

CITY OF WOODBURY PERSONNEL POLICIES & PROCEDURES MANUAL

Revised October 13, 2021

AT-WILL STATEMENT & DISCLAIMER

The contents of this Personnel Policies and Procedures manual (“the Manual”) summarize the current benefits and guidelines within the municipality (“the Employer”) and are intended as guidelines only.

The Employer reserves the right to change, delete, suspend, or discontinue any part or parts of this Manual at any time, without prior notice, and any such action shall apply to existing as well as future employees. You should be aware that these benefits and guidelines may be changed at any time, and that depending upon the circumstances of a given situation, the Employer’s actions may vary from the provisions of this Manual. **As such, the contents of the Manual DO NOT CONSTITUTE THE TERMS OF A CONTRACT OF EMPLOYMENT.**

It should be noted that nothing contained in this Manual should be construed as a guarantee of continued employment; but rather, EMPLOYMENT WITH THE EMPLOYER IS ON AN AT-WILL BASIS. This means that either the employee or the Employer, with or without cause, may terminate the employment relationship at any time with or without notice, for any reason not expressly prohibited by law. Any exception must be expressly authorized and signed by the Employer.

This Manual supersedes and replaces all prior personnel policy and benefit statements, whether oral or in writing. While some of the provisions contained herein refer specifically only to federal law, employees should be aware that the Employer will comply with all federal, state and local laws. Should any provision in this Manual be found to be unenforceable and/or invalid, such finding does not invalidate the entire Manual, but only the subject provision. Many of the policies in this handbook shall also apply in equal force to volunteers of the Employer. [NOTE: the definition of volunteers should be based on the individual municipality’s structure as it relates to volunteers, including volunteer fire departments]

When changes are made to this Manual, the Employer will make any corresponding changes to the Employee Handbook that are necessary so that the Manual and Handbook do not conflict.

All employees will be notified when any material changes are made to the policies contained in this Manual.

This Manual has been written so as not to conflict with the collective bargaining agreements between the Employer and its unionized employees. If there is a conflict between this Manual and any collective bargaining agreement, the provisions of the collective bargaining agreement will prevail for represented employees. This Manual has been written so as not to conflict with the provisions and mandates of the laws and regulations governing employment in the State of New Jersey. If there is a conflict between this Manual and any such mandate pursuant to law, such law will prevail for covered employees.

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SECTION ONE: GENERAL PERSONNEL POLICIES

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Employer is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD) and all other applicable state or federal laws. Under no circumstances will the Employer discriminate on the basis 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), liability for service in the United States Armed Forces, gender identity or expression, and/or any other characteristic protected by state or federal law. Accordingly, decisions regarding hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer, their Department Head, the City Administrator, Deputy Administrator, or any other supervisor with whom they feel comfortable, using the complaint procedure set forth in the Policy Against Harassment set forth in this Manual.

Any employees with questions or concerns about any type of discrimination or harassment in the workplace are encouraged to bring these issues to the attention of management through the complaint procedure set forth in the Policy Against Harassment set forth in this Manual.

AMERICANS WITH DISABILITIES

The Employer complies with the New Jersey Law Against Discrimination and the Americans with Disabilities Act. The Employer will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The Employer also will make reasonable accommodations wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential duties and assignments connected with the job and provided that accommodations do not require significant difficulty or expense. The Employer's nondiscrimination policy applies to all aspects of the employer-employee relationship, including recruitment, hiring, upgrading, training, promotion, transfer, discipline, layoff, recall, and termination.

Definitions. The Americans with Disabilities Act defines an individual with a disability as any person who:

- (1) has a physical or mental impairment that substantially limits one or more major life activities, such as caring for oneself, walking, seeing, hearing, or speaking;
- (2) has a record of such an impairment; or
- (3) is regarded as having such an impairment.

An individual must satisfy at least one of the three prongs of the above definition to be considered an individual with a disability under the ADA. Temporary conditions, such as a broken leg, are not disabilities, nor are minor impairments, such as vision problems that are correctable with glasses.

The New Jersey Law Against Discrimination defines disability as a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

A qualified individual is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position held or sought. An individual who poses a threat to the health and safety of oneself or to others is not qualified. Reasonable accommodation means any change or adjustment to a job or work environment that does not impose an undue hardship on the Employer, or that permits a qualified applicant or employee with a disability to participate in the

job application process, perform the essential functions of the job, or enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Requesting Accommodation. Qualified employees or prospective employees with disabilities may request accommodations to perform the essential functions of their job or gain access to the hiring process. Employees or prospective employees should direct their written request to the Employer. In the written request, the employee or prospective employee should identify themselves as a person with a disability, eligible for protection, and identify the nature of the accommodation or consideration desired.

