-27.1, as follows:

Section 52-27.1. Violations of Law.

Violations of either State or Federal laws are serious matters and such violations should not be taken lightly. Any employee engaging in such political activities during working hours will be subject to disciplinary action up to and including termination of employment. Employees who engage in political activities during their non-working hours must not represent themselves as spokespersons for the Borough. Employees should report any violation of this policy to their supervisor or Department Head.

Article VIII entitled “Substance Abuse” and comprised of Sections 52-31 through 52-40 be and hereby is deleted in its entirety.

Article X entitled “Employment Benefits” and comprised of Sections 52-45 through 52-57 be and hereby is amended by deleting the wording of Sections 52-46, 52-50, 52-52, 52-53, and 52-54 and replacing same with the following:

§ 52-46. Holidays.

A. The following holidays are observed:

- (1) New Year's Day.
- (2) President's Day.
- (3) Martin Luther King, Jr.'s Birthday.
- (4) Good Friday.
- (5) Memorial Day.
- (6) Juneteenth
- (7) Independence Day.
- (8) Labor Day.
- (9) Columbus Day.
- (10) Election Day.*
- (11) Veterans Day.
- (12) Thanksgiving Day.
- (13) Friday after Thanksgiving.

(14) Christmas Day.

*Election Day may be used as a floating holiday as approved by the Mayor and Council. Holidays falling on a Saturday are given on the preceding day, and holidays falling on a Sunday, the following day. This policy conforms to the federal act designating holidays on specific dates,

- B. Holidays falling during an unpaid leave of absence, except for religious observance, will not be credited.
- C. Those employees not expressly exempted from overtime who work on a holiday shall be paid at a rate of time and one-half for all hours worked. Employees may request equivalent compensatory time off in lieu of pay for all hours worked on the holiday.
- D. Part-time employees shall be paid for holidays at a straight time rate in an amount equal to what they would have received if the day on which the holiday fell would have been a regular working day.

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§ 52-50. Sick Leave Policy.

Sick leave available to permanent employees depends on the length of service to be accumulated as follows:

If Service is:	Maximum Amount is:
3 months but less than one year	5 working day
1 year but less than 2 years	10 working days
	15 working days

The above sick-time schedule shall accrue on the first day of the year. For purposes of this section, the term “year” shall be defined according to the anniversary of the employee’s start date.

Carry-Over of Sick Time. Unused sick leave shall accumulate from one year to the next until the time of the employee’s retirement. The maximum days an employee can carry of is 180 days. At no point will employees be paid for any unused accumulated sick time.

Permissible Use of Sick Time. Sick time is intended for the following uses:

- Personal illness or injury of the employee or the employee’s family member.
- For medical care for a person illness or injury of the employee or the employee’s family member.
- Exposure to contagious disease.

- Care, for a reasonable period of time, of a seriously ill member of the employee's immediate family; immediate family shall be defined as an employee's spouse, domestic partner child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.
- Death in the employee's immediate family, for a reasonable period of time.
- By an employee with a disability for absences related to the acquisition or use of an aid for the disability when the aid is necessary to function on the job. In such cases, reasonable proof may be required by the Borough.

Reporting Sick Time. Employees needing to utilize a sick day shall contact the Department Head (or his designee) at least thirty (30) minutes prior to the scheduled start of the work day. Upon request, employees shall be required to produce verification to substantiate the need for and the appropriate use of sick time. Such shall consist of a note from a health care professional attesting to the existence of the employee's or his or her family member's illness or injury and/or the employee's fitness to return to work to their Department Head. Such note shall not include details regarding the employee or his or her family member's actual illness.

Employees who must take five (5) or more consecutive sick days may be eligible for benefits under New Jersey State Disability Benefits or the Workers' Compensation Policy and should contact the Chief Administrative Officer and/or human resources official. Such absence may also qualify for leave pursuant to federal, state or local law. If you have questions as to whether your illness or injury or that of your family member may qualify you for any such leaves, please contact the human resources official.

Advancement of Accrued Paid Time Prohibited. Employees may carry accrued time forward as set forth above. At the discretion of the Borough Administrator, an employee may borrow time from a future year when that employee has exhausted all sick-time of that current year.

No Accrual of Sick During Certain Absences. Employees may not accrue sick days during unpaid leaves of absence or other periods of inactive service unless required by law. Sick days shall not accrue during suspension but shall continue to accrue during a voluntary furlough or furlough extension leave. Sick leave credits shall not accrue after an employee has resigned or retired, although his or her name is being retained on the payroll until exhaustion of vacation or other compensatory leave.

[The below policy is applicable only to those employees who do not receive sick time pursuant to Civil Service laws or regulations, or pursuant to any other law, rule, or regulation of this State, to the extent required by the New Jersey Earned Sick Leave Law.]

For every 30 hours worked, an employee shall accrue one hour of sick leave. An employee may accrue or use in any year, or carry forward from one year to the next, no more than 40 hours of earned sick leave.

Usage of Sick-Time.

The Borough permits an employee, pursuant to N.J.S.A. § 34:11D-3(a), to use the earned sick leave accrued for any of the following instances:

- (1) Time needed for diagnosis, care, or treatment of, or recovery from, the employee's own mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
- (2) To aid or care for a family member during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member;
- (3) If an employee or a family member are a victim of domestic or sexual violence, and are obtaining services from a designated domestic violence agency or other victim services organization, medical attention, legal services, counseling, or are relocating due to the domestic or sexual violence;
- (4) Closure of an employee's workplace, or of the school or place of care of an employee's child, due to an epidemic or public health emergency, or because of the issuance by a public health authority of a determination that the presence of the employee or their family member in the community would jeopardize the health of others;
- (5) During a state of emergency declared by the Governor, or upon the recommendation, direction, or order of a healthcare provider or the Commissioner of Health or other authorized public official, the employee undergoes isolation or quarantine, or cares for a family member in quarantine, as a result of suspected exposure to a communicable disease and a finding by the provider or authority that the presence in the community of the employee or family member would jeopardize the health of others; or
- (6) If an employee needs to attend a school-related conference, meeting, function or other event requested or required by an administrator, teacher, or other professional school staff member responsible for the education of the employee's child, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability.

In regard to the above, the Borough requires three (3) days' notice for any foreseeable use of leave. If the use of leave is unforeseeable, the employee should notify the Borough as soon as practicable of their need to use same.

In general, should an employee need to use three (3) or more consecutive days of leave, said employee must provide the Borough with reasonable documentation that the leave is being taken for one of the purposes permitted above. Reasonable documentation shall be as defined in N.J.S.A. § 34:11D-3(b). However, when an employee needs to use a sick day the day before or after a Borough approved holiday, the employee must provide the Borough with reasonable documentation, as defined in N.J.S.A. § 34:11D-3(b)), that the leave is being taken in accordance with the above policy.

Employees Covered under a Collective Bargaining Agreement – The employment details set out in this policy work in conjunction with, and do not replace, amend or supplement any terms or conditions of employment stated in any collective bargaining agreement that a union has with the Borough. Wherever employment details in this policy differ from the terms expressed in a collective bargaining agreement with the Borough, the specific terms of the collective bargaining agreement will control.

...

§ 52-52. Leaves of absence.

A. Family and Medical Leave

In accordance with the federal Family and Medical Leave Act (“FMLA”), the Borough of Maywood (“the Borough”) provides eligible employees with up to twelve (12) weeks of unpaid medical and family leave during any twelve (12) month period and up to twenty-six (26) workweeks to care for a Covered Service member. At the conclusion of the leave, subject to some exceptions, an employee generally has a right to return to the same or an equivalent position. The following outlines employees’ rights and obligations under the FMLA and the Borough’s policies implementing the FMLA.

Leave Available. Eligible employees may take up to a total of twelve (12) weeks of unpaid leave during any twelve (12) month period for any one or more of the following reasons:

- The birth, adoption or placement for foster care of the son or daughter of an employee, and to care for such child;
- A serious health condition of a spouse, son, daughter or parent of an employee if the employee is needed to care for such family member; or
- A serious health condition of an employee that makes an employee unable to work. Generally, the incapacity must result in the employee’s inability to work for more than three (3) consecutive days (although there are certain exceptions to this rule);
- Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a member of the Regular Armed forces, National Guard or Reserves on active duty status during the deployment to a foreign country, and or has been notified of an impending call to active duty status as such in support of a contingency operation.

In addition, eligible employees who are either spouse, son, daughter, parent or next of kin of a Covered Servicemember shall be entitled to a total of twenty-six (26) workweeks of unpaid leave during a single twelve (12) month period to care for the Covered Servicemember. During this single twelve (12) month period, an eligible

employee who qualifies for leave to provide care for the Covered Servicemember shall be entitled to no more than a combined total of twenty-six (26) workweeks of leave.

Definitions.

“Covered Servicemember” means a member of the Armed Forces, including a member of the National Guard or Reserves, or a recent veteran who has been discharged, other than dishonorably, within the five years preceding the family member’s initial request for leave, who has a serious injury or illness who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

“Eligible Employee” means an individual who has been employed by the Borough for at least twelve (12) months, has worked at least 1,250 hours during the preceding twelve (12) month period, and is employed at a worksite with at least fifty (50) employees within seventy-five (75) miles of that worksite.

“Next of kin” means the nearest blood relative of the individual.

“Qualifying Exigency” covers a number of broad categories of reasons and activities, including short-notice deployment to a foreign country, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities agreed to by the employer and the employee.

“Serious Health Condition” means an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. It generally includes a period of incapacity due to pregnancy, prenatal care, a chronic health condition, a permanent or long-term health condition, or restorative or preventive treatment.

“Serious Injury or Illness” means an injury or illness incurred by a Covered Servicemember in the line of duty or on active duty in the Armed Forces, National Guard or Reserves, incurred in the line of duty on active duty or whose pre-existing condition has been aggravated by his/her active duty service, that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank or rating.

Eligibility. Any employee who has been employed by the Borough for twelve (12) months or more and worked 1,250 hours or more in the twelve (12) month period preceding the first day of the requested leave may be eligible for an unpaid leave of absence of up to twelve (12) weeks during any twelve (12) month period.

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

Leave to care for a child after birth, adoption, or foster care must conclude within twelve (12) months of the child's birth or placement. If both spouses work for the Borough, they may only take a total of twelve (12) weeks between them during the twelve (12) month period in order to care for a child after birth, adoption, or foster care or to care for a parent with a serious health condition and a combined twenty-six (26) weeks in a single twelve (12) month period for military caregiver leave or a combination of military caregiver leave and other FMLA qualifying reasons. Each spouse may be entitled to additional leave for other qualifying reasons under the FMLA, such as the employee's own illness or for the serious illness of the employee's child.

Notice. When the leave is foreseeable, at least thirty (30) days' advance notice to the Borough, in writing, is required. If thirty (30) days' notice cannot be provided, as much notice as is practical should be provided. Failure to give reasonable notice may delay the availability of the leave.

Certification. Where leave is taken to care for a family member with a serious health condition or because of the employee's own serious health condition, medical certification is required and periodic recertification may be required. In addition, where the leave is taken because of the employee's own serious health condition, a certification of fitness to return to work will be required.

The Borough, at its expense, may require an examination by a second healthcare provider designated by the Borough. If the second healthcare provider's opinion conflicts with the original medical certification, the Borough, at its expense, may require a third, mutually agreeable, healthcare provider to conduct an examination and provide a final and binding opinion.

For military exigency leave, an employee may be required to provide certification that the covered military member is a member of the regular Armed Forces, National Guard or Reserves who is on active duty or called to active duty in support of a contingency operation, as well as certification from the employee about the nature and details of the specific exigency, the amount of leave needed, and the employee's relationship to the military member. For military caregiver leave, the employee may be required to provide information from the health care provider and employee and/or Covered Servicemember to support such leave.

Absent unusual circumstances, medical certifications must be provided within fifteen (15) days. The Borough will also require periodic status reports from employees concerning their intended return date.

Failure to provide requested documentation may result in denial of leave. The Borough may attempt to clarify or authenticate the certification or may require additional certifications to support the need for leave. When leave is taken to care for a family member, the Borough may require the employee to provide documentation or a statement of family relationship (e.g., birth certificate or court document) and proof of the need to care for the family member.

Utilization of Paid Leave. Generally, FMLA leave is unpaid. However, depending upon the circumstances, employees may be entitled to receive short-term disability, workers' compensation benefits, paid family leave benefits, or other state-sponsored wage replacement benefits which pay a portion of normal compensation. These benefits will run concurrently with the employee's unpaid leave. An employee who is eligible for these benefits may also choose to use accumulated paid leave during their approved unpaid leave. Employees may not receive more than 100% of salary at any time.

An employee will be required to use any available accumulated paid leave concurrently with the employee's FMLA leave if the employee requested FMLA leave:

- (1) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition, or
- (2) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

If the employee is out on FMLA leave for any other qualified reason other than for a serious health condition, the employee will only be required to use available accumulated paid vacation, personal, or family leave concurrently with the employee's FMLA leave. However, an employee is not required to use accumulated paid sick leave.

Coordination with other Leave Policies. The period of time attributable to the employee's absence due to any workers' compensation, disability, or sick leave, will be counted against available leave under this policy to the extent permitted by law. In the event that additional family, medical or sick leave is available pursuant to state laws, this leave will also run concurrently with FMLA leave to the extent permitted by law.

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

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

If paid leave is substituted for unpaid FMLA leave, the Borough will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's FMLA leave is unpaid, the employee must pay his/her portion of the premium in accordance with a payment method that is devised and mutually agreed upon between the employee and the Borough.

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

Before returning to work following a medical leave (except for intermittent or reduced schedule leave) due to the employee's own serious health condition, the employee will be required to present a fitness for duty certification from his/her health care provider that he/she is medically able to resume work. If the date on which the employee is scheduled to return to work from FMLA leave changes, the employee is required to give notice of the change, if foreseeable, to the Borough within two (2) business days of the change.

Subject to some exceptions, most employees will be returned to the position they left or to a position equivalent in pay, benefits and other terms of employment. Individuals identified as "key employees" (the highest paid 10% of salaried employees at the work site or within a seventy-five (75) mile radius of that work site) at the beginning of their leave may not be returned to their former or equivalent position if restoration will cause substantial economic injury to the Borough. Employees will be informed of their key employee status at the beginning of the leave period.

A failure to return from FMLA leave for reasons other than the employee's own serious health condition may result in termination of employment. In the event that an employee cannot return to work at the end of FMLA leave due to a continuation of his/her own serious health condition, they must contact the Borough before the expiration of the leave to discuss their options under state and federal law. State leave laws may provide additional leave similar to that provided under the FMLA. The Borough will comply with these state law provisions to the extent they provide for more generous benefits. State leave law benefits will run concurrently with FMLA benefits to the extent permitted by law.

Family Temporary Disability. During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to twelve (12) weeks of Family Leave Insurance (“FLI”) payments through the State in a twelve (12) month period. FLI is a monetary benefit paid by the State and not a separate leave entitlement, and will thus run concurrently with FMLA and/or NJFLA leaves.

B. Convention Leave

1. Employees shall submit requests in writing, no later than 60 days prior to the date for the convention leave, to the Administrator for approval.
2. Any employee who is a duly authorized representative of any of the organizations listed in N.J.S.A. 38:23-2, and any amendment thereto, shall be granted a leave of absence, with pay for an aggregate period not to exceed five days in any calendar year for the purpose of traveling to and from and attending any state or national convention of the organizations listed in the aforesaid statute.

C. New Jersey Family Leave

The Borough of Maywood (the “Borough”) provides eligible employees with up to twelve (12) weeks of unpaid, job-protected leave for specified family reasons under the New Jersey Family Leave Act (NJFLA).

Eligible Employees. To be eligible for NJFLA leave, an employee must have worked at least twelve (12) months for the Borough and have worked at least 1,000 hours for the Borough over the previous twelve (12) months.

Qualifying Reasons for Leave. An employee may take NJFLA leave to care for:

- A newly born or adopted child or a child placed into foster care with the employee, but the leave must start within twelve (12) months of the birth of the child or the placement of the child.
- A family member (sibling, grandparent, grandchild, child, spouse, domestic partner, civil union partner, parent-in-law, or parent of a covered individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship) with a serious health condition.
- In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable

disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:

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

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

Leave Benefits. An employee may take up to a maximum of twelve (12) weeks of NJFLA leave in a twenty-four (24) month period, which is measured as a rolling twenty-four (24) month period that commences with the first day of NJFLA leave taken.

You may take NJFLA leave to care for a seriously ill family member:

- As a single block of time.
- By reducing your normal work schedule for no more than twenty-four (24) consecutive weeks in a twenty-four (24) month period.
- Intermittently, when medically necessary.

Employees permitted to take intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the Borough's operations. The total time within which an intermittent leave is taken may not exceed a twelve (12) month period, if such leave is taken in connection with a single serious health condition.

Intermittent leaves taken in connection with more than one serious health condition episode must be taken within a consecutive twenty-four (24) month period, or until such time as the employee's twelve (12) week family leave entitlement is exhausted, whichever is shorter. An employee taking a family leave on a reduced leave schedule shall not be entitled to such leave for more than a consecutive twenty-four (24) week period. An eligible employee shall be entitled to only one leave on a reduced leave schedule during any consecutive twenty-four (24) month period. Any remaining family leave to which the employee is entitled subsequent to the expiration of a leave taken on a reduced leave schedule may be taken on a consecutive or intermittent basis.

Depending on the purpose of the employee's leave, the employee may be required to or may choose to use accrued paid leave, concurrently with some or all of his/her NJFLA leave. The employee will not be eligible to accrue seniority or benefits, including vacation and holidays, during any period of NJFLA leave. The Borough will notify employees of their options to continue to participate in our group health plans during NJFLA leave.

Required Notice and Certifications. When requesting NJFLA leave, an employee must provide the Borough thirty (30) days' advance written notice. For employees requesting leave on an intermittent basis, at least fifteen (15) days advance written notice must be provided. If advance written notice is not possible because of an emergency, the employee must provide the Borough with reasonable oral notice and then follow up with written notice.

The employee also must give the Borough a medical certification supporting the need for leave. The Borough reserves the right to require second or third medical opinions and periodic re-certifications. The employee must also provide periodic reports during his/her leave regarding the employee's status and intent to return to work as deemed appropriate by the Borough. If an employee fails to provide the required documentation, the Borough may delay the start of the employee's NJFLA leave, withdraw any designation of NJFLA leave or deny the leave, in which case the employee's absences will be treated in accordance with the Borough's standard leave of absence and attendance policies and the employee may be subject to discipline up to and including termination of employment.

If an employee provides false or misleading information or omits material information about an NJFLA leave, the employee will be subject to discipline up to and including immediate termination of employment.

Benefits Protection. During a family leave of absence, the employee's health benefits will be maintained under the same conditions as if the employee continued to work. If the employee decides to return to work when his/her family leave of absence ends, the employee may be reinstated to the same or equivalent job with the same pay, benefits, and terms and conditions of employment. If the employee decides not to return to work when the family leave of absence ends, the employee may be required to reimburse the Borough

for the health insurance premiums paid on his/her behalf during the leave of absence (except if the failure to return to work was caused by the continuation, recurrence, or onset of serious health condition which would entitle the employee to a leave of absence under the law or other circumstances beyond the employee's control).

With regard to any pension contributions, the employee must contact the human resources official to make payment arrangements concerning contributions or credits paid toward his/her pension benefits. Employees should consult with the Borough prior to taking an approved leave.

Returning to Work after NJFLA Leave. On returning to work after NJFLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits and other employment terms and conditions. Any employee who fails to return to work as scheduled after NJFLA leave or exceeds the twelve (12) week NJFLA entitlement will be subject to the Borough's standard leave of absence and attendance policies. This may result in termination if the employee's continued absence is unauthorized (for example, if the employee has no other Borough-provided leave available to him/her).

Retaliation Prohibited. The Borough and the NJFLA prohibit the interference with, restraint of or denial of any right provided under the NJFLA and/or discharge or discrimination against any person for opposing any practice made unlawful by the NJFLA or for involvement in any proceeding under or relating to the NJFLA. The Borough encourages employees to bring any concerns or complaints about retaliation or compliance with the NJFLA to the attention of the human resources official.

New Jersey Family Leave Insurance. During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to twelve (12) weeks of Family Leave Insurance ("FLI") payments through the State in a twelve (12) month period. FLI is a monetary benefit paid by the State and not a separate leave entitlement, and will thus run concurrently with FMLA and/or NJFLA leaves.

An employee's job is not protected while receiving FLI benefits – unless the employee is eligible for leave under the FMLA, NJFLA, or is otherwise designated for an approved family leave of absence.

Employees must provide the Borough with advance notice of need for leave, as follows:

- At least thirty (30) days before leave to bond with a newborn or newly adopted child, unless the time of the leave is unforeseeable or the time of the leave changes for unforeseeable reasons.
- In a reasonable and practicable manner for leave to care for a

seriously ill family member on a continuous, non-intermittent basis, unless an emergency or other unforeseen circumstance precludes advance notice.

- At least fifteen (15) days before leave to care for a seriously ill family member or leave to bond with a newborn or newly adopted child on an intermittent basis unless an emergency or other unforeseen circumstance precludes advance notice.

D. Military Service Leave Policy

The Borough of Maywood (the “Borough”) provides military leave in accordance with applicable State and Federal law. In all cases involving military leave, the employee must, as soon as possible, provide his or her Department Head with a certificate verifying the call to military duty prior to beginning the military leave.

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

Any leave of absence for such duty in excess of thirty (30) work days will be without pay but without loss of time. A full-time temporary officer or employee who has served under such temporary appointment for less than one year will receive military leave without pay but without loss of time.

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

New Jersey Organized Militia. New Jersey’s organized militia consists of the National Guard (Army and Air), the Naval Militia, and the State Guard. Any permanent or full-time officer or employee who is a member of the New Jersey organized militia shall be entitled, in addition to pay received, if any, as a member of the organized militia, to a leave of absence without loss of pay or time on all days during which he or she shall be engaged in State or Federal active duty, up to ninety (90) work days in any calendar year.

Any leave of absence for such duty in excess of ninety (90) work days will be without pay but without loss of time. A full-time temporary officer or employee who has served under such temporary appointment for less than one year will receive military leave without pay but without loss of time.

Reinstatement. To be reinstated by the Borough without loss of privileges or seniority, the employee must report for duty with the Borough within the time required by law following release from active duty under honorable circumstances.

In accordance with legal requirement, employees who take military leave are required to:

- Provide the Borough with proper notice of the leave;
- Apply for reinstatement within the time required by law;
- Have a creditable military record including completion of all required training and fulltime service and be discharged under honorable conditions.

Military leave with pay will be granted to an employee in accordance with N.J.A.C. 4A:6-1.11, N.J.S.A. 38:23-1, N.J.S.A. 38a:4-4 and the Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

Pursuant to the Uniformed Services Employment and Reemployment Rights Act, 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 31 calendar days, the employee must return to work on the beginning of the first regularly scheduled workday or eight hours after the end of military duty, with reasonable allowances for commuting; for service of 31 to 180 calendar days, the employee must submit an application for reinstatement within 14 calendar days after completing military duty; for service greater than 180 calendar days, the employee must submit an application for reinstatement within 90 calendar days after completing military duty.

On return from a military leave of absence, the employee will be reinstated as required by law. See The Uniformed Services Employment and Reemployment Act (“USERRA”). Failure to comply with the requirement enumerated above or as required by law will jeopardize an employee’s reemployment rights.

E. Domestic Violence Policy

PURPOSE

The purpose of the State of New Jersey Domestic Violence Policy for Public Employers (herein "policy") is to set forth a uniform domestic violence policy for all public employers to adopt in accordance with N.J.S.A. 11A:2-6a. The

purpose of this policy is also to encourage employees who are victims of domestic violence, and those impacted by domestic violence, to seek assistance from their human resources officers and provide a standard for human resources officers to follow when responding to employees.

DEFINITIONS

The following terms are defined solely for the purpose of this policy:

Domestic Violence - Acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant. Domestic violence includes, but is not limited to the following: physical violence; injury; intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; cyber harassment; stalking; economic abuse or control; damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator; strangulation; or abuse of animals or pets.

Abuser/Perpetrator - An individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: bullying, humiliating, isolating, intimidating, harassing, stalking, or threatening the victim, disturbing someone's peace, or destroying someone's property.

Human Resources Officer (HRO) –An employee of a public employer with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff. Persons designated by the employer as the primary or secondary contact to assist employees in reporting domestic violence incidents.

Intimate Partner - Partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.

Temporary Restraining Order (TRO) - A civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or through any means of communication, including third parties. TROs also can prohibit offenders from a victim's home and workplace. A violation of a TRO may be a criminal offense. A TRO will last approximately 10 business days, or until a

court holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

Victim - A person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. A victim of domestic violence is also any person, regardless of age, who has been subjected to domestic violence by one of the following actors: a person with whom the victim has a child in common; a person with whom the victim anticipates having a child in common, if one of the parties is pregnant; and a person with whom the victim has had a dating relationship.

Workplace-Related Incidents - Incidents of domestic violence, sexual violence, dating violence, and stalking, including acts, attempted acts, or threatened acts by or against employees, the families of employees, and/or their property, that imperil the safety, well-being, or productivity of any person associated with a public employee in the State of New Jersey, regardless of whether the act occurred in or outside the organization's physical workplace. An employee is considered to be in the workplace while in or using the resources of the employer. This includes, but is not limited to, facilities, work sites, equipment, vehicles, or while on work-related travel.

PERSONS COVERED BY THIS POLICY

All employees are covered under this policy, including full and part time employees, casual/seasonal employees, interns, volunteers and temporary employees at any workplace location.

RESPONSIBILITY OF EMPLOYERS TO DESIGNATE A HUMAN RESOURCES OFFICER

The Borough hereby designates the following employees as the Primary HRO and Secondary HRO, to assist employees who are victims of domestic violence.

Primary HRO:

Adrian Febre, Borough Administrator

15 Park Avenue, Maywood, NJ 07607

(201) 845-2900 ext. 203

Secondary HRO:

Barbara Dispoto, Borough Clerk

15 Park Avenue, Maywood, NJ 07607

(201) 845-2900 ext. 201

The designated Primary and Secondary HRO shall receive training on responding to and assisting employees who are domestic violence victims in accordance with this policy.

Managers and supervisors are often aware of circumstances involving an employee who is experiencing domestic violence. Managers and supervisors are required to refer any employee who is experiencing domestic violence or who report witnessing domestic violence to the designated HRO. Managers and supervisors must maintain confidentiality, to the extent possible, and be sensitive, compassionate, and respectful to the needs of persons who are victims of domestic violence.

The name and contact information of the designated HRO will be provided to all employees.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General Directives and guidelines that impose a duty to report. For example, if there is any indication a child may also be a victim, reporting is mandatory to the Department of Children and Families, Child Protection and Permanency, under N.J.S.A. 9:6-8.13.

DOMESTIC VIOLENCE REPORTING PROCEDURES

Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. Employees who have information about or witness an act of domestic violence against an employee, are encouraged to report that information to the designated HRO, unless the employee is required to report the domestic violence pursuant to applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report, in which case the employee must so report to the appropriate authority in addition to reporting to the designated HRO. Nothing in this policy shall preclude an employee from contacting 911 in emergency situations. Indeed, HROs shall remind employees to contact 911 if they feel they are in immediate danger.

Each designated HRO shall:

- A. Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- B. Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- C. Provide the employee with resource information and a

confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.

- D. Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act), referenced in this policy.
- E. If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team, **contact the Chief of Police.**
- F. Maintain the confidentiality of the employee and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy.
- G. Upon the employee's consent, the employee may provide the HRO with copies of any TROs, FROs, and/or civil restraint agreements that pertain to restraints in the work place and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TROs and FROs shall be maintained in a separate confidential personnel file.

CONFIDENTIALITY POLICY

In responding to reports of domestic violence, the HRO shall seek to maintain confidentiality to protect an employee making a report of, witnessing, or experiencing domestic violence, to the extent practical and appropriate under the circumstances and allowed by law. Thus, this policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General Directives and guidelines that impose a duty to report.

This confidentiality policy shall not prevent disclosure where to do so would result in physical harm to any person or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals in the workplace, the HRO shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing employee and others and comply with the law. The HRO shall provide advance notice to the employee who disclosed information, to the extent possible, if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere. The HRO shall also provide the employee with the name and title of the person to whom they intend to provide the employee's

statement and shall explain the necessity and purpose regarding the disclosure. For example, if the substance of the disclosure presents a threat to employees, then law enforcement will be alerted immediately.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General Directives and guidelines where mandatory reporting is required by the appointing authority or a specific class of employees.

CONFIDENTIALITY OF EMPLOYEE RECORDS

To ensure confidentiality and accuracy of information, this policy requires the HRO to keep all documents and reports of domestic violence in confidential personnel file separate from the employee's other personnel records. These records shall be considered personnel records and shall not be government records available for public access under the Open Public Records Act. See N.J.S.A. 47:1A-10.

THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT

The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1, et seq. (NJ SAFE Act), is a law that provides employment protection for victims of domestic or sexual violence.

The NJ SAFE Act allows a maximum of 20 days of unpaid leave in one 12-month period, to be used within 12 months following any act of domestic or sexual violence. To be eligible, the employee must have worked at least 1,000 hours during the 12-month period immediately before the act of domestic or sexual violence. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during 20 or more calendar weeks in the current or immediately preceding calendar year. This leave can be taken intermittently in days, but not hours.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19 and N.J.S.A. 30:4-27.6, respectively. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic or sexual violence.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities, for themselves, or a child, parent, spouse, domestic partner, or civil union partner, as they relate to an incident of domestic or sexual violence:

- 1) Seeking medical attention;
- 2) Obtaining services from a victim services organization;
- 3) Obtaining psychological or other counseling;
- 4) Participating in safety planning, temporarily or permanently

- relocating, or taking other actions to increase safety;
- 5) Seeking legal assistance or remedies to ensure health and safety of the victim; or
- 6) Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

The Borough has developed the following action plan to identify, respond to, and correct employee performance issues that are caused by domestic violence, pursuant to N.J.S.A. 11A:2-6a, and in accordance with the following guidelines:

- A. Designate an HRO with responsibilities pursuant to this policy.
- B. Recognize that an employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities.
- C. Provide reasonable accommodations to ensure the employee's safety. Reasonable accommodations may include, but are not limited to, the following: implementation of safety measures; transfer or reassignment; modified work schedule; change in work telephone number or workstation location; assistance in documenting the violence occurring in the workplace; an implemented safety procedure, or other accommodation approved by the employer.
- D. Advise the employee of information concerning the NJ SAFE Act; Family and Medical Leave Act (FMLA); or Family Leave Act (FLA); Temporary Disability Insurance (TOI); or Americans with Disabilities Act (ADA); or other reasonable flexible leave options when an employee, or his or her child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic violence.
- E. Commit to adherence to the provisions of the NJ SAFE Act, including that the employer will not retaliate against, terminate, or discipline any employee for reporting information about incidents of domestic violence, as defined in this policy, if the victim provides notice to their Human Resources Office of the status or if the Human Resources Office has reason to believe an employee is a victim of domestic violence.
- F. Advise any employee, who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy, of the civil right of action under the NJ SAFE ACT. And advise any employee to contact their designated Labor Relations Officer, Conscientious Employees Protection Act (CEPA) Officer and/or Equal Employment Opportunity Officer in the event they believe the adverse action is a

violation of their collective bargaining agreement, the Conscientious Employees Protection Act or the New Jersey Law Against Discrimination and corresponding policies.