The Employer may require the employee to provide adequate medical or other appropriate documentation of the disability and the need for the desired accommodation. The Employer will reasonably accommodate the known physical or mental limitation of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the Employer's business operation.

To further the Employer's nondiscrimination policy, the Employer will:

- Identify the essential functions of a job;
- Determine whether a person with a disability, with or without accommodation, is qualified to perform the duties; and
- Determine whether a reasonable accommodation can be made for a qualified individual.

Reasonable accommodations that the Employer may provide in connection with modifications to the work environment or adjustments in how and when a job is performed may include the following:

- Making existing facilities accessible and usable;
- Job restructuring;
- Part-time or modified work schedules;
- Acquiring or modifying equipment or devices;
- Appropriate adjustment or modifications of testing materials, training materials, and/or policies;
- Reassignment to a vacant position.

The Employer is also committed to not discriminating against any qualified employee or applicant because he or she is related to or associated with a person with a disability. If any applicant or employee has questions concerning the Employer's equal employment opportunity policy, he or she should contact the Employer.

POLICY AGAINST HARASSMENT

The Employer is committed to providing a work environment that is free of discrimination. The Employer 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 Employer, as well as volunteers working on behalf of the Employer, 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 Employer 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 Employer 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 Employer 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 Employer 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 Employer's property during regular work hours for an employee to file a complaint under this policy.

The Employer strongly encourages employees who witness conduct which they believe violates the Employer's Policy Against Harassment to report the violation pursuant to this complaint procedure. The Employer 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.

Investigation Procedure. The Employer 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 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.

If the Employer 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 Employer.

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

Privacy. To the extent possible, all persons involved in a harassment complaint will be given the utmost protection of privacy. Specifically, the Employer 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 Employer 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 Employer 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 Employer's Policy Against Harassment should contact the designated Affirmative Action Officer and/or Chief Administrative Officer.

Training. The Employer 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 Employer 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 Employer 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 Employer will engage in proactive efforts to monitor and ensure compliance with its policies within their workplaces.

Contact Information

1. CHIEF ADMINISTRATIVE OFFICER

City Administrator (856) 845-1300 ext. 130

Deputy Administrator, John Leech (856) 845-1300 ext. 132, JLeech@woodbury.nj.us

2. AFFIRMATIVE ACTION OFFICER

Deputy Administrator, John Leech (856) 845-1300 ext. 132, JLeech@woodbury.nj.us

Harassment Complaint Form

THIS INVESTIGATION IS CONFIDENTIAL AND INFORMATION OBTAINED DURING THE COURSE OF THIS INVESTIGATION MUST NOT BE DISCLOSED

Name: _____

Department: _____

Job Title: _____

Supervisor: _____

Union Representative (*if any*): _____

Time Period Covered by Complaint: _____

Individuals Who Allegedly Committed Harassment:

Name	Department	Job Title
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1. _____

2. _____

3. _____

4. _____

5. _____

Describe the dates and the nature of the harassment allegedly committed by each identified individual:

Identify all employees or others with knowledge of the complained of conduct:

Are there any documents which contain information supporting the occurrences described above?

Is there any physical evidence which supports your complaint? If so, please describe:

Have you missed any work time as a result of the alleged harassment? If "yes," identify the occasions.

Have you incurred any unreimbursed medical expenses as a result of the alleged harassment?

If you previously complained about this or related acts of general harassment to an Employer supervisor or official, please identify the individual to whom you complained, the date of the complaint, and the resolution of your complaint:

(Attach Additional Sheets if Necessary)

Are you afraid that someone may retaliate against you because you filed this complaint? If so, please identify the person(s) and indicate the reasons why you feel the person(s) may retaliate against you.

What is your requested remedy in this complaint?

Acknowledgement:

The information provided above is true and correct.

Signature of Complainant: _____ Date: _____

To investigate your complaint, it will be necessary to interview you, the alleged harasser(s), and any witnesses with knowledge of the allegations or defenses. The Employer will notify all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action up to and including termination.

I am willing to cooperate fully in the investigation of my complaint and to provide whatever evidence the Employer deems relevant.

Signature of Complainant: _____ Date: _____

Witness Statement Form

THIS INVESTIGATION IS CONFIDENTIAL AND INFORMATION OBTAINED DURING THE COURSE OF THIS INVESTIGATION MUST NOT BE DISCLOSED

Name: _____

Department: _____

Job Title: _____

Union Representative (*if any*): _____

Length of Time Known: Complainant _____ Respondent _____

Individuals Who Allegedly Committed Harassment:

	Name	Department	Job Title
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

Identities of other persons with knowledge of facts relevant to this investigation:

(Attach Additional Sheets if Necessary)

Witness Statement Form (cont'd)

Please provide a detailed description of the events you witnessed. Include the date, time, location and individuals present.

Any other information which should be considered in evaluating the validity of the complaint in this case:

Acknowledgment:

I, _____, affirm that the information I have provided is true and correct. I acknowledge that the investigation is confidential and that I am not to disclose information obtained by me during the course of this investigation. I understand that unauthorized disclosures could result in disciplinary action up to and including termination.

Signature of Witness: _____ Date: _____

POLICY PROHIBITING WORKPLACE VIOLENCE

The Employer 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 Employer, its employees or which occur on the Employer'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 Employer, 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 Employer property, regardless of the relationship between the Employer and the parties involved in the incident.

All threats or acts of violence not occurring on Employer property but involving someone who is acting in the capacity of a representative of the Employer.

All threats and acts of violence not occurring on Employer property involving an employee of the Employer if the threats or acts of violence affect the legitimate interest of the Employer.

Any threats or acts resulting in the conviction of an employee or agent of the Employer, or of an individual performing services on the Employer'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 Employer.

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 Employer;

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 Employer;

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 Employer property.

While employees of the Employer 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 Employer’s prohibition against threats and acts of violence applies to all persons involved in the Employer’s operation, including but not limited to Employer personnel, volunteer, contract and temporary workers, and anyone else on Employer property. Violation of this policy by any individual on Employer property, by any individual acting as a representative of the Employer while not on Employer property, or any individual acting off of the Employer property when his or her actions affect the public interest or the Employer’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 Employer 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 Employer 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 Employer’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.

WHISTLEBLOWER POLICY

As a matter of policy, the Employer 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 Employer 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 Employer may undertake an investigation.

The Employer 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 Employer 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 Employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the Employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care;

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 Employer 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 Employer 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 Employer a reasonable opportunity to correct the activity, policy or practice. It is the Employer'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 Employer and cause the Employer and its employees to be subjected to adverse publicity leading to public distrust.

SECTION TWO: EMPLOYEE BENEFITS

COMPENSATION

The Employer will pay its employees in accordance with the provisions of applicable collective bargaining agreements, ordinances, and in compliance with the Fair Labor Standards Act (“FLSA”) and the New Jersey Wage and Hour Law.

Unless otherwise specified by collective bargaining agreement, the Employer pay period begins Monday and ends on Sunday. Paychecks are issued bi-weekly on Thursdays.

No paychecks may be issued in advance of the normal payday, except if approved by the Department Head and Chief Administrative Officer for special reasons, such as an upcoming vacation.

Employees must cash their paychecks on personal time, not during official Employer working hours. Compensation for all employees will be in concert with the recognized bargaining agents of the employees, where applicable.

Employees are not entitled to retroactive pay increases if an employee separates employment, voluntarily or involuntarily, from the employ of the Employer prior to the retroactive payment, unless otherwise stated in the applicable collective bargaining agreement.

FLSA Safe Harbor Notice and Procedure.

It is our policy and practice to accurately compensate employees and to do so in compliance with all applicable laws. To ensure that you are paid properly for all time worked and that no improper deductions are made, you must record correctly all work time and review your paychecks promptly to identify and to report all errors. You also must not engage in off-the-clock or unrecorded work.

1. Review Your Pay Stub

We make every effort to ensure our employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do happen and are called to our attention, we promptly will make any correction that is necessary. Please review your pay stub to make sure it is correct. If you believe a mistake has occurred or if you have any questions, please use the reporting procedure outlined below.

2. Non-Exempt Employees

If you are eligible for overtime pay or extra pay (including pay due under our handbook or a collective bargaining agreement), you must maintain a record of the total hours you work each day. These hours must be accurately recorded on a time card that will be provided to you. Each employee must sign his or her time card to verify that the reported hours worked are complete and accurate (and that there is no unrecorded or “off-the-clock” work). Your time card must accurately reflect all regular and overtime hours worked, any absences, early or late arrivals, and early or late departures. At the end of each week, you should submit your completed time card for verification and approval. When you receive each pay check, please verify immediately that you were paid correctly for all regular and overtime hours worked each workweek.