- G. Employers, their designated HRO, and employees should familiarize themselves with this policy. This policy shall be provided to all employees upon execution and to all new employees upon hiring. Information and resources about domestic violence are encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

RESOURCES

This policy provides an Appendix listing resources and program information readily available to assist victims of domestic violence. These resources should be provided by the designated HRO to any victim of domestic violence at the time of reporting.

DISTRIBUTION OF POLICY

WHO will be responsible for distributing this policy to employees, volunteers, and other employees identified above.

WHO will be responsible for updating this policy at least annually to reflect circumstances changes in the organization.

WHO will be responsible for monitoring The Civil Service Commission and the Division of Local Government Services in the Department of Community Affairs for modifications thereto, to public employers.

OTHER APPLICABLE REQUIREMENTS

In addition to this policy, the HRO and the public employer's appointing authority must follow all applicable laws, guidelines, standard operating procedures, internal affairs policies, and New Jersey Attorney General Directives and guidelines that impose a duty to report. Additionally, to the extent that the procedures set forth in this policy conflict with collective negotiated agreements or with the Family Educational Rights and Privacy Act (FERPA), the provisions of the negotiated agreements and the provisions of FERPA control.

POLICY MODIFICATION AND REVIEW

A public employer may seek to modify this policy, to create additional protocols to protect victims of domestic violence but may not modify in a way that reduces or compromises the safeguards and processes set out in this policy.

The Civil Service Commission will review and modify this policy periodically and as needed.

POLICY ENFORCEABILITY

The provisions of this policy are intended to be implemented by the Civil Service Commission. These provisions do not create any promises or rights that may be enforced by any persons or entities.

POLICY INQUIRIES & EFFECTIVE DATE

Any questions concerning the interpretation or implementation of this policy shall be addressed to the Chair/Chief Executive Officer of the Civil Service Commission, or their designee. This policy shall be enforceable upon the HRO's completion of training on this policy.

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§ 52-53. Personal Days.

Paid full-time employees of the Borough, except employees included in bargaining units covered by collective bargaining agreements, shall be entitled to three (3) personal days off with pay per year.

During an employee's first year of service, personal days accrue at the rate of one (1) day per four (4) months of service. After the employee's first year of service, personal days accrue on January 1st of each year.

An employee must apply for personal leave to his/her supervisor, in writing. The employee must apply for it as far in advance as possible, but not less than seventy-two (72) hours prior to the leave. An employee may take personal leave only if his/her supervisor or designee approves and grants the leave.

Employees must take personal leave in the calendar year in which it is earned. Any unused personal days are forfeited at the end of each calendar year. Any employee who exhausts all of his or her personal leave in any one (1) year shall not be credited with additional paid personal leave until the beginning of the next calendar year. An employee who has resigned, was dismissed or has otherwise been separated from employment will not be paid for any unused personal time.

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§ 52-54. Working time and attendance on job.

- A. Hours of work of all department units shall be determined by the department head and approved by the Borough Administrator and the Mayor and Council. Each department head shall have the power to alter or extend such hours of work to meet emergency, unusual or unforeseen

conditions,

- B. Employees are required to complete time sheets and provide same to their supervisor or utilize any time keeping mechanism to "clock in" as directed by their supervisor. Accurate and complete time and attendance records will be maintained by each departmental unit of the Borough. The head of the department will certify as to the accuracy of the time and attendance records to the Borough Clerk at the end of each week.
- C. All Borough employees are to be at their assigned posts at the designated starting time, ready for work, as specified by the department head unless on vacation, leave of absence or absence for good cause.
- D. Being punctual and on time is of utmost importance; consequently, any lateness and the reason for it will be noted on the time record. Recurring or chronic lateness will be referred to the department head for appropriate action.
- E. Lunch periods and coffee breaks shall be specified by the department head, making certain that duty stations will be covered during the period. One fifteen-minute break in the morning and one fifteen-minute break in the afternoon will be acceptable. The normal time allowed for lunch for employees in Borough offices is one hour, which shall be taken between 12:00 noon and 2:00 p.m. Tardiness in returning from lunch is not permitted unless authorized in advance by the department head.
- F. Overtime.
 - 1. The Borough of Maywood (the "Borough") complies with all applicable federal and state laws with regard to payment of overtime work, including the New Jersey Wage and Hour Law and the federal Fair Labor Standards Act.
 - 2. Under the 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 because their compensation exceeds \$107,432 per year depending upon their job duties. The Chief Administrative Officer 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 consideration for large amounts of additional hours may be provided with the Chief Administrative Officer's prior approval and at the sole discretion of the Chief Administrative Officer. Employees working overtime without prior approval will be subject to disciplinary action. Records will be kept of all overtime and filed with the Payroll Clerk weekly.

3. Except for managerial executives and other employees specifically exempted by law from the overtime provisions of the Fair Labor Standard Act, employees will be paid at their regular hourly rate for hours worked in excess of the normal workweek up to 40 hours and at the rate of time and one-half for all overtime worked in excess of 40 hours. In computing overtime compensation, the nearest 1/10 of an hour (six-minute interval) shall be the smallest fraction of an hour to be reported.
4. For purposes of this section, the following department heads are considered to be managerial executives who are exempt from the overtime provisions: Borough Clerk, Chief of Police, Chief Financial Officer, Construction Code Official, Sanitary Inspector, Borough Administrator, Superintendent of Public Works, Municipal Court Administrator, and any other employee who meets the standards set forth in the applicable state and federal laws and regulations.
5. "Comp" time. There shall be no "comp" time accumulated by Borough employees unless approved in advance by the Borough Administrator. Where approved, employees will be granted equal time off in lieu of overtime compensation at such time as it is arranged with and approved by the department heads, depending on the availability of necessary personnel to operate the Borough departments. Supervisors, department heads and other specialists on salary are not eligible for compensation time.
6. Request for time off. All employees requesting time off, i.e., vacation, jury duty, etc., must notify the department heads on or before the start of that business day. Department heads must notify the Borough Clerk and/or Borough Administrator of such leave requests.
7. When overtime work in excess of 5 1/2 hours is performed by an employee who is called in from off-duty status, sufficient excused time is granted in order to provide a period of four consecutive hours off before the employee starts his next normal tour, for example: if the employee works from 12:00 midnight until 6:00 a.m. and is scheduled to work the 8:00 a.m. to 4:00 p.m. tour, he receives two hours of excused time and starts his tour at 10:00 a.m.
8. Only time actually worked is considered for purposes of determining overtime compensation.

Article XI entitled “Miscellaneous” and comprised of Sections 52-58 through 52-79.7 be and hereby is amended by deleting the wording of Sections 52-59, 52-63, 52-67, 52-68, 52-72, 52-74, 52-75, 52-77, and 52-78 and replacing same with the following:

Section 52-59. Equal Employment Opportunity.

- A. It is the policy of the Borough of Maywood to ensure equal employment opportunity for all persons exists within Borough government regardless of sex, race, creed, color, religion, national origin, ancestry, age, marital 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, breastfeeding, childbirth, liability for service in the United States Armed Forces, gender identity or expression, and/or any other characteristic protected by state or federal law.
- B. Age may be a factor for employment only where and when it is a valid occupational requirement as determined by law.
- C. This policy shall apply to all phases of employment, including but not limited to recruitment, selection, appointment, placement, promotion, demotion, transfer, training, wages, benefits, working conditions, layoff, recall, discharge, disciplinary action, performance evaluation and use of all municipal facilities.

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Section 52-63. Alcohol and Drug-Free Workplace.

All applicants for positions that require a CDL license and all employees whose job requires them to possess a CDL license shall be excluded from this Alcohol and Drug-Free Workplace policy. Instead, these employees are governed by Federal and State regulations, as well as the attached CDL Drug and Alcohol Testing Policy (Appendix A) Employees hired with the understanding that they must obtain a CDL license will be covered under this Alcohol and Drug-Free Workplace Policy until they obtain their CDL license.

YOUR ROLE AND RESPONSIBILITIES

DRUG-FREE WORKPLACE

The Borough of Maywood (the “Borough”) is committed to maintaining a safe, pleasant, and productive working environment. You have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. This is considered a Health & Safety Policy of the Borough. This Policy highlights the Borough’s New Jersey Drug-Free Workplace Policy. The Borough’s Designated Employer Representative (DER) is the Superintendent of Public Works. The Alternative DER is the Borough Clerk.

The Borough recognizes the prime importance to the Borough of protecting the safety, health and welfare of its employees and others with whom we interface such as citizens, contractors and members of the public. The objective of this policy is to maintain a working environment free from the adverse effects of substance abuse. While the Borough has no intention of intruding into the private lives of its employees, the Borough does expect employees to report to work unimpaired able to perform the duties of their job safely and effectively. In addition to absenteeism and accidents, substance abuse can adversely affect performance, productivity and workplace morale. Co-workers may feel that they have to cover up, or work harder because of someone's substance abuse. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The Borough has a duty to safeguard its employees and the public from the risk of harm from employees who work under the influence of alcohol and drugs. Similarly, employees who are working under the influence, and employees who know that a fellow employee is working under the influence, owe such a duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability. All employees and contractors are responsible and accountable for ensuring that they, and their employees, are not under the influence of alcohol or drugs when carrying out work for the Borough. Managers and supervisors are responsible for taking appropriate action where they identify individuals who are at work while under the influence of alcohol or drugs. They should also take appropriate action to protect the health and safety of individuals who may be affected.

To the extent this Policy supplements, and does not conflict with current collective bargaining agreements, it is applicable. However, to the extent this policy may conflict with a current collective bargaining agreement (CBA), the CBA shall prevail.

All testing information is considered confidential information by the Borough and will be maintained in a separate file along with the employee's medical records, separate from other personnel files. An employee has the right to inspect and obtain a copy of his or her drug test results. Drug testing information will only be released to those employees of the Borough with a job related need to know, the DER and Alternate DER, to defend against any administrative action brought by the employee against the Borough, in grievance or arbitration proceeding under the terms of a collective bargaining agreement, in a court of law under subpoena, as released by the employee in writing, the MRO, Borough insurers, rehabilitation programs and as otherwise required by law. Our Drug-Free Workplace Policy does not tolerate the abuse of drugs or alcohol in the workplace. Understand that this Policy prohibits illegal drug use on or off the job. We encourage any employee suffering from a substance abuse problem to seek help. If you need help, we can direct you to our Employee Assistance Program (EAP) Substance Abuse Professional (SAP) for a confidential evaluation and referral for substance abuse treatment if necessary. Notice of the Borough's New Jersey Drug-Free Workplace testing will be provided on vacancy announcement and is posted in conspicuous locations on Borough premises.

Our program can help improve your health and help you avoid trouble with the law. Even if you do not use drugs or alcohol, this program will make your workplace safer and more productive, the Borough safer, and will help your friends and co-workers get the help they need. Compliance with this policy is a condition of your hire or continued employment, except to the extent this policy may conflict with a current collective bargaining agreement (CBA), which CBA shall prevail. The Borough has developed its drug-free workplace policy in compliance with New Jersey Laws, *and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities*. Applicant testing will begin immediately and sixty (60) days after the effective date of Borough, all employees are subject to testing as outlined below. The existing drug and alcohol testing program will remain in place until the effective date of this program.

WHO DO WE TEST?

All employees performing safety-sensitive functions, and all final applicants for positions where safety-sensitive functions are performed, and all other employees where reasonable suspicion exists. All DOT regulated employees are also subject to testing under this policy. Using the criteria below, the following positions have been classified by the Borough as safety-sensitive: firefighters, law enforcement officers who carry firearms, fire and police dispatchers, 911 operators, Department of Public Works workers, and bus drivers. Elected officials who are not otherwise classified as employees are not subject to testing under this Policy.

SAFETY-SENSITIVE CLASSIFICATIONS

Safety-sensitive employees are those employees who discharge duties fraught with risks of injury to others that even a momentary lapse of concentration can have disastrous consequences. Factors which have been considered in determining whether a position is safety sensitive include handling of potentially dangerous machinery, sharp objects, working at heights, positions requiring a high level of cognitive function, mostly unsupervised responsibility for children, and handling of hazardous substances in an environment where others could be injured. Positions which have been found to be safety-sensitive include firefighters, emergency medical technicians, law enforcement officials who carry firearms, fire and police dispatchers, 911 operators, heavy machinery operators, forklift operators, bus drivers, some (but not all) transportation workers, pipeline operators, gas meter repairmen, jail officers, and those involved in security functions. All Department of Transportation (DOT) regulated employees are determined to be safety-sensitive by those regulations. Unless an employee comes under drug testing regulations of some federal agency, each position, job classification or department, should be individually evaluated to determine whether the employee is safety-sensitive in accordance with the above guidelines. (Attach safety-sensitive job classifications on separate sheet if necessary.)

HOW DO WE TEST?

Drug and alcohol testing is done through chemical analysis which determines without question if a person has drugs or alcohol in his or her system and in conformity with regulations of the New York Department of Health, New Jersey Department of Health, or CLIA. Specimens subject to testing include urine, breath, hair, oral fluids, or blood. Specimen collections, chain of custody and drug and alcohol tests will be in substantial compliance with the U.S. Department of Transportation (DOT) procedures if applicable to the type of specimen being tested. To ensure accuracy, urine lab test procedures shall include a preliminary drug screening, two highly sophisticated scientific tests including adulterant detection, and are reported to an independent certified Medical Review Officer prior to being released to the Borough. Observed urine collections will only be conducted with the consent of the donor, and the observer will be by a person whose gender matches the donor's gender as identified by the donor at the beginning of the observed collection. Observed collections will be conducted in a professional manner that minimizes discomfort to the donor, and a medical professional may serve as the monitor, regardless of gender. The Medical Review Officer may recommend the collection of an alternate specimen (e.g., oral fluid) when a donor is unable to provide a sufficient amount of urine specimen at the collection site. The MRO will verify that chain of custody procedures were adhered to, use of a certified laboratory and that the test results were valid. The Borough provides reasonable accommodations to employees and/or applicants in the alcohol and drug testing program whose physical condition prevents them from producing a urine specimen suitable for testing. You may contact the DER if you wish to make an accommodation request. In accordance with Borough policy, a test result reported by the laboratory as a negative dilute urine test is not considered a negative test but subjects the donor to immediate retesting; and a second negative dilute urine test will render an applicant ineligible for hire and current employees, where a negative test is required, not currently fit for duty. FDA approved on-site screening devices may be utilized with all initial positive results confirmed by laboratory testing.

All positive initial tests are confirmed by GC/MS at established DOT cut off levels. An Alcohol content of 0.04 or higher using a DOT approved alcohol screening device, or breath alcohol device, is classified as a positive test. The drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); (5) Opioids, designer drugs, or a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs, or impairing effect medications or substances, taken by employees working in a safety-sensitive classified position, in order for the employer to fulfill its duty to provide a safe place to work as a safety rule. The term "illegal use of drugs" includes any controlled or scheduled drug not used in accordance with a health care provider's lawful prescription for the user, or any substances banned by Federal or applicable State laws.

WHAT IF YOU TEST POSITIVE?

The Medical Review Officer will contact you confidentially to give you an opportunity to discuss your results before reporting them to the Borough as a verified positive. You may discuss the result with the MRO up to seventy-two (72) hours after a positive result and ask questions of the MRO about prescription and non-prescription medications, rebut or explain the test results to the MRO, and provide supporting documentation. During this 72-hour period, any applicant or employee may request that their split specimen be tested at a second laboratory and if positive, they will be responsible for that expense and that cost may be deducted from their paycheck, depending upon the result and, if negative, the employee will be reimbursed by the Borough for the cost of the test and any lost time. Under federal regulations, the MRO has the discretionary authority to notify the Borough that an employee is temporarily medically disqualified from the performance of safety-sensitive work during this evaluation period and also has the duty to notify the Borough if the employee is taking an impairing effect medication. A positive drug or alcohol test is classified as willful misconduct and a violation of the Borough's Policy. Any employee who tests positive, or refuses to be tested, may be subject to appropriate disciplinary action for engaging in willful misconduct connected with work, up to and including immediate termination, for gross misconduct connected with work, and violation of a safety rule for those employees working in a safety-sensitive position and/or forfeit eligibility for Worker's Compensation benefits *N.J. Stat. Ann. § 34:15-7* if post-accident and may adversely affect an employee's eligibility to receive Unemployment Compensation benefits. Any applicant made a conditional offer that tests positive, or refuses to be tested, will be denied employment or have their offer withdrawn.

As it relates to cannabis, an employee will be subject to adverse action if there is both a positive drug test, confirmed by a licensed laboratory, and a determination of reasonable suspicion based on documentation of physical signs or other evidence of impairment during the employee's work hours. When the New Jersey Cannabis Regulatory Commission issues standards for certification of a Workplace Impairment Recognition Expert ("WIRE"), an employee will be subject to adverse action if there is both a positive drug test and a physical evaluation by a WIRE.

Applicants for non-CDL positions will not be denied employment based solely on a positive pre-employment drug test for cannabis, except for law enforcement officers assigned to a federal task force, holding a federally regulated license requiring testing, or applying to an agency that is specifically required to test for cannabis by the terms of a federal contract or federal grant.

WHAT IF YOU FAIL TO FOLLOW SAFETY GUIDELINES?

Often times, impairment from drugs or alcohol will cause an employee to fail to adhere to safety guidelines and other common sense safe working practices. Failure to wear a seatbelt, failure to use Borough provided or required safety equipment, failure to follow safety guidelines, or removal (or disabling) of a safety guard will

be willful misconduct connected with work, and subject the employee to discipline, up to and including discharge for violation of Borough Policy.

WHAT ABOUT IMPAIRING EFFECT MEDICATIONS OR SUBSTANCES?

Any employee working in a safety-sensitive position as defined by Borough Policy is required, as a safety rule, to pre-duty disclosure that they are taking or using ANY impairing effect prescription, including medical marijuana, over-the-counter medications, mind altering synthetic or designer drugs or other substance which may have an effect on performance of safety-sensitive duties. If the fact that the employee is taking or using an impairing effect medication or substance is not disclosed pre-duty by a safety-sensitive employee and the employee tests positive, is otherwise determined to be taking or using such, or is determined by the MRO to be a potential safety risk due to taking or using an impairing effect medication or substance, that employee will be subject to discipline, up to and including termination, for violation of this safety rule. If disclosure is made, the Borough reserves the right to send the employee for a Fitness-for-Duty evaluation to evaluate the medication or substance and its effects on the performance of safety-sensitive duties. In advance of testing, employees are encouraged to have their own doctor make an individualized assessment of any safety-related risks of the medications or substances which they are taking or using, providing the doctor a copy of their job description and having the doctor render an opinion on the safety-related risks. The employee need not disclose to the Borough the medication or medical condition involved to fulfill the disclosure obligation of this Policy. All information provided will be kept separate from personnel files and in a confidential manner. The MRO, or another Medical Professional selected by the Borough, will make the final determination on the safety-related risks of any particular medication or substance.

WHAT IF AN ADULTERANT IS FOUND?

The use of an adulterant (something added to a specimen to attempt to hide drug use) is considered a refusal to test and a violation of the Policy. The same would be true if you attempted to substitute a specimen. Any employee who is found to have violated this Policy by attempting to defraud a drug or alcohol test may be subject to appropriate disciplinary action, up to and including termination for willful misconduct connected with work, or withdrawal of a job offer. No last chance opportunity is available under such a circumstance. It is a criminal offense to substitute or adulterate a test specimen. It also is a criminal offense in New Jersey to manufacture, sell, give away, or possess any device or substance designed or commonly used to substitute or adulterate a test specimen. *N.J. Stat. Ann. § 2C:36-10*. The MRO may declare a urine specimen to be adulterated or substituted based on the laboratory report.

WHAT IF I REFUSE?

A refusal to provide a specimen for testing, unless the MRO agrees a medically valid reason exists for your inability, will be considered willful misconduct

connected with work. Such willful misconduct connected with work will cause an applicant's offer to be withdrawn and will subject an employee to immediate termination for cause. Under New Jersey law, unemployment compensation benefits may not be available in such a circumstance. Failure to report for specimen collection within a reasonable time, two (2) hours, of being directed to do so is also classified as a refusal under the Borough Policy.

DRUG EDUCATIONAL INFORMATION

Attached to this Policy you will find drug educational information to assist you in recognizing the impairing effects of drug use. The Borough will conduct employee education of substance abuse education and awareness and supervisor training on how to recognize signs of abuse, how to document and collaborate signs of employee substance abuse, and how to refer substance abusing employees to the EAP.

WHAT IF YOU HAVE A SUBSTANCE ABUSE PROBLEM?

The Borough will provide support for employees who need support and help with alcohol or drug dependency via confidential Employee Assistance Program (EAP), Substance Abuse Professional (SAP) or Medical/Occupational Health support services. Employees who proactively seek treatment will be treated sympathetically and in a confidential manner. In certain cases, this may require a transfer to other duties (e.g. where a person is working in a safety critical role) while the individual is receiving treatment. However, the fact that an employee is seeking or undergoing treatment will not be a defence to a charge of wilful misconduct if the employee reports for work under the influence of alcohol or drugs. Our Policy encourages any employee with a drug or alcohol problem to voluntarily and confidentially seek help through our EAP/SAP program. Coming forward after you have been notified to report for testing is not considered a voluntary report. For confidential help with a substance abuse problem, contact the DER or the EAP/SAP. Counseling and rehabilitation for alcohol or substance abuse is available through the EAP, and may also be available under the health and welfare benefit program for employees, *only to the extent of the current benefits package*. The Borough will assume no direct financial responsibility for counseling or rehabilitation costs of an employee, not covered by the EAP. Any costs in addition to or in excess of any available health benefits are the employee's responsibility. A list of state and national **Substance Abuse Resources** is a part of this Policy.

WHAT ABOUT A LAST CHANCE OPPORTUNITY?

No last chance opportunity is available to a probationary, part time or temporary employee, or in the case of refusal, attempted adulteration, substitution, switching, tampering with, or diluting of a specimen or attempt to defraud a drug test. Employees who receive an EAP/SAP evaluation favorable for rehabilitation may be offered a last chance agreement which will subject the employee to unannounced follow-up testing for up to 12 months, together with other educational and counseling requirements as recommend by the EAP/SAP. A negative return to duty

test is required to be placed back on active duty. A positive test, refusal or failure to comply with any term of the last chance agreement during this follow-up period will subject the employee to immediate termination.

WHY AND WHEN DO WE TEST?

- Pre-employment: Drug testing will be performed on all final applicants for safety-sensitive positions, or who transfer into a safety-sensitive position, as a condition of their employment.
- Routine Fitness-for-Duty: Safety-sensitive employees may be required to submit to a drug test as part of a routine Fitness-for-Duty examination and may be based on a particular job classification.
- Reasonable Suspicion: All employees will be required to submit to a drug and/or alcohol test if the Borough has a reasonable suspicion that an employee is under the influence of drugs or alcohol, which adversely affect or could adversely affect the employee's job performance. Employees selected for testing shall be suspended until a negative drug/alcohol screen or laboratory test result is received. If a negative result, the employee will not suffer a loss of pay.
- Post-Accident/Incident Testing: Testing of a safety-sensitive employee may be conducted under any of the following circumstances: 1) the employee involved in the incident/accident was actively engaged in the activity which objectively could have caused or contributed to the injury or damage; or 2) the employee was operating, controlling, or repairing any machinery, tool, device, equipment or vehicle that was involved in the incident/accident; or 3) the employee's action or inaction was likely a contributing factor to the incident/accident or cannot be completely discounted as a contributing factor based on current info; or 4) testing is being conducted as part of the Borough's Post Incident/Accident Investigation related to possible Workers' Compensation Disqualification; or 5) testing is being conducted for other non-injured employees whose actions, or inaction, could have contributed to the incident/accident as part of a root cause investigation; or 6) post-accident drug testing is required by the Workers' Compensation Carrier or Fund.
- Random: Employees in safety-sensitive positions are subject to random drug testing. Those subject to testing are randomly selected, using scientifically valid methods, from a "pool" of covered employees. Non-DOT safety-sensitive employees may be included in a Non-DOT testing "pool." DOT regulated employees should only be placed in a DOT testing "pool."
- Rehabilitation/Follow-up: An employee who has voluntarily requested rehabilitation prior to a positive drug test may be subject to unannounced drug and/or alcohol testing under a work continuation agreement, to determine whether he or she is under the influence of alcohol or drugs after successful

completion of the rehabilitation program. The testing will be without notice in conjunction with a referral for treatment.

POLICY PROHIBITIONS

Employees, applicants and Contractors for the Borough are strictly prohibited from engaging in the following conduct:

1. With respect to illegal drugs, employees and applicants violate this Policy by engaging in the following conduct, whether or not during work time or on Borough premises or property and are subject to discipline up to and including discharge, or rejection of the application for employment, or cancellation of contractual agreements:
 - a. Testing positive in a confirmed drug or alcohol test, or refusing to be tested.
 - b. Bringing and/or storing (including in a desk, locker, automobile, or other repository) illegal drugs or drug paraphernalia on Borough premises or property, including Borough -owned or leased vehicles, or vehicles used for Borough purposes.
 - c. Having possession of, being under the influence of, testing positive for, or being in close proximity to persons using illegal drugs, or otherwise having in one's system illegal drugs.
 - d. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing illegal drugs. In addition, the Borough will refer such matters to the appropriate police authority.
 - e. A conviction or plea of guilty relative to any criminal drug offense occurring in the workplace. All employees must notify Borough in writing of any criminal drug conviction no later than five (5) calendar days after such conviction. Drug use off-the-job which adversely affects an employee's performance on the job, or which has the potential to jeopardise the health or safety of other employees, the public or the Borough's equipment or function, shall be cause for disciplinary action up to and including dismissal. Action will be taken against employees who are convicted for an off-the job drug offence. In deciding what action will be taken, the incident will be evaluated in terms of the nature of the conviction, the employee's job assignment, the employee's record with the

Borough and other factors related to the impact of the employee's conviction on the Borough.

f. Abuse of prescription drugs which includes exceeding the recommended prescribed dosage or using others' prescribed medications. Such prescriptions brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date.

g. Switching, tampering with, diluting, or adulterating any specimen or sample collected under this Policy, or attempting to do so.

h. Refusing to cooperate with the terms of this Policy which includes submitting to questioning, drug testing, medical or physical tests or examinations, when requested or conducted by Borough or its designee, is a violation of Borough Policy and may result in disciplinary action up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.

i. Failure to advise pre-duty the Borough of the use of a prescription or over-the-counter drug which may alter the employee's ability to safely perform the essential functions of his or her job.

j. Failure of an employee to notify his or her supervisor before reporting to work if he or she believes that he or she is under the influence of drugs.

2. With respect to alcohol and cannabis, employees violate this Policy by engaging in the following conduct during work time or on Borough premises or property:

a. Bringing and/or storing (including in a desk, locker, automobile, or other repository) alcohol or cannabis on Borough premises or property, including Borough owned or leased vehicles, or vehicles used for Borough purposes.

b. Having possession of, being under the influence of, testing positive for or having in one's system, alcohol or cannabis. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing alcohol or cannabis. As it relates to a positive drug test for cannabis, an employee violates this policy if

there is both positive drug test and evidence-based documentation of physical signs or other evidence of impairment during the employee's work hours. *Exceptions to the policy concerning alcohol consumption or possession may be made only upon the prior explicit approval of senior management for specifically identified circumstances.*

c. A conviction or plea of guilty relative to any criminal alcohol or cannabis offense occurring in the workplace. All employees must notify Borough in writing of any criminal alcohol or cannabis conviction not later than five calendar days after such conviction. Alcohol or cannabis use off-the-job which adversely affects an employee's performance on the job, or which has the potential to jeopardise the health or safety of other employees, the public or Borough's equipment or function, shall be cause for disciplinary action up to and including dismissal. Action will be taken against employees who are convicted for an off-the job alcohol or cannabis offense. In deciding what action will be taken, the incident will be evaluated in terms of the nature of the conviction, the employee's job assignment, the employee's record with the Borough and other factors related to the impact of the employee's conviction on the Borough.

d. Switching, tampering with, or adulterating any specimen or sample collected under this Policy, or attempting to do so.

e. Refusing to cooperate with the terms of this Policy which includes submitting to questioning, alcohol or drug testing, medical or physical tests or examinations, when requested or conducted by Borough or its designee, is a violation of Borough Policy and may result in disciplinary action, up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.

f. Failure of employee to notify his or her supervisor before reporting to work if he or she believes that he or she is under the influence of alcohol or cannabis.

HOW CAN YOU HELP?

- I. If you are doing drugs – STOP!
- II. If you need help – ASK!
- III. If you know someone at work who is doing drugs – TAKE ACTION!
- IV. Don't let someone else's drug or alcohol problem be the cause of an ON THE JOB INJURY!

Only with your help can we truly have a safe, pleasant, and productive environment at the Borough.

Borough of Maywood

15 Park Avenue
Maywood, NJ 07607
P: (201) 845-2900

**Drug Educational Information
Alcohol (Depressant)**

Common Forms:	Beer, wine, hard liquor
How Used:	Oral ingestion, patterns of use vary.
Desired Effect:	People drink to relax, to socialize, as a part of a religious ceremony, for the control of physical and emotional pain, or for a variety of other reasons. Its depression of the central nervous system is progressive and continuous. It is a mood-modifying drug that usually provides a temporary feeling of mild euphoria and stimulation. This is a result of the initial depression of the higher centers of the brain which control inhibition. The more you drink, the more sedated you then become.
Time in body:	Depends on many factors, such as body size, amount of alcohol consumed within an hour, and other individual factors. Performance is effected in relation to the amount consumed. Generally, a medium-sized person eliminates the equivalent of one drink per hour. However, "hangover" effects of alcohol have been documented for as long as 14 hours after consuming an intoxicating dose, well after the blood alcohol levels have returned to zero.
Observable effects:	Staggering gait Slurred speech Odor of alcoholic beverage Shaky hands Poor eye-hand coordination Slowed reaction time Eyes react slowly to light - wears sun glasses
Work behavior:	Arrive late, leave early, mis-outs Neglect of physical appearance Restlessness Tremors (hands, face, fingers, lips tongue) Slurred speech Uninhibited - makes inappropriate remarks
Material Indicators:	Empty liquor bottles, cans, often in paper bags Flasks, sometimes disguised as other things
Slang Terms	Booze, juice, hooch, grape, eye-opener, hair-of-the-dog, brew, suds, etc

Amphetamines (Amphetamine and Methamphetamine)

Stimulant

Common forms: Amphetamine - usually capsules or white, flat, double-scored pills. Methamphetamine - white or granular powder, often packaged in aluminum foil or plastic bags.

How used: Orally, sniffed up the nose, or injected.