3. Exempt Employees

If you are classified as an exempt salaried employee, you will receive a salary which is intended to compensate you for all hours that you may work for the City. This salary will be established at the time of hire or when you become classified as an exempt employee. While it may be subject to review and modification from time to time, such as during salary review times, the salary will be a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work you perform.

You will receive your full salary for any workweek in which work is performed. However, under federal law, your salary is subject to certain deductions. For example, absent contrary applicable law, your salary can be reduced for the following reasons in a workweek in which work was performed:

- Full day absences for personal reasons, including vacation.
- Full day absences for sickness or disability, since we have a sick day pay plan and short-term disability insurance plan.
- Full day disciplinary suspensions for infractions of safety rules of major significance (including those that could cause serious harm to others).
- Family and Medical Leave absences (either full or partial day absences).
- To offset amounts received as payment for jury and witness fees or military pay.
- Unpaid disciplinary suspensions of one or more full days for significant infractions of major workplace conduct rules set forth in written policies.
- The first or last week of employment in the event you work less than a full week.

Your salary may also be reduced for certain types of deductions, such as: your portion of health, dental or life insurance premiums; state, federal or local taxes; social security; or voluntary contributions to a 457 or pension plan.

In any workweek in which you performed any work, your salary will not be reduced for any of the following reasons:

- Your absence because the facility is closed on a scheduled work day.
- Absences for jury duty, attendance as a witness, or military leave in any week in which you have performed any work.
- Any other deductions prohibited by applicable law.

Please note: You will be required to use accrued vacation, personal, sick or other forms of paid time off for full or partial day absences for personal reasons, sickness or disability. If you do not have accrued paid time off available, you will not be paid for full or partial day absences. Similarly, you will not be paid for full or partial day absences if you have accrued paid time off but did not seek permission to use

it, or if you sought to use it and you were denied. Finally, you will not be paid for full or partial day absences if you choose to leave work without pay.

4. To Report Violations of This Safe Harbor Policy, Communicate Concerns, or Obtain More Information

It is a violation of our policy for any employee to falsify a time card, or to alter another employee's time card. It is also a serious violation of our policy for any employee or manager to instruct another employee to incorrectly or falsely report hours worked or alter another employee's time card to under- or over- report hours worked. If any manager or employee instructs you to (1) incorrectly or falsely under- or over- report your hours worked, (2) alter another employee's time records to inaccurately or falsely report that employee's hours worked, or (3) conceal any falsification of time records or to violate this policy, do not do so. Instead, report it immediately to the Administrator in-person.

You should not work any hours outside of your scheduled work day unless your supervisor has authorized the unscheduled work in advance. Do not start work early, finish work late, work during a meal break or perform any other extra or overtime work unless you are authorized to do so and that time is recorded on your time card. Employees are prohibited from performing any "off-the-clock" work. "Off-the-clock" work means work you may perform but fail to report on your time card. Any employee who fails to report or inaccurately reports any hours worked will be subject to disciplinary action, up to and including discharge.

If you have questions about deductions from your pay, please contact the Employer immediately. If you believe your wages have been subject to any improper deductions or your pay does not accurately reflect all hours worked, you should report your concerns to a supervisor immediately. If a supervisor is unavailable or if you believe it would be inappropriate to contact that person (or if you have not received a prompt and fully acceptable reply within three business days), you should immediately contact the Administrator or Chief Financial Officer in-person.

Every report will be fully investigated and corrective action will be taken, up to and including discharge of any employee(s) who violates this policy.

In addition, we will not allow any form of retaliation against individuals who report alleged violations of this policy or who cooperate in our investigation of such reports. Retaliation is unacceptable. Any form of retaliation in violation of this policy will result in disciplinary action, up to and including discharge.

OVERTIME

The Employer 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.

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 \$100,000 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.

Depending on work needs, employees may be required to work overtime. Employees are not permitted to work overtime unless the overtime is budgeted and approved by the Department Head and the Chief Administrative Officer. Employees working overtime without prior approval will be subject to disciplinary action.

Non-exempt employees are paid overtime at the rate of one and one-half times the regular rate of pay for all hours worked over forty (40) in a workweek. Employees engaged in police and fire protection work may accrue up to 480 hours of compensatory time.

Employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. For work periods of at least 7 but less than 28 days, overtime pay is required when the number of hours worked exceeds the number of hours that bears the same relationship to 212 (fire) or 171 (police) as the number of days in the work period bears to 28.

Accrued and taken overtime compensating hours must be noted on the employee's time sheet. Previously scheduled vacation time and holiday time are considered time worked for purposes of determining overtime compensation, but sick time and personal time are not.

MEDICAL BENEFITS

PLEASE NOTE: FULL DETAILS OF EMPLOYEE'S HEALTH, MEDICAL AND HOSPITALIZATION PLANS CAN BE FOUND IN THE OFFICIAL INSURANCE PLAN DOCUMENTS. IF THERE IS ANY CONFLICT OR INCONSISTENCY BETWEEN THE INFORMATION IN THE POLICY AND PROCEDURES MANUAL AND THE OFFICIAL DOCUMENTS, THE OFFICIAL DOCUMENTS WILL GOVERN. THE EMPLOYER RESERVES THE RIGHT TO MODIFY, REVOKE, SUSPEND, TERMINATE OR CHANGE ANY OR ALL SUCH PLANS, IN WHOLE OR IN PART, AT ANY TIME WITH OR WITHOUT NOTICE IN ACCORDANCE WITH APPLICABLE LAW. THE EMPLOYER ALSO RESERVES THE RIGHT TO CHANGE INSURANCE CARRIERS IN ACCORDANCE WITH APPLICABLE LAW.

Part-time and full-time temporary or seasonal employees are not entitled to medical insurance benefits. Failure to complete all necessary paperwork in accordance with the time frames advised by the Employer will result in a delay of coverage. Additionally, failure to enroll dependents or to make other changes or corrections in coverage may jeopardize available benefits. All employees must notify the Employer of any change in status (i.e., marriage, divorce, birth, adoption, death) within the time frame designed by the health benefit plan that would affect any employer-provided health insurance. The Employer reserves the right to conduct a coverage audit to verify proper coverage for employees and eligible dependents.

Employees are required to contribute a percentage of the cost of health insurance premiums based on the State of NJ's contribution chart.

Dependent Defined. The Employer defines "dependents" as used in this policy as it is defined under the State Health Benefits Program. Dependents means an employee's spouse and the employee's unmarried children under the age of twenty-six (26) years who live with the employee in a regular parent-child relationship.

"Children" includes stepchildren, legally adopted children and foster children provided that they are reported for coverage and are wholly dependent upon the employee for support and maintenance. See N.J.S.A. § 52:14-17.26. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service.

The term "dependents" does not include spouses of retired persons who are otherwise eligible for benefits under the State Health Benefits Program (N.J.S.A. § 52:14-17.25 et seq.) but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

Medical/Hospitalization Coverage. The Employer provides major medical and hospitalization insurance for the employee. The Employer may provide major medical and hospitalization coverage for the employee's eligible dependents.

Full-time employees working on average thirty (30) hours per week or more and, if applicable, their eligible dependents become eligible to participate in the Employer's major medical and hospitalization insurance plans in accordance with current health plan documents. [NOTE: Municipalities may have hours' requirements lower than thirty (30) depending on their specific health insurance plans.]

Payments of such premiums by the Employer will terminate upon the employee's separation from service. Upon separation, the employee may, if eligible, purchase continuation health benefit coverage to the extent, and for the period, provided by federal law.

Prescription Drug Coverage. The Employer provides prescription drug insurance for the employee. The Employer may provide prescription drug coverage for the employee's eligible dependents.

Employees will be responsible to pay a co-pay on prescriptions. Full-time employees and their eligible dependents become eligible to participate in the Employer's prescription insurance plan in accordance with current plan documents.

Payments of such premiums by the Employer will terminate upon the employee's separation from service. Upon separation, the employee may, if eligible, purchase continuation health benefit coverage to the extent, and for the period, provided by federal law.

Dental Coverage. Full-time employees and, if applicable, their eligible dependents become eligible to participate in the Employer's dental plan in accordance with current plan documents. All full-time employees, and, if applicable, their eligible dependents, shall be eligible for enrollment in the Employer's dental plan in accordance with the specific requirements of the insurance plan carried by the Employer.

The Employer provides dental insurance for the employee. Unionized employees receive dental coverage in accordance with applicable collective bargaining agreements. The Employer may provide dental coverage for the employee's eligible dependents.

Payments of such premiums by the Employer will terminate upon the employee's separation from service. Upon separation, the employee may, if eligible, purchase continuation health benefit coverage to the extent, and for the period, provided by federal law.