Desired effects: Most commonly sought after effects include euphoria, postponement of fatigue, increased energy, alertness and feelings of personal power. Repeated or chronic use often causes a strong dependence reaction and a schizophrenic loss contact with reality. Users coming off the drug experience extreme fatigue-induced sleep ("crash"), often followed by continued fatigue and depression.

Time in body: Injection or sniffed up the nose; "rush" felt within 1 minute. Orally, effects felt within about ½ hour. Single doses detectable for about 48 hours.

Observable effects: Dilated pupils. Flushed face, rapid respiration, profuse sweating. Hyper-excitability, talkativeness, restlessness. "Stereotypic" behavior often seen: person engages in repetitive tasks or mannerisms for extended periods of time. In large doses, inability to concentrate, confusion, panic.

Work behavior: Try to do job beyond competence level. Impaired ability to operate equipment. Takes chances, risks.

Material Indicators: Pills, capsules, white powder, granular crystals
Foil wrapped tubes, baggies. Hypodermics and paraphernalia for injections

Slang terms: Defies, bennies, speed, crank, ice, crystal, white crosses, black beauties

Cocaine - A Stimulant

Common forms: Cocaine - White crystalline powder. Free-base cocaine (crack) - white granular "rocks"

How used: Cocaine--usually snorted up the nose through a straw or from a "coke spoon" after being chopped to a fine powder with a razor blade. "Crack" -- freebase cocaine--is a processed version which is vaporized in a pipe and inhaled. Either form may also be injected.

Desired effect: Most commonly sought after effects are euphoria, stimulation, postponement of fatigue and feelings of personal power. The "high" lasts approximately one hour, with a "down" follow-on period. Psychological and physical dependence to "crack" after one to two uses; dependency to snorted coke takes longer to develop.

Time in Body: Single doses detectable for 12-24 hours

Observable effects:	Dilated pupils. Talkativeness, restlessness. Sniffing, runny nose, irritated or bloody nose. Dramatic mood swings, from "down" to "up" in minutes. Sense of power sometimes manifested in aggressiveness
Work issues:	Frequent trips "to the restroom"—secluded place. Frequent sick-outs and unexplained absences. Hyper-excitability and over-reaction to stimulus. Isolation/withdrawal from friends and activities. Financial problems--borrows, steals and/or sells to support habit. Insomnia, restlessness, lack of sleep
Material Indicators:	Small folded paper envelopes (bindles), plastic bags, small vials used to store drug. Razor blades, mirrors, cut off straws, coke spoons. Small glass pipes, and heat sources used to volatilize crack.
Slang terms:	Coke, snow, toot, crack, blow, happy dust, "C"

Marijuana

Common forms:	Dried green-brown flowers and leaves of the hemp (cannabis) plant--also as compressed tar like lumps (hashish) and sometimes as an oil to be spread on cigarettes (hash oil).
How used:	Generally smoked in hand-rolled cigarettes (joints) or a small pipe, sometimes eaten in baked goods or steeped to make a tea.
Desired effects:	Effects are somewhat dependent on the user and potency of the plant. Low doses tend to produce a dreamy state of relaxation and euphoria with changes in sensory perceptions (usually intensified) and alteration in thought formation and expression. Higher doses intensify these reactions with fragmentation of thought, memory impairment, shortened attention span, and illusions of insight. Marijuana currently sold on the street is 10 times more potent today than in past years.
Time in body:	Marijuana dissolves in body fat cells and is detectable for extended periods of time--up to seven (7) days for occasional users and four (4) weeks or longer for chronic users
Observable effects:	Red bloodshot glassy eyes (users often wear dark glasses and use eye drops to combat). Poor muscular control. Rambling, disconnected speech patterns. Euphoria--as laughing out of context. Getting "hung up" - i.e. going into the bathroom to comb your hair and coming out two hours later. Distinctive odor in air and/or on clothing.
Work issues:	Lack of attention, vision and auditory changes, and poor muscular control. Inability to respond to emergencies and sudden situational changes. Frequent sick-outs and mis-outs. Lackadaisical "I don't care" attitude about person and work. Chronic health problems for frequent users--persistent cough, fatigue, frequent sickness.
Material indicators:	Baggies of green-brown vegetable matter; rolling papers; small pipes (for marijuana) and very small pipes (for hashish);

"roach clips" to hold the burned end of the marijuana cigarette; "roaches" discarded on the floor or in ash trays; distinctive odor of marijuana in the air.

Slang terms: Dope, grass, reefer, weed, ganja, pot, etc.

Opioids (Morphine and Codeine)--Narcotic Depressants

Common forms: Street forms are pills, liquids and powders. Morphine is derived from opium. Opium dissolved in alcohol, containing 10% morphine, is legally available in many states as "paregoric."

Morphine and codeine are widely used medicinally. Morphine is a naturally occurring alkaloid, and is also found in products containing poppy seeds. Heroin is a semi-synthetic derivative of morphine.

How used: Opium is usually smoked. Codeine is most commonly taken orally. Heroin and morphine are injected; powders can be snorted; cigarettes can be dipped in paregoric and smoked.

Desired effects: Most commonly effects include euphoria, relief from pain, and a feeling of dissociated well-being. Low maintenance doses allow the addict to function on a daily basis. The heroin user experiences a "rush" described as a very pleasurable whole body reaction lasting 5-10 minutes, followed by several hours of mental and physical relaxation.

Time in body: Single doses are usually detectable for 48-72 hours.

Observable effects: Pinpoint pupils. Sweating, nausea, vomiting in novice users. "Nodding off"--the head drooping toward the chest, then bobbing up. Overly calm, detached facial expression. Confusion, mental dullness and slurred speech. Needle marks over veins.

Work issues: Increased sick-outs, mis-outs. Lack of interest in work, no attention to detail. Sharing of needles brings a high risk of contracting hepatitis and/or AIDS. High cost of the addiction may lead to borrowing money, stealing and selling (on or off the premises).

Material indicators: Foil or paper "bindles" for holding the drug. Charred spoons or bottle caps, used to cook the drug. Multiple burned matches used to cook the drug. Needles, syringes, eye droppers used for injection. Balloons or prophylactics used to hold drug. Bloody tissue papers, blood on shirt sleeves.

Slang terms: Heroin, dope, smack, shit, hard stuff, "H", china, monkey dust, china white, etc.

Phencyclidine (PCP)

Common forms: Pills, liquid, powder, and PCP cigarettes

How used: Usually smoked with tobacco or marijuana, but may be injected, swallowed, eaten or snorted.

Desired effects:

Users report desirable feelings of immobility, numbness, and detachment. Other sought-after effects include feelings of strength, power, and invulnerability, a dream-like detachment from reality (often coupled with lack of coordination).

Time in body:

Usually detectable 1- 8 days, but chronic users may test positive for several weeks following the last dose.

Observable effects:

Low doses: Sedated, euphoric, uncoordinated behavior. Wide mood swings. Sparse and purposeless speech. Muscle rigidity and jerky eye movements (nystagmus).

High doses:

Coma-like states with muscle rigidity and staring, half-closed eyes. Sudden stimuli may send the user into a psychotic state, with extreme agitation, violent behavior, abnormal strength, and inability to speak or comprehend.

Work issues:

Wide mood swings, unpredictable behavior, aggressive. Tremendous liability in the work force.

Material indicators:

Cigarettes that look as if they have been wet. Crystals, liquids or powders in small vials. Folded aluminum foil or paper packets.

Slang terms:

PCP, angel dust, hog, dust, DOA, shermans, sherms, peace pills, dummy, etc.

Substance Abuse Professionals

NATIONAL RESOURCES

A2Z Alcohol & Drug Abuse-Addiction	1-800-274-2042
Al-Anon/Alateen Family Group Headquarters	1-800-356-9996
Alcoholics Anonymous World Service	1-212-870-3400
American Council on Alcoholism Helpline.....	1-800-527-5344
800 Cocaine--An Information and Referral Hotline	1-800-262-2463
Nar-Anon Family Group Headquarters	1-310-547-5800
Narcotics Anonymous	1-818-773-9999
National Association of Alcoholism (NAADAC).....	1-800-548-0497
www.naadac.org Fax:	1-800-377-1136
National Association of Addiction Treatment Professionals... www.naatp.org	1-717-581-1901
National Council on Alcoholism and Drug Dependence, Inc.. www.ncadd.org	1-212-269-7797
Hope Line (24-hour affiliate referral).....	1-800-NCA-CALL
Center for Substance Abuse Prevention's Workplace Hotline WORKPLACE	1-800-
National Clearinghouse for Alcohol & Drug Information.....	1-800-729-6686
Center for Substance Abuse Prevention's Drug Information, Treatment & referral Hotline	1-800-662-HELP
(Spanish-Espanol).....	1-800-66-AYUDA

EMPLOYEE ASSISTANCE PROGRAM

Intervention Strategies
(800) 663-0404

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Section 52-67. Safety Policy.

- A. Employee safety and health are of major concern to the Borough of Maywood. It is essential that duties be performed in a safe and injury-free manner for the protection and welfare of all employees.
- B. The Borough of Maywood will maintain conditions and enforce requirements in accordance with the safety provisions of both the New Jersey Department of Health and the New Jersey Department of Labor, as well as the Public Employees Occupational Safety and Health Act (“PEOSHA”).
- C. 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.
- D. Any occupational or unsafe public condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or accident involving the Borough’s facilities, equipment, or motor vehicles must also be immediately reported to the supervisor or Department Head and the Chief Administrative Officer. Failure to do so constitutes grounds for disciplinary action. Employees are encouraged to discuss safety concerns with supervisory personnel.

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Section 52-68. Use of municipal equipment; use of municipal vehicles.

- A. Employees and/or volunteers are responsible for taking care of any equipment assigned to them. Employees and/or volunteers of the Borough of Maywood shall not remove or in any way assist in the removal of supplies, materials, goods, equipment or other property belonging to the Borough from its offices, unless such removal has been authorized by the Borough Administrator.
- B. Employees and/or volunteers are not to use equipment, supplies, goods, property, postage, or any other material or services of the Borough for personal use.
- C. Unauthorized use or removal of municipal equipment, supplies, goods, property, etc., shall be cause for loss of equipment use privileges, disciplinary action and/or removal from employment.
- D. Use of Municipal Vehicles.
 - (1) Driving Privileges and Licensure. The use of a Municipal Vehicle by an employee is subject to the approval and discretion of the Chief Administrative Officer. Any employee operating a Municipal Vehicle must have, in his or her possession, a valid driver's license issued by a

state regulatory body within the United States. Licenses issued by any territory or possession of the United States, the District of Columbia, or any international agency (including any province of the Dominion of Canada) must be expressly approved by the Borough's insurance carrier before an employee will be permitted to operate a Municipal Vehicle.

- (i) Employees are required to file a copy of a valid driver's license with the Borough prior to the use of a Municipal Vehicle.
 - (a) Upon request, an employee must provide a copy of their driver's license or other required documents within twenty-four (24) hours of said request.
 - (b) Employees shall inform the Borough within twenty-four (24) hours of any changes in the status of their driving privileges.
 - (c) Failure to comply with the requirements of this section will result in an immediate suspension of an employee's privilege to operate a Municipal Vehicle and may also result in the denial of indemnification and/or defense by the Borough to the employee in any civil or criminal matter brought in any Court arising from the use of a Municipal Vehicle while said employee's driving privileges were suspended or revoked.
- (ii) The Borough reserves the right to obtain a driving abstract record from the New Jersey Motor Vehicle Service Commission or other regulatory and law enforcement agencies.
 - (a) The Borough reserves the right to suspend an employee's Municipal driving privileges if the Borough deems necessary based on the employee's driving record.
 - (b) The Borough shall utilize information obtained pursuant to this section only for the purposes of furthering the objectives of this Policy and for no other reason, and will not reveal personal or other information contained in an employee's driving abstract record to any party except where required by applicable law.
- (iii) The Borough may occasionally offer safe driving courses and reserves the right to compel employee attendance at such courses.
- (iv) If requested by the Chief Administrative Officer or human

resources official, the employee must agree to consent to a simulated road test to determine his/her fitness to safely operate a vehicle.

- (v) In the event that the employee is under the influence of any medication (prescribed or over-the-counter) that might impair his/her ability to safely operate a vehicle, he/she must refrain from driving until he/she notifies the Borough and await clearance to resume driving.

(2) Official Use Only.

- (i) Municipal Vehicles are to be used only for official business of the Borough. Personal use of Municipal Vehicles is prohibited and shall be cause for the loss of vehicle privileges, disciplinary action and/or removal from employment.
- (ii) Only authorized municipal personnel or persons conducting business with the Borough may be transported in Municipal Vehicles.
- (iii) Unassigned Municipal Vehicles may only be used within the Borough and within any contiguous municipality for which there exists a Mayor and Council approved mutual aid agreement.
- (iv) Permanently assigned vehicles, including those vehicles assigned to the Fire Department command personnel may be driven to and from the assignee's home and regular place of business as long as such business is within the State of New Jersey. The vehicle may not be used in the course of the assignee's regular business. The use of a Municipal Vehicle for driving to and from work is voluntary and does not entitle the employee to compensation or pay while engaged in that activity.
- (v) An employee storing the vehicle at his residence must provide safe parking for the vehicle at all times.
- (vi) Except as stated in Subsection D(2)(iv) above, permanently assigned vehicles should only be used for official business within the Borough and within any contiguous municipality for which there exists a Mayor and Council approved mutual aid agreement. Only officials of the Borough, members of the Fire Department and those having official business with the Borough may travel within these vehicles. Transporting of the immediate family members of the assignee in the vehicle is permitted on a limited

basis and may only occur within the Borough and contiguous mutual aid zone. Transporting of guests in the vehicle is permitted when the vehicle is taking part in a Mayor and Council sanctioned special event/parade within the Borough and contiguous mutual aid zone.

- (vii) Any person utilizing a Municipal Vehicle or a permanently assigned Municipal Vehicle wishing to use such vehicles to attend to official business, including attending training or other special events, outside of the Borough/contiguous mutual aid zone must submit in writing (e-mail acceptable) a request to use the vehicle to the Borough Mayor and Council for approval.
 - (viii) In the event of an emergent situation, deviation from this policy shall only be permitted with explicit permission granted by the Mayor, the Borough Administrator, and/or the Borough Councilperson serving as the liaison/Commissioner assigned to the respective Borough department.
- (3) General Policies and Procedures. Employees authorized to use a Municipal Vehicle for official business must adhere to the policies and procedures set forth in this Policy. Failure to comply with the provisions below will result in a loss of privileges:
- (i) Drivers must ensure that all required documents (driver's license, LD. badge/card, registration, insurance card) are in their possession while operating the vehicle. Vehicle registration and insurance cards should be kept in a locked compartment of the vehicle when not in use.
 - (ii) Employees assigned exclusive use of a Municipal Vehicle are responsible for scheduling all repairs and manufacturer recommended maintenance with the Borough, in order to maintain all manufacturers' warranties (including routine oil changes). Vehicles known to have mechanical problems that would jeopardize the safety and health of employees and/or volunteers and/or others should be immediately taken out of service and brought to the maintenance shop of the Borough for repair. Appropriate department heads should be immediately advised of the non-use of the vehicles involved.
 - (iii) Vehicles are to be kept clean at all times, and should be washed and vacuumed regularly (unless prohibited by the New Jersey Department of Environmental Protection or other similar regulatory body).
 - (iv) No smoking is allowed in Municipal Vehicles at any time.
 - (v) In accordance with N.J.S.A. 39:4-97.3 and any other applicable statutes

and regulations, the use of hand-held phones or electronic devices (BlackBerry, navigation systems, etc...) while driving Municipal Vehicles is prohibited. This prohibition includes the sending or reading of e-mails, text messages and other similar communications.

- (vi) All occupants must wear seat belts at all times when the vehicle is in use and observe all road safe rules and regulations, such as "Wipers On, Lights On."
 - (vii) Employees are expected to operate vehicles in a safe and courteous manner at all times and are expressly reminded to avoid tailgating or other unsafe practices.
 - (viii) Employees are reminded of the risks inherent from driving while drowsy. In the event that a driver becomes tired while operating a vehicle, they should pull off the road and seek appropriate assistance.
4. Accidents and Incidents. Prior to operation of any Municipal vehicle, employees must consult their Department Head as to the appropriate steps to take if they become involved in an accident (filling out accident reports, obtaining witness names, etc.)
- (i) In the event of an incident or accident involving the use of a Municipal Vehicle, employees must immediately contact their supervisor and/or Department Head. All required reports and documentation must be submitted to the Chief Administrative Officer within two (2) business days of receipt.
 - (ii) An employee may be required to submit to an alcohol or drug screening test following an accident or incident if there is a reasonable suspicion to believe that the employee's use of drugs or alcohol may have contributed to the cause of the accident or as otherwise required by law or other policy of the Borough.
5. Citations and Violations. Operators of Municipal Vehicles are expected to follow all laws, regulations and rules proscribed by the Motor Vehicle Commission. Drivers are responsible for paying any moving violation tickets and MUST notify the Borough of said violations within forty-eight (48) hours of receipt of said ticket (regardless of the employee's decision to contest such ticket in municipal court). Drivers are responsible for paying all parking tickets incurred. The Borough should be notified of the receipt of a parking ticket within 48 hours of receipt of said ticket.
6. Delinquent Tolls. Drivers are responsible for all "Notice of Delinquent Toll Payment Violations" (including but not limited to EZ-Pass). Upon having been notified of said violation, either by direct mail or notice from the

Borough, an employee shall, within ten (10) business days of such notice, provide acceptable proof to the Borough that the outstanding toll and any related fees have been paid.

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Section 52-72. Performance Evaluation Policy.

The Borough of Maywood (the “Borough”) recognizes that an employee job performance evaluation system is the basis for assisting in employee growth and development. The Borough requires supervisors to conduct performance appraisals to ensure that:

- (1) each employee receives feedback on objectives, accomplishments, strengths, and areas for improvement;
- (2) each employee receives advice from his or her supervisor on ways to improve performance and has the chance to identify with his or her supervisor areas where greater contribution is possible, or where either feels more development would be beneficial; and
- (3) essential information is recorded concerning strengths and weaknesses of all employees in relation to career development, including potential for advancement and suitability for other positions and training.

The performance evaluation provides the vehicle for a dialogue between the employee and the supervisor and ensures shared expectations of the requirements for the employee's job and the employee's performance in the job. Accordingly, the Borough will use a performance review/evaluation system for all employees.

During performance reviews, supervisors will consider, among others:

- Initiative, dependability and effort
- Knowledge of work
- Attitude and willingness
- Quantity and quality of work
- Disciplinary record
- Attendance and tardiness

A copy of an employee performance evaluation shall be maintained in the employee’s personnel file.

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Section 52-74. Employment References and Personnel Records.

A. Employment References.

1. To ensure that individuals who work for the Borough of Maywood (the “Borough”) are well-qualified and have a strong potential to be productive and successful, it is the policy of the Borough to check the employment references of all applicants at the Borough’s discretion.
2. Employees should not, under any circumstances, provide another individual with information regarding a current or former employee. Any employee, including Department Heads, who receives a request for reference information should forward the request to the human resources official. Generally, unless otherwise required by law, the Borough will only confirm employees’ name, title, salary, compensation, dates of service, reason for separation, if applicable, and specific educational or medical qualifications required for employment. The Borough’s response to a request for reference information shall be communicated in writing only. The Borough does not honor oral requests for employment references.
3. A current or former employee may also authorize the Borough to release additional information. Unless otherwise required by law, the Borough will only release additional information if the current or former employee provides authorization, in writing.

B. Confidentiality of Personnel Records.

1. The human resources official will ensure that adequate personnel records are maintained for each employee in accordance with applicable Federal and State requirements. These records shall include: dates of appointments, transfers, promotions and terminations, job titles, salaries, commendations, complaints, performance evaluations, disciplinary actions, amount of leave accrued and used, a record of the employee's training and other related matters, and attendance records.
2. A new employee's employment application, letters of reference, reference verification and any other supporting documents will be included in the personnel file. Confidential medical records are maintained in a separate file.
3. Personnel records, other than name, title, salary, compensation, dates of service, reason for separation, and information on specific educational or medical qualifications required for employment, are confidential and are available only to the employee, an authorized representative of the employee, and the human resources official. Personnel records may also be available to the Chief Administrative Officer, other members of management, the Borough's legal counsel, and members of the governing body on a need-to-know basis in connection with official duties. Additionally, the Borough will make the records available as required by law.
4. Employees are entitled to review the contents of their personnel folder, except for reference checks and other information provided to the Borough in the hiring

process, but may not review the contents of other employees' personnel file. Employees who want to review their own personnel folder should request an appointment with the human resources official. Employees should provide the Borough with at least twenty-four (24) hours advance notice of his or her need for an appointment to review his or her personnel file. To protect the integrity of the personnel files, the employee will review the personnel file in the presence of the human resources official or his/her designee. Employees will not be permitted to photocopy the contents of their folder, take personnel folders outside of the human resources office or remove any documents from the folder.

5. Employees whose duties require access to personnel documents or information must maintain their confidentiality. Violators of this confidentiality will be subject to disciplinary action up to and including termination.

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Section 52-75. Americans With Disabilities Act.

Preamble. In compliance with the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination, as amended by the New Jersey Pregnant Workers Fairness Act (LAD),⁹ the Borough does not discriminate based on disability, pregnancy, pregnancy-related medical condition or childbirth. The Borough will endeavor to make every work environment handicap accessible, and all future construction and renovation of facilities will be in accordance with applicable barrier-free federal and state regulations and the Americans with Disabilities Act Accessibility Guidelines, as well as the ADA Amendments Act.

It is the policy of the Borough to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and LAD. We will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth, breastfeeding, or pregnancy-related medical condition. We will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities or 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.

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

location with privacy, other than a toilet stall, in close proximity to the work area for the employee to express breast milk for the child.

All decisions with regard to reasonable accommodation shall be made by the Borough Administrator. Employees who are assigned to a new position as a reasonable accommodation will receive the salary for their new position. The Americans with Disabilities Act does not require the Borough to offer permanent "light duty," relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

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

- A. The Americans With Disabilities Act became effective for the Borough of Maywood on June 26, 1992, and provides direction to the Borough operations as follows:
- (1) Title I: Nondiscrimination in employment practices regarding individuals with disabilities.
 - (2) Title II: Nondiscrimination regarding the disabled in state and local services.
 - (3) Title III: Nondiscrimination regarding the disabled in public accommodations and in community facilities.

It is the policy of the Borough of Maywood to follow all provisions and directive of the Americans With Disabilities Act and to be in complete compliance with the Act.

- B. No individuals will be discriminated against regarding his or her employment with the Borough of Maywood due specifically and solely to their physical, mental or other disability. However, there may be special conditions which relate to specific duties of certain classifications of employment which will prevent individuals with disabilities from completing successfully all duties of specific positions. These limitations would prevent the employment in the specific position of individuals with specific disabilities as they could not complete all duties the position required.
- C. The Americans With Disabilities Act prohibits employment discrimination against qualified individuals with disabilities who meet the skills, experience, education, and other job-related requirements of a position held or desired and who, with or without reasonable accommodations, can perform the essential functions of a job.

- D. A disabled individual is one who has a physical or mental impairment that substantially limits major life activities, when there is a record of such disability or the individual is generally regarded to have such a disability.
- E. The Borough of Maywood will not discriminate regarding employment practices against any individual by:
 - (1) Limiting, segregating or classifying a job applicant or employee in a way that adversely affects employment opportunities for the applicant or employee because of his or her disability.
 - (2) Participating in a contractual or other arrangement or relationship that subjects the Borough's qualified applicant or employee with a disability to discrimination.
 - (3) Denying employment opportunities to a qualified individual because he/she has a relationship or association with a person with a disability.
 - (4) Refusing to make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless the accommodation would pose an undue hardship on the Borough.
 - (5) Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability unless they are job-related and necessary in work performance for the Borough.
 - (6) Failing to use employment tests in the most effective manner to measure actual abilities. Tests must accurately reflect the skills, aptitude or other factors being measured and not the impaired sensory, manual, or speaking skills of an employee or applicant with a disability (unless those are the skills the test is designed to measure).
 - (7) Discriminating against an individual because he/she has opposed an employment practice of the Borough or filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing to enforce provisions of the Americans With Disabilities Act.
- F. The Borough may require that specific tasks of a particular position be performed by prospective applicants or employees for job openings. If an applicant or employee cannot clearly perform those duties due to a disability, without the Borough modifying the duties, equipment used, facilities, etc., under "undue hardship" to the Borough, the Borough may disqualify the disabled individual from consideration of employment because of nonperformance of job functions.
- G. Qualified individuals with disabilities shall not be discriminated against on the

basis of their disability regarding services, programs, activities, etc. provided by the Borough of Maywood.

- H. As the facilities owned, leased and operated by the Borough of Maywood are to provide all services, programs, activities, etc. to the general public and are places of "public accommodation," the Borough will provide access to its facilities to qualified individuals with disabilities or shall otherwise provide such services, programs and activities.
- I. Contagious or life-threatening illnesses policy:
 - (1) The Borough of Maywood 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 of Maywood 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 his/her job, and also provided that the accommodation does not impose an unreasonable hardship on the Borough of Maywood.
 - (2) The Borough of Maywood will take reasonable precautions to protect such information from inappropriate disclosure, including the following:
 - (a) Medical information may be disclosed with the prior written informed consent of the person who is the subject of the information.
 - (b) 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.
 - (c) Information may be disclosed to the Department of Health as required by state or federal law.
 - (3) 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.
 - (4) Consistent with the concern for employees with life-threatening illness, the Borough offers the following resources through the human resources official:
 - (a) Employee education and information on terminal illnesses and

specific life-threatening illnesses.

- (b) Referral to agencies and organizations which offer supportive services for life-threatening illnesses.
- (c) Consultation in assisting employees in efficiently managing health, leave and other benefits. The Borough encourages employees who need these resources to contact the human resources official.

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Section 52-77. Whistleblower Policy.

As a matter of policy, the Borough of Maywood (the “Borough”) abides by all federal, state, and local laws, rules, and regulations applicable to it and has all its employees do the same. Every employee is responsible for assisting the Borough to implement this policy.

In the ordinary course, a violation of this policy should be reported to an employee's Department Head in writing, signed by the employee. If that is not practical or if that action is taken but does not prevent or correct the perceived violations, the employee is to deliver a written statement, signed and dated to the designated human resources official. The written statement should detail the specific information the employee possesses so that the Borough may undertake an investigation.

The Borough or any of its employees will not retaliate against any employee who makes a good faith report pursuant to this policy, even if an investigation reveals that no violation occurred. More specifically, neither the Borough nor any of its employees will take any retaliatory action or tolerate any reprisal against an employee who:

- Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the Borough 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;
- 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 Borough 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;

- 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 government entity;
- 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 Borough or any governmental entity.
- 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. See N.J.S.A. 34:19-3.

Disclosure to the Borough first, however, 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 emergent in nature. The employee must give the Borough a reasonable opportunity to correct the activity, policy or practice. It is the Borough's responsibility to correct or prevent such violations. This is a legal obligation and a practical necessity. A violation can taint the credibility of the Borough and cause the Borough and its employees to be subjected to adverse publicity leading to public distrust.

This policy is important to the Borough. Each employee should seek to resolve any problem within Borough channels before reporting it to any outside person or entity.

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Section 52-78. Policy to prevent workplace violence.

The Borough has adopted this Zero Tolerance Policy for workplace violence because it recognizes that workplace violence is a growing problem nationally that needs to be addressed by all employers. Consistent with this policy, acts or threats

of physical violence, including intimidation, harassment, and/or coercion which involve or affect the Borough, its employees or which occur on the Borough's property will not be tolerated.

Threats or Acts of Violence Defined. "Threats or acts of violence" include conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the employment conditions with the Borough, or to create a hostile, abusive, or intimidating work environment for one or more employees.

Examples of Workplace Violence. General examples of prohibited workplace violence include, but are not limited to, the following:

- All threats or acts of violence occurring on Borough property, regardless of the relationship between the Borough and the parties involved in the incident.
- All threats or acts of violence not occurring on Borough property but involving someone who is acting in the capacity of a representative of the Borough.
- All threats and acts of violence not occurring on Borough property involving an employee of the Borough if the threats or acts of violence affect the legitimate interest of the Borough.
- Any threats or acts resulting in the conviction of an employee or agent of the Borough, or of an individual performing services on the Borough's behalf on a contract or temporary basis, under any criminal code provision relating to threats or acts of violence that adversely affect the legitimate interests and goals of the Borough.

Specific Examples of Prohibited Conduct. Specific examples of conduct which may be considered "threats or acts of violence" prohibited under this policy include, but are not limited to:

- Hitting, fighting, pushing, or shoving an individual or throwing objects;
- Threatening to harm an individual or his/her family, friends, associates, or their property;
- The intentional destruction or threat of destruction of property owned, operated, or controlled by the Borough;
- Making harassing or threatening telephone calls, letters or other forms of written or electronic communications;

- Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the Borough;
- Harassing surveillance, also known as “stalking,” the willful, malicious and repeated following of another person and making a credible threat with intent to place the other person in reasonable fear of his or her safety;
- Making a suggestion or otherwise intimating that an act to injure persons or property is “appropriate,” without regard to the location where such suggestion or intimation occurs;
- Unauthorized possession or inappropriate use of firearms, weapons, or any other dangerous devices on Borough property.

While employees of the Borough may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law, employees are to use them only in accordance with departmental operating procedures and all applicable State and Federal laws.

Application of Prohibition. The Borough’s prohibition against threats and acts of violence applies to all persons involved in the Borough’s operation, including but not limited to Borough personnel, volunteer, contract and temporary workers, and anyone else on Borough property. Violation of this policy by any individual on Borough property, by any individual acting as a representative of the Borough while not on Borough property, or any individual acting off of the Borough property when his or her actions affect the public interest or the Borough’s business interests will be followed by legal action, as appropriate. Violation by an employee of any provision of this policy may lead to disciplinary action up to and including termination.

Warning Signs, Symptoms and Risk Factors. The following are examples of warning signs, symptoms, and risk factors which MAY indicate an employee’s potential for workplace violence:

- Dropping hints about a knowledge of firearms;
- Making intimidating statements like: “You know what happened at the Post Office,” “I’ll get even,” or “You haven’t heard the last from me”;
- Possessing reading material with themes of violence, revenge and harassment;
- Physical signs of hard breathing, reddening of complexion,

menacing stare, loudness, fast profane speech;

- Acting out either verbally or physically;
- Disgruntled employee or ex-employee who is excessively bitter;
- Being a loner;
- Having a romantic obsession with a co-worker who does not share that interest;
- History of interpersonal conflict;
- Intense anger, lack of empathy;
- Domestic problems, unstable/dysfunctional family;
- Brooding, depressed strange behavior, “time bomb ready to go off.”

Supervisors should be alerted to and aware of these indicators. If an employee exhibits such behavior, the employee should be monitored and such behavior should be documented.

Procedures for Dealing with Acts of Workplace Violence. When a violent act occurs in the workplace: If a violent act or altercation constitutes an emergency, call 9-1-1 or the local police department. In instances that are not emergency situations, contact your Department Head or the designated human resources official. If possible, separate the parties involved in the violent altercation. If the parties cannot be separated, or if it would be too dangerous for the employee to separate the parties, call 9-1-1 or the local police department, and contact your Department Head or the designated human resources official. The Department Head will contact the designated human resource officer, who will take responsibility for coordinating a response to the incident.