Retiree Health Insurance. The Employer provides post-retirement medical health insurance benefits and prescription benefits, provided the employee qualifies for and has retired through the New Jersey Division of Pensions and Benefits under the Police and Fireman's Retirement System ("PFRS") or the Public Employees Retirement System ("PERS") and meets at least one of the following requirements:

- (a) Retirement on a disability pension; or
- (b) Retirement with twenty-five (25) years or more of service credit in a state or locally-administered retirement system and at least twenty-five (25) years of service with the Employer.

All eligible employees hired after January 1, 2014, will, upon retirement with the City, be eligible for single benefits only

Employees receiving retiree health benefits must notify the Payroll office in writing, with proof of enrollment, when they become eligible for Medicare Parts A and B. The Employer reserves its right to change eligibility requirements for retiree health benefits at any time in accordance with legal requirements.

Continuation Coverage. An employee and his/her family, if covered by the Employer's group health care package, shall have the right to temporarily continue their coverage due under the plan, paying the group rate themselves, should they lose coverage due to the death of the enrolled employee or termination for reasons other than gross misconduct on the employee's part, pursuant to the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). For additional information, contact the designated human resources official.

HIPAA COMPLIANCE

The Employer is committed to upholding the Health Insurance Portability and Accountability Act (“HIPAA”) regarding the use, maintenance, transfer, and disposition of personal health care information. To the extent that the Employer maintains such information about its employees and others, its elected officials and employees are committed to protecting the privacy and confidentiality of that information to the extent allowed by law.

WORKERS' COMPENSATION

Employees who suffer job-related injuries and illnesses may be entitled to medical expenses, lost income and other compensation under the New Jersey Workers' Compensation Act. Any occupational injury or illness must be immediately reported to the supervisor or Department Head. All required medical treatment must be performed by a workers' compensation physician appointed by the Employer or workers' compensation carrier. Workers' Compensation is not a leave entitlement but only a wage replacement arrangement.

Payment for unauthorized medical treatment may not be covered. No temporary Workers' Compensation benefits other than the payment of medical bills shall be paid until the employee has been disabled for a period of seven (7) calendar days from the work-related injury, unless otherwise required by law.

While receiving workers' compensation benefits, the pension portion of an employee's benefits will still be paid by the Employer. If, however, an employee is receiving workers' compensation with pay, (which is defined as one hundred (100%) percent compensation of salary) the employee is responsible for all deductions, including pension.

The Employer will not tolerate retaliation or discrimination against an individual because the individual has filed a claim for workers' compensation benefits. This prohibition includes denying or limiting any request for leave because an individual asserted a claim for workers' compensation benefits.

Workers' Compensation Light Duty Policy. The Employer will endeavor to bring employees with temporary work-related injuries or illnesses back on the job as soon as possible. The Employer may recognize a special obligation arising out of the employment relationship and create a temporary light duty position for an employee when s/he has been injured while performing work for the Employer and, as a consequence, is unable to perform his/her regular job duties.

The Employer will not treat an employee with a disability less favorably than an individual without a disability or screen out an individual on the basis of disability in granting such requests for light duty. The Employer will grant such request, at its sole discretion, and on a case-by case basis in consideration of the medical report submitted by the workers' compensation physician, the recommendation of the insuring entity, and staffing needs and requirements. The Employer reserves the right to grant, refuse or terminate a light duty assignment at any time without cause unless it is in conflict with the mandates of the ADA, FMLA, or NJFLA or other state or federal leave laws, where applicable.

The employee and/or the Third Party Administrator ("TPA") are obligated to inform the Employer of the employee's medical progress and the Employer shall have the right to review same periodically. Light duty assignments may be in any department and not just the employee's normal department. Employees on light duty will receive their regular salaries. If light duty is approved,

the employee or TPA must keep the Chief Administrative Officer and/or designated human resources official informed of the medical progress. If, at the end of light duty period the employee is not able to return to work without restrictions, the employee should contact the Chief Administrative Officer and/or designated human resources official to discuss his or her options under state or federal law.

This policy does not affect an employee's rights under the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Contagious or Life Threatening Illnesses Policy, or other Federal or State law.