In instances that involve criminal situations, the designated human resources official will contact the appropriate local police department for assessment, and if necessary, a criminal investigation.

Employee Reporting Obligations and Procedure. Each employee and every person on Borough property is encouraged to report incidents or threats or acts of physical violence of which he or she is aware. In cases where the reporting individual is not an employee, the report should be made to the local police department. In cases where the reporting individual is an employee, the report should be made to the employee’s Department Head or the designated human resources official. Each Department Head shall promptly refer any such incident to the designated human resources official.

The Borough will promptly and thoroughly investigate all reports of threats of (or actual) violence and/or suspicious individuals or activities. Any individual determined to be responsible for conduct in violation of this policy will be subjected to disciplinary action up to and including termination of employment, arrest and prosecution.

Nothing in the policy alters any other reporting obligation established in the Borough's policies or in state, federal or other applicable law.

Confidentiality and Retaliation. This policy prohibits retaliation against any employee who, in good faith, reports a violation of this policy. Every effort to the extent practicable will be made to protect the safety and identity of anyone who comes forward with concerns about a threat or act of violence. Employees shall refer any questions regarding his or her rights and obligations under the policy to the designated human resources official.

Article XI entitled "Miscellaneous" and comprised of Sections 52-58 through 52-79.7 be and hereby is amended by adding a new section, Section 52-79.8, which shall be as follows:

Section 52-79.8. Ethical Conduct.

Pursuant to the provisions of the Local Government Ethics Law:

1. No employee or member of his or her immediate family will have an interest in a business organization or engage in any business, transaction or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest.
2. No employee should use or attempt to use his or her official position to secure unwarranted privileges or advantages for him or herself or others.
3. No employee should act in his or her official capacity in any matter wherein he or she, a member of his or her immediate family, or business organization in which he or she has an interest, has a direct or indirect personal or financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.
4. No employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.
5. No employee, member of his or her immediate family, or business organization in which he or she has an interest, should solicit or accept any

gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan contribution, service, promise or other thing of value was given or offered for the purpose of influencing him or her directly or indirectly in the discharge of his or her official duties.

6. No employee will use, or allow to be used, his or her public employment, or any information, not generally available to members of the public, which he or she receives or acquires in the course of and by reason of his or her employment, for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.
7. No employee or business organization in which he or she has an interest will represent any person or party other than the Borough in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he or she serves. An employee or members of his or her immediate family may represent himself or herself in proceedings concerning the employee's own interests.

Article XV now established and entitled “Protection and Safe Treatment of Minors” and now comprised of Section 52-89 through 52-99 be and hereby is added to the Borough Code, which shall be as follows:

Article XV
Protection and Safe Treatment of Minors

Section 52-89. Purpose and Scope

Under New Jersey law (N.J.S.A. 6-8.21), an abused or neglected child is anyone “under the age of 18 who is caused harm by a parent, guardian or other person having custody or control of that minor.” A child who is under the age of eighteen (18) is considered to be abused or neglected when a parent, caregiver, another child or another adult does one of more of the following:

1. Inflicts or allows to be inflicted physical injury by other than accidental means that creates substantial harm or risk of substantial harm, and/or
2. Fails to provide proper supervision or adequate food, clothing, shelter, education or medical care although financially able or assisted to do so, and/or
3. Commits or allows to be committed an act of sexual abuse against a child.

Child abuse can have long-term effects on victims. A lack of trust and difficulty with healthy relationships is common, as is a core feeling of worthlessness and low self-esteem.

There may even be long-term trouble with regulating emotions that can lead to destructive behaviors.

There are typically four common types of abuse:

- The failure to meet a child's basic needs, physically or emotionally, which is called ***neglect***.
- The intentional use of physical force that results in injury, which is called ***physical abuse***.
- The practice of any behaviors that harm a child's feelings of self-worth or emotional well-being, which is ***emotional abuse***.
- Engaging in sexual acts with a child including pornography, which is ***sexual abuse***.

Unfortunately, statistics reflect that abuse is all too common in any form.

- In New Jersey, abuse reports involving 80,000 children are filed each year. 50,000 of those children receive prevention and post-response services.
- 75% of the cases involve neglect, 18% of the cases involve physical abuse, and psychological abuse accounts for 7% of the cases.
- 55% of the perpetrators are female, while males account for 45%.
- Sadly, child abuse is a vicious cycle, in that 30% of abused children will later abuse their own children.

The statistics and characteristics pertaining to ***sexual abuse*** are sobering and equally as disheartening:

- ✓ ***“Peer-to-Peer”*** abuse is by far the most common, where one or more children or adolescent(s) sexually abuses or inappropriately touches another. Legally, the abuser must be at least 4 years older to trigger the statute. The *American Psychological Association* reports this type of abuse is driven by power and dominance, the same factors that drive bullying within this age group. In fact, bullying can be a precursor to sexual abuse, especially when there is a lack of supervision.
- ✓ In contrast, ***“adult-to-child”*** abuse is typically thought out and planned in advance, demanding access and privacy and control. These three factors demand a specific type of relationship and setting, meaning that 90% of juvenile sexual abuse victims know their abuser. The scope of the problem is massive: by the age of 18, 1 in 4 girls and 1 in 6 boys have experienced sexual abuse. From those figures, 88% of those molestations are attributed to individuals with pedophilia. ***Pedophilia is a psychotic disorder in which an adult or adolescent demonstrates a primary sexual attraction to prepubescent children.*** It is important, however, not to confuse pedophilia with actual child molestation, as many pedophiles never act on their attractions.

- ✓ Child sexual abusers are not always easy to spot. Though 7 out of every 8 molesters are male, they match the general population in ethnicity, religion, education, and marital status. So there is no stereotype, especially since abusers go to great lengths to blend in. However, only 10% of them abuse children that they don't know, and 68% look no further than their own families for victims.
- ✓ 40% of abusers first begin molesting children before they themselves reach the age of 15, and the vast majority before the age of 20.
- ✓ Adolescent abusers generally begin their acts of abuse on younger siblings.
- ✓ Most sexual abuse occurs within the family. However, molesters can gain access to children outside of their own families through employment or volunteer work with an organization that works primarily with children. This allows them both time alone with potential victims and the ability to build trust and credibility. In fact, child abusers are often known and respected in their communities for dedication to children.
- ✓ In terms of a victim profile, it is important to remember that, although there are characteristics that make some children more vulnerable, every child is in danger. Passive, lonely or troubled children, especially those who live with step-parents or single parents may be targeted. Children between the ages of 7 and 13 years old are most at risk, and children from low socioeconomic backgrounds or rural areas are more likely to be victimized.
- ✓ Molesters have behavioral patterns that can be identified as “***grooming***” their victims. Sexual abuse is rarely violent. The molester's goal is to solicit compliance by beginning to win the victim's trust. There might be pet names, gifts to foster exclusivity and encouragement to “keep secrets.” The molester might begin to spend time with the victim outside of the regular program or schedule, contacting parents to become involved in a child's life in some capacity, like babysitting. For this reason, many parents are shocked after abuse comes to light simply because the abuser seemed trustworthy. Inevitably, the favoritism is not enough to keep the victim silent any more, and the abuser resorts to threats—threats that play off of a child's guilt over the sexual contact.
- ✓ During the grooming process and abuse, victims often begin to show signs such as sexual behaviors or strong sexual language that is too adult for their age. Many children feel at fault after the abuse and begin to suffer guilt and depression, even resorting to self-harm. They may begin to display cuts and scratches or other self-inflicted injuries. However, some children are naïve and unaware of the gravity of the abusive nature of their experience. Research shows that children often delay reporting sexual abuse. They should not be disbelieved just because they waited a long time to seek help.

In the State of New Jersey every level of government has a role in protecting minors.

- At the State level:
 - State law is enforced through the NJ Family Division of the State court system. The court has broad powers including the ability to remove children from dangerous situations
 - The Department of Children and Families, specifically the Division of Child Protection and Permanency, combines all state operations intended to safeguard children into a single, coordinated program working closely with the Courts, legal advocates and law enforcement.
 - The Department of Corrections operates adult prisons and youth correctional centers to deal with perpetrators, while individual counties operate youth detention centers and special purpose schools.
- At the local level:
 - Educational professionals have the most contact with children, meaning they are often the first to detect issues.
 - Housing Authority employees may also frequently come into contact with children.
 - Municipalities and counties operate or sponsor a variety of programs that involve children including but not limited to:
 - Recreation programs
 - Before and After Care programs
 - Youth sports leagues
 - Youth centers
 - Youth in Government programs
 - Junior law enforcement training programs
 - The role of **Police and law enforcement agencies** is especially important. Police officers assist in resolving reported situations, often acting as first identifiers. In New Jersey, police are given broad authority to protect children, including the authority to remove them from their parents or caregivers without a court order if necessary to prevent imminent danger to a child. Under the **Prevention of Domestic Violence Act**, a law enforcement officer must make an arrest when the officer finds “probable cause” that domestic violence has occurred. This holds even if the victim refuses to make a complaint. The Act is invoked in situations where the victim exhibits signs of injury caused by domestic violence, when a warrant is in effect, or when there is probable cause to believe that a weapon has been involved in an act of domestic violence. Abusers often use psychological tactics or coercive control over their partners, such as making threats to prevent a victim from leaving or contacting friends, family or police. But even if these conditions are not met, an officer

may still make an arrest or sign a criminal complaint if there is probable cause to believe acts of domestic violence have been committed. Now if there is no visible sign of injury but the victim states that an injury did, in fact, occur, the officer must take other factors into consideration in determining probable cause.

The Borough of Maywood (the “Borough”) is committed to the safety of all individuals in its community, however, the Borough has particular concern for those who are potentially vulnerable, including minor children. The Borough regards the abuse of children as abhorrent in all its forms and pledges to hold its officials, employees and volunteers to the highest standards of conduct in interacting with children. Statistics show that 93% of victims under the age of 18 know the abuser. Further, a perpetrator does not have to be an adult to harm a child but are typically in a caregiver role. They can have any relationship to the child including a playmate, family member, a teacher, a coach, or instructor.

The Borough is fully committed to protecting the health, safety and welfare of minors who interact with officials, employees, and volunteers of the Borough to the maximum extent possible. These Policy and Procedures establish the guidelines for officials, employees, and volunteers who set policy for the Borough or may work with or interact with individuals under 18 years of age, and those who supervise employees, and volunteers who may work with or interact with individuals under 18 years of age, with the goal of promoting the safety and wellbeing of minors.

This policy provides guidelines that apply broadly to interactions between minors and officials, employees, and volunteers in programs operated by the Borough or affiliated programs or activities. All officials, employees, and volunteers are responsible for understanding and complying with this policy.

Section 52-90. Definitions.

- **Authorized Adult** - Individuals, age 18 and older, paid or unpaid, who interact with, supervise, chaperone, or otherwise oversee and/or interact with minors in program activities, recreational, and/or residential facilities. The Authorized Adults’ roles may include positions as counselors, chaperones, coaches, instructors, etc.
- **Child or Minor** - A person under the age of eighteen (18).
- **Department Heads** - Appointed department heads of the Borough, including the chief administrative officer, and any assistants.
- **Direct Contact** - Positions with the possibility of care, supervision, guidance or control of children or routine interaction with children.

- **Dual Reporting** – Reporting possible abuse to both the NJ Department of Children and Families and law enforcement at the same time by the individual designated by the Borough to report all possible cases of abuse.
- **Employees, Staff, or Counselors** – persons working for the Borough on a full-time or part-time basis, and compensated by the Borough.
- **Facilities** - Facilities owned by, under the control of, or rented or leased to the Borough.
- **Grooming** - is when someone builds a relationship, trust and emotional connection with a child or young person so they can manipulate, exploit and abuse them. Refer to Appendix B for more detailed information on grooming.
- **NJMEL JIF** - New Jersey Municipal Excess Liability Fund Joint Insurance fund.
- **Officials** – Elected officials of the Borough, appointed Board members, and Authority Commissioners.
- **One-On-One Contact** - Personal, unsupervised interaction between any Authorized Adult and a participant without at least one other Authorized Adult, parent or legal guardian being present.
- **Programs** - Programs and activities offered or sponsored by the Borough.
- **Volunteers** - Individuals volunteering their time to provide services to the Borough who are not on the payroll and receive no compensation.

Section 52-91. Policy.

The Borough is charged with protecting the health, safety, and welfare of all its citizens, including children under the age of 18. To that end, the Borough is firmly committed to protecting children under the care and supervision of the Borough from all forms of physical, mental, sexual, and emotional abuse. The Borough is committed to establishing and implementing safeguards to eliminate opportunities for abuse of children entrusted to the care of the Borough. The procedures outlined below shall apply to all officials, employees, and volunteers of the Borough.

Section 52-92. Recruitment and Hiring of Employees and Vetting of Individuals Volunteering Their Time.

- i. All prospective employees and volunteers shall undergo a thorough and complete background check, including the following:
 1. For part-time summer employees who will be interacting with minors, including but not limited to lifeguards, camp counselors, coaches, and instructors:
 - a. National Database Criminal History Search
 - b. National Sex Offender Search

- c. Social Security Trace/Validation
- 2. For full-time employees in supervisory positions involving minors:
 - a. National Database Criminal History Search
 - b. National Sex Offender Search
 - c. Social Security Trace/Validation
 - d. Education Verification
 - e. Employment Verification
 - f. Credit Check
 - g. Motor Vehicle Record
 - h. Reference Check

Many local governments hire minor children to work in their summer or seasonal programs. It may be difficult to obtain any background information for minors. It is recommended that the local government attempt to verify any past employment for minors between 16 and 18 years of age, with the consent of the parents or guardians.

Recognizing that fingerprint identification checks may not yield results in time for hiring purposes, the NJMEL assembled a list of qualified vendors for background checks through an RFQ process, and the five vendors on the list along with their contact information can be found at the following link on the NJMEL website. A list of the vendors has also been included in Appendix D.

<https://njmel.org/wp-content/uploads/2021/05/RFQ-Results-21-02-background-Check-Services.pdf>

Written documentation of the background check shall be maintained by the Borough in perpetuity.

- ii. Background checks that disclose any negative or questionable results must be reviewed and approved by the Borough prior to the individual being hired and/or working with minors. Provisional hiring should not be permitted.
- iii. All prospective employees and volunteers must complete the training adopted by the Borough PRIOR TO starting employment or volunteer service. In addition to completing the training course adopted by the Borough, it is highly recommended that all volunteer coaches complete the Rutgers SAFETY Clinic course (Sports Awareness for Educating Today's Youth TM), which is a three-hour program that meets the "Minimum Standards for Volunteer Coaches Safety Orientation and Training Skills Programs" under (N.J.A.C. 5:52) and provides partial civil immunity protection to volunteer coaches under the "Little League Law" (2A:62A-6 et. seq.) The current Rutgers Safety Clinic Course includes a module on the sexual abuse of minors. If coaches completed the Rutgers course more than five years ago and it did not have any training on the sexual abuse of minors, it is highly recommended that the coaches be required to watch the video on the MEL website. Documentation verifying that the coaches watched and understood their responsibilities must be kept to confirm that the training was completed.

- iv. The Borough shall periodically re-check and document the Megan's Law directory for New Jersey to make certain that current employees are not listed.
- v. Once employed, authorized Adults who are employed are required to notify the appropriate Human Resources representative of an arrest (charged with a misdemeanor or felony) or conviction for an offense within 72 hours of knowledge of the arrest or conviction in order to ascertain the fitness of those employees and volunteers to interact with children.