Investigation Policy Form

REPORT FORM – PART 1

Electrical incidents, water leaks, bodily fluids: Report immediately to Christina Cortez, Claims Coordinator (856) 845-1300 ext. 139 or CCortez@woodbury.nj.us

<p>Employee: complete part 1 and provide to your Supervisor IMMEDIATELY</p>		
<p>Supervisor: Incident?</p> <p><u>No</u> first aid or higher treatment, <u>no</u> property damage, <u>no</u> public involvement. Circle “incident” and forward completed part 1 to Department Head.</p>	<p>O R</p>	<p>Supervisor: Accident/illness? Circle <u>yes</u> event.</p> <p>Upon safely securing scene, IMMEDIATELY fax completed Part 1 to (856) 845-1309, contact Department Head and (after regular business hours) call Human Resources Official at (856) 845-1300 ext. 139.</p>

Section A: PERSONAL and EVENT DETAILS (Circle or complete responses)

Title:	Last Name:		First Name:
Date of Birth:		Are you: Employee Public visitor	
Sex: M/F	Department		Employee ID No:
Home address:			
Email address:		Phone: (w)	Phone: (h)
Date and time of event:		Location:	
What was the event and how did it happen?			
Witness Name(s), address, telephone:			
Signed (employee, public visitor):			Date:
Signed (Supervisor):			Date:

Section B: INJURY/ILLNESS DETAILS (If applicable) Use this section to also report workplace disease

Type of injury or disease (EG burn):	Part(s) of the body affected:	
Needle stick injury/sharps injury/exposure to body fluid: Contact details of source patient (if applicable):		
Name:	Address:	Phone:
Date and time when symptoms noticed:		
Was medical treatment given?	No / First Aid / Nurse / Doctor / Hospital	
Name of person giving initial treatment:		
Date and time initial treatment given:		
If an Employer employee, does the injured person intend to lodge a claim for workers' compensation? Yes / No /Unknown		
If an Employer employee, will time be lost as a result of this injury? Yes / No		How many hours/days?
If a public visitor or, does injured person intend to lodge a claim? Yes / No /Unknown		

INVESTIGATION CHECKLIST – PART 2

Department Heads are required to investigate all incidents/injuries to conclude what happened, how it happened, why it happened, and what should be done to prevent further occurrences. Department Heads may request through their respective Freeholder Committee specific assistance from trained investigators and inspectors.

PART 2 Instructions: Department Heads Complete Part 2 within FIVE (5) WORKING DAYS of event and forward to Human Resources Official.

Who is involved in completing this investigation?

Department Head:	Department Supervisor:
Assisting:	Assisting:
Assisting:	Assisting:

Section 1: INVESTIGATION CHECKLIST: (Questions to ask the person involved with the incident. Modify the “you” in the questions for use by witnesses).

Event/Injury: How do you think the event / injury happened and what were you doing at the time?

How long had you been working prior to the event/ injury? _____

How long had you been working on this task? _____

Is this task part of your normal duties? Yes No

Have you been instructed / trained in this task? Yes No

What were you doing prior to the event / injury?

Are there any other factors involved (management, the environment, equipment, maintenance, individuals)?

What do you think could have been done to prevent this event from occurring?

Any other comments or observations?

Please circle the most appropriate response(s):

What sort of incident/injury occurred? Manual Handling / Occupational Overuse Syndromes (OOS) / cuts / bruises / burns / falls / slips / trips / vehicles / bicycles / chemicals / insects / animals / foreign body / plant / stress / other...
Location where incident occurred?
Type of injury: sting / bite / kick / puncture / strain / sprain / chemical / slip / trip / fall / other...
Standard operating procedures followed? Yes / No / N/A
Identification of equipment/object/insect involved:
Equipment in good condition? Yes / No / N/A

Date of last service of equipment:	
Appropriate safety equipment (PPE) used?	Yes / No / N/A
Lighting adequate?	Yes / No / N/A
Housekeeping issues contributed?	Yes / No / N/A
Confined Space?	Yes / No / N/A
Surface type: cement / tile / grass / dry / wet / damaged / torn / sand / footpath / carpet / gravel / rocks / road / other...	
Type of shoes worn: open / closed / boots / high heels / sandals / none / other...	
Workload excessive?	Yes / No / N/A
Workload boring and repetitive?	Yes / No / N/A
<u>If it was a slip or trip:</u> Height of fall / slip / trip?	
Were you running / walking / turning a corner / jumping / other?	
If stairs: going up / going down?	
Did you fall on your front / back / side?	
What were you carrying (if anything) at the time?	
<u>If the incident involved chemicals:</u> Was an MSDS (Material Safety Data Sheet) available? Yes / No / N/A	
Disposal / handling / storage of chemical product adequate? Yes / No / N/A	
<u>If the incident involved manual handling:</u> Were work items within easy reach? Yes / No / N/A	
Ergonomic equipment available? Yes / No / N/A	
Was the equipment being used correctly? Yes / No / N/A	
Repetitive and/or forceful movements used? Yes / No / N/A	
Action involved reaching / bending / stooping / sitting / kneeling / twisting / pushing / pulling / lifting / catching / lowering / carrying	
Weight of object?	
Distance carried / position of object moved from/to?	
Height of load?	
<u>If the incident involves a vehicle or bicycle:</u> traffic conditions:	
Weather conditions:	dry / wet / foggy / night / day
Intersection / turning right or left / driveway / straight road	
Speed prior to incident?	
Traveling to work / lunch time / after work / to home / work related travel	
Any other factors involved?	