Section 52-93. Procedures and Responsibilities of Officials.

Under New Jersey Law, an official may be held liable for the abuse or neglect of a child if he or she fails to implement appropriate safeguards to protect the child while the minor has been entrusted to the care of the Borough. Most importantly, recent changes in the law in New Jersey extended the statute of limitations for child abuse and neglect cases substantially, thus placing local officials and employees at a far greater risk.

A valid cause of action can be filed by an alleged victim well after the official has left office. It is, therefore, critically important for officials to establish and monitor policies and procedures designed to safeguard minors entrusted to the care of the Borough.

➤ Officials of the Borough are required to:

- i. Complete the initial training course adopted by the Borough, and any updated/refreshers course, in order to better understand their legal duties and responsibilities under Federal and N.J. State Law. The training program will include the following concepts:
 - Recognizing the signs of abuse and neglect of minors.
 - Establishing guidelines for protecting minors from emotional and physical abuse and neglect.
 - Understanding and being prepared to implement the procedures necessary to eliminate opportunities for abuse.
 - Becoming familiar with the legal requirements to report suspected cases of abuse.
 - Fully understanding the legal consequences for not being diligent in making certain that employees of the Borough adhere to all policies and procedures as adopted.
- ii. Meet annually with all Department Heads to review the "Policy Addressing Sexual Abuse of Minors", and to verify that the administration is adhering to this policy which includes all of the following provisions. If the policy is not being adhered to, it is the legal obligation of the officials of the Borough to implement whatever changes are necessary as soon as possible to make certain the policy is followed.
- iii. Conduct random and unannounced visits to program sites to observe the setup of the programs and conduct of the employees and volunteers of the Borough.

Section 52-94. Program Procedures.

All Borough programs operated by, sponsored by, or affiliated with the Borough shall comply with the following procedures. All officials, employees, and volunteers who interact with or could possibly interact with minors, and those employees who supervise employees who interact with or could potentially interact with minors, shall adhere to the following policy.

The following policies shall apply to all programs offered by, sponsored by, or affiliated with the Borough. As an essential element of compliance with the overall objective of protecting and addressing the safe treatment of minors, the Borough shall:

- b. Establish a written procedure for the notification of the minor's parent/legal guardian in case of an emergency, including medical or behavioral problems, natural disasters, or other significant program disruptions. Authorized Adults with the program, as well as participants and their parents/legal guardians, must be advised of this procedure in writing prior to the participation of the minors in the program. In addition, the Borough shall provide information to parents or legal guardians detailing the manner in which the participant can be contacted during the program.
- c. Make certain that all program participants provide a Medical Treatment Authorization form annually to the Borough.
- d. Implement and adopt a "Code of Conduct" for volunteer and paid staff members, which, at a minimum, will include the following:

Code of Conduct

- Staff members will, at all times, respect the rights of program participants and use positive techniques of guidance including positive reinforcement and encouragement.
- Staff members will portray a positive role model for youth by maintaining an attitude of respect, loyalty, patience, courtesy, tact, and maturity.
- Staff members shall not transport children in their own vehicles, unless written authorization from the child's parent or guardian has been received.
- Members of the staff shall not be alone with children they meet in the programs outside of the camp. This includes babysitting, sleepovers, and inviting children to their home.
- Staff members shall, at all times, be visible to other staff members while supervising minors. Any exceptions require a written explanation before the fact and approval of the Program Director.

- Staff members will appear neat, clean, and appropriately attired.
- Staff members will refrain from intimate displays of affection towards others in the presence of children, parents, and staff.
- Staff members are required to refrain from texting, and posting or checking any of the social media outlets while they are working or volunteering. The only exception is for texting for the purposes of communicating with another staff member or parent regarding a programmatic issue pertaining to a child.
- Staff members are prohibited from buying gifts for program participants.

In addition to the Code of Conduct, the following shall be a part of the specific program provisions:

- The possession or use of alcohol and other drugs, fireworks, guns, and other weapons is prohibited.
- The Borough shall set forth rules and procedures governing when and under what circumstances participants may leave the Borough's property during the program.
- No violence, including sexual abuse or harassment, will be tolerated.
- Hazing of any kind is prohibited. Bullying, including verbal, physical, and cyberbullying is prohibited and will be addressed immediately.
- No theft of property will be tolerated.
- No use of tobacco products will be tolerated.
- Misuse or damage of the Borough's property is prohibited. Charges will be assessed against those participants who are responsible for damage or misuse of property.
- The inappropriate use of cameras, imaging, and digital devices is prohibited, including the use of such devices in showers, restrooms, or other areas where privacy is expected by participants.
- Under no circumstances are any images of any child taken during any of the activities conducted or sponsored by the Borough to be shared on any social media platform without the expressed written consent of a parent or legal guardian.
- If possible, the Borough shall assign a staff member who is at least 21 years of age to be accessible to participants. Additional Authorized Adults will be assigned to ensure one-on-one contact with minors does not occur, and that appropriate levels of supervision are implemented.

- Take appropriate steps to ensure that children are not released to anyone other than the authorized parent, guardian, or other adult authorized by the parent or guardian. This shall include annual written authorization on file in advance.
- Develop and made available to participants and their parents or guardians, the rules and discipline measures applicable to the program. Program participants and staff must abide by all regulations and may be removed from the program for non-compliance with the rules.
- The recommended ratio of counselors to program participants should reflect the gender distribution of the participants, and should meet the following:
 1. One staff member for every six participants ages 4 and 5
 2. One staff member for every eight participants ages 6 to 8
 3. One staff member for every ten participants ages 9 to 14
 4. One staff member for every twelve participants ages 15 to 17
- The Responsibilities of the counselors must include, at a minimum, informing program participants about safety and security procedures, rules established by the program, and behavioral expectations. Counselors are responsible for following and enforcing all of the rules and must be able to provide information included herein to program participants and be able to respond to emergencies.

Specific Policy and Procedures for Use of Restrooms by Children/Minors:

- All restrooms shall be checked in advance by staff persons before minor children enter to ensure that no other individuals are present.
- Staff members (of the same sex) are to stand guard at the doorway to make sure that no one else enters the restroom while a child is there. Children should not be permitted to enter restrooms in pairs or in groups, unless it is absolutely necessary.
- For field trips, staff members must monitor bathroom use by minor children and shall not permit a child to enter a restroom alone.

Section 52-95. Procedures for Law Enforcement Officers.

Law enforcement officers of the Borough frequently interact with minors in a variety of ways. In addition to the guidance provided by the Attorney General's office, it is important to establish guidelines to assist law enforcement officers in being aware of how to act and react in these circumstances. To that end, the Chief of Police or his or her designee of the Borough shall formulate a written policy addressing the safe treatment of minors for consideration and approval by the governing body for law enforcement officers who interact with minors.

The policy shall, at a minimum, incorporate and address the following:

- a. **Transporting minors in a police vehicle.** Whenever possible, victims or alleged victims of sexual assault or other crimes, or minors removed from a situation for protective purposes, shall be transported by two officers (at least one of whom shall be of the same sex as the victim) in unmarked vehicles that does not have a prisoner compartment/partition. Officers transporting a minor for whatever reason shall document starting and stopping mileage through radio contact.
- b. Directives issued by the N.J. State Attorney General pertaining to interaction with minors shall be incorporated into the policy.
- c. The following provisions from the "Code of Conduct" for counselors shall be included in the policy for officers assigned to work in school settings (i.e., Class 3 officers):
 - i. Officers will, at all times, respect the rights of students and use positive techniques of guidance, including positive reinforcement and encouragement.
 - ii. Officers will portray a positive role model for youth by maintaining an attitude of respect, loyalty, patience, courtesy, tact, and maturity.
 - iii. Officers shall not transport children in their own vehicles. Officers shall not arrange to see students outside of school, and this includes babysitting, sleepovers, and inviting children to their home. Any exceptions require a written explanation before the fact and approval of the Chief.
 - iv. Officers shall make certain that they are neat, clean, and appropriately attired.
 - v. Officers will refrain from intimate displays of affection towards others in the presence of children, parents, and staff. Officers shall not buy gifts for students at any time.
 - vi. All officers are required to complete the initial training course offered by the NJMEL JIF, and any refresher courses as well.

Section 52-96. Training Requirements.

Individual training courses have been designed for each of the following categories, and all officials, employees, and volunteers of the Borough are required to complete training (and refresher course training) adopted by the Borough. ALL employees of the Borough shall complete the training course whether they interact with children/minors or not. Although training records will be maintained, it is recommended that the Borough and individual trainees also keep copies of their own training records.

- a. **Elected Officials, Appointed Officials, Department Heads, and Supervisors:**

All elected officials, appointed officials, department heads, and supervisors shall complete the initial virtual training course offered by the NJMEL, **“PROTECTING CHILDREN FROM ABUSE”** and adopted by the Borough, and any updated/refresher course in order to better understand their legal duties and responsibilities under Federal and N.J. State Law. The course includes the following:

- Recognizing the signs of abuse and neglect of minors.
- Establishing guidelines for protecting minors from emotional and physical abuse and neglect.
- Understanding and being prepared to implement the procedures necessary to eliminate opportunities for abuse.
- Becoming familiar with the legal requirements to report suspected cases of abuse.
- Fully understanding the legal consequences for not being diligent in making certain that employees of the Borough adhere to all policies and procedures as adopted.

b. **Volunteers and Employees of the Borough**

All employees and volunteers (regardless of whether they will be working with children or not) shall complete training provided by the NMEL in the form of the “PROTECTING CHILDREN” video on protecting children on the MEL website and found at:

<https://njmel.org/mel-safety-institute/model-policies/protecting-children-videos/>

i. Course Content shall include:

1. Current State NJ State Law pertaining to Sexual Abuse of Minors
2. Recognizing the signs of abuse and neglect
3. Different types of abuse (i.e., Peer to Peer, Adult to Child, etc...)
4. Your legal responsibility for implementing and monitoring procedures and employees
5. Reporting cases of abuse

c. **Law Enforcement Officers**

i. Course Content shall include:

1. Current Status of N.J. Law and Directives from the Attorney General for Law Enforcement personnel
2. Your responsibilities
3. Officers in Schools
4. Reporting Abuse

Section 52-97. Reporting Suspected Child Abuse/Neglect.

In light of the importance and priority placed on safeguarding the health and safety of minors, it is critically important that suspected cases of child abuse and neglect are reported as soon as possible. As a government official, employee or volunteer, you are legally required to report suspected child abuse. This requirement includes all governmental officials, employees and volunteers.

The following procedures shall be utilized in reporting suspected cases of abuse. The Borough shall also train officials, department heads, employees, and volunteers in the concept of "dual reporting," which involves reporting the suspected abuse to local law enforcement in addition to reporting the abuse to the Department of Children and Families. Reporting suspected abuse to local law enforcement is critically important in cases where there is the potential for violence.

Child Abuse is a hard thing to talk about, especially with victims. The most important thing to remember is to show calm reassurance and unconditional support. Avoid interrogation and leading questions. Understand that denial and embarrassment are common reactions. Don't display disbelief, shock, or disgust. Instead, be reassuring. Make sure the child knows that they did nothing wrong. Reassure them that this is not their fault and make sure they know that you take it seriously.

Interviewing children to investigate sexual abuse requires highly technical expertise. Do not "investigate" an abuse situation. Do not interrogate the child. The investigation will be undertaken by those who are trained to undertake that critical task. Instead report it immediately, as shown below. And finally, keep safety as the priority. If there is the possibility of violence against yourself or the child, get the appropriate professionals or agencies involved as soon as possible, and report the abuse to local law enforcement.

As noted above, it is highly recommended that, whenever possible, officials, employees, and volunteers report the suspected abuse to both the N.J. Department of Children and Families and law enforcement at the same time, which is known as "dual reporting."

For ALL elected officials, appointed officials, supervisors, department heads, full or part-time employees or volunteers of programs conducted by the Borough:

- Report the suspected abuse to the New Jersey Department of Children and Families. Please be prepared to include the following information to the extent the information has been told to you.
 - a. **Who:** The child and parent/caregiver's name, age, and address and the name of the alleged perpetrator and that person's relationship to the child.
 - b. **What:** Type and frequency of alleged abuse/neglect, current or previous injuries to the child, and what caused you to become concerned.
 - c. **When:** When the alleged abuse/neglect occurred and when you learned of it.
 - d. **Where:** Where the incident occurred, where the child is now, and whether the alleged perpetrator has access to the child.
 - e. **How:** How urgent the need is for intervention and whether there is a likelihood of imminent danger for the child.

- Call the Hotline established by the N.J. Department of Children and Families @ 1-877-652-2873. It is not the supervisor's role to decide whether a case should be reported. All cases shall be reported.
- **For Law Enforcement Officers :**
 - Immediately report any suspected or alleged cases of abuse or neglect to the New Jersey Department of Children and Families and to the County Prosecutor.

Section 52-98. Important Information Regarding Reporting Suspected Abuse Under NJ Law.

The following guidelines have been established under New Jersey law, for those reporting suspected or alleged cases of abuse or neglect. The Borough encourages all officials, employees, and volunteers in programs operated by the Borough or affiliated programs or activities to report suspected cases of abuse with the following in mind.

- ii. *Any person who, in good faith, makes a report of child abuse or neglect or testifies in a child abuse hearing resulting from such a report is immune from any criminal or civil liability as a result of such action. Calls can be placed to the hotline anonymously.*
- iii. *However, any person who knowingly fails to report suspected abuse or neglect according to the law or to comply with the provisions is a disorderly person.*
- iv. *When a report indicates that a child may be at risk, an investigator from the Division of Child Protection and Permanency (formerly Youth and Family Services) will promptly investigate the allegations of child abuse and neglect within 24 hours of receipt of the report.*

Section 52-99. Acknowledgment of Receipt and Review of Policy.

All officials, employees/counselors, and volunteers shall sign and date an acknowledgment form that confirms they have received and reviewed the Policy Addressing the Protection and Safe Treatment of Minors, issued to them by the Borough. The same process shall be used for any revised policy issued in the future.

Section II. Ratification and Affirmation.

In all other respects, the terms, conditions and provisions of Chapter 52 of the Code of the Borough of Maywood are ratified and affirmed.

Section III. Repealer.

Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Maywood inconsistent with the provisions of this ordinance is hereby repealed as to said inconsistencies and conflicts.

Section IV. Severability.

If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section V. Effective Date.

This ordinance shall take effect immediately upon final passage and publication according to law.

Date:

APPROVED: _____
Richard Bolan, Mayor

ATTEST: _____
Barbara L. Dispoto, RMC/CMC
Borough Clerk

Introduction-1st Reading

Date: February 28, 2024

	Moved	Seconded	Ayes	Nays	Abstain	Absent	Recuse
Mayor Bolan							
Councilmember Cicarelli			X				
Councilmember Conoscenti	X		X				
Councilmember Flynn		X	X				
Councilmember Padovano			X				
Councilmember Ullman			X				
Council President DeMuro			X				

Adoption-2nd/Final Reading

Date: March 27, 2024

	Moved	Seconded	Ayes	Nays	Abstain	Absent	Recuse
Mayor Bolan							
Councilmember Cicarelli			X				
Councilmember Conoscenti		X	X				
Councilmember Flynn	X		X				
Councilmember Padovano			X				
Councilmember Ullman			X				
Council President DeMuro			X				

CERTIFICATION

I, Barbara L. Dispoto, Municipal Clerk of the Borough of Maywood in the County of Bergen and the State of New Jersey do hereby certify that the foregoing ordinance is a true copy of the original ordinance duly passed and adopted on second reading by the Governing Body at the meeting of March 27, 2024.

Date: _____

Barbara L. Dispoto, RMC/CMC
Borough Clerk