Investigator's comments and observations: _____

ACTION REPORT SAFETY RECOMMENDATIONS FORM – PART 3

PART 3 Instructions: Department Heads complete Part 3 within TEN (10) WORKING DAYS of event and forward to the Human Resources Official.

A hierarchy of control should be used to assist with the prevention of future similar injuries. The 'hierarchy of control' depicts the most to the least effective methods, as shown in the table below. This is the most important part of the investigation process! Do not leave blank.

Risk Control Options	Action Required	By Whom	By When
Elimination – do you have to do the task?			
Substitution – is there another way you can do the task?			
Engineering – can you engineer a way to make the job safer? (Job Safety Analysis sheets may give clues)			
Administration – can you improve work practices? E.g. limit time of exposure	↓		
Personal Protective Equipment (PPE)			
Date feedback provided to person reporting the event:			
Signed:	Print Name:	Ph:	
Position:	Date:		

Safety Committee Recommendations			
Date Part 1 received:	Date Part 2 received:	Date Part 3 received:	Date Completed:

Witness Report

Your Name: _____ Home Phone: _____

Address: _____ Work Phone: _____

City: _____ State: _____ Zip: _____

Social Security No.: _____ Date Form Completed: _____

Date of Incident/Accident: _____ Approximate Time: _____

Location: _____

Did You See this Incident/Accident? Yes No

If Yes, Please Give a Description of What Happened:

Was Anyone Injured? Yes No

If Yes, Please List: Name: _____

Type of Injury: _____

Was Injured Person Taken, Or Go, To Nurse's Station?: Yes No

Were There Any Other Witnesses?: Yes No

If Yes, Please List Names: _____

I certify that this Witness Report has been read and completed to the best of my ability and that all information submitted is true.

Signature of Witness: _____ Date: _____

PAID HOLIDAYS POLICY

Employees are entitled to the following paid holidays:

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Election Day
 - *At the discretion of the City Administrator, this may be exchanged for a "floating" holiday day during the year. This will be determined at the Re-Organization meeting of City Council, and will affect all employees not covered by another collective bargaining agreement or other contractual agreements
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

The Employer reserves the right to change or delete the holidays set forth above.

This policy is not intended to conflict with the collective bargaining agreement between the Employer and its unionized employees. If there is a conflict between this Manual and any collective bargaining agreement, the provisions of the collective bargaining agreement will prevail for represented employees.

Weekend Holidays. If a paid holiday falls on a Sunday, it will be observed on the following Monday. If a paid holiday falls on a Saturday, it will be observed on the preceding Friday. Employees who work on weekends will observe the holiday on the actual day.

Eligibility for Holiday Pay. To qualify for holiday pay, employees must be in pay status the scheduled workday immediately preceding and immediately following the holiday. Any employee who is absent without City approval on the day before or the day after a holiday shall not receive holiday pay unless the absence was approved in advance. If a paid holiday occurs while an employee is on approved vacation or sick leave, the employee shall not have that holiday charged as sick or vacation time.

Religious Holidays. Employees who wish to observe religious holidays not designated as a holiday by the Employer may do so without loss of pay by using available personal or vacation days, but only to the extent that the employee has not already used up his or her available personal or vacation days.

SECTION THREE: LEAVES OF ABSENCE

VACATION LEAVE POLICY

Unless otherwise stipulated in an employment agreement, collective bargaining agreement or Civil Service laws (where applicable), vacation is an accrued benefit based on the following schedule:

Full-Time Employees:

- One (1) day for each full month of continuous service during the first calendar year of employment (“Year 1”) after completing ninety (90) day probationary period. Total vacation days shall not exceed ten (10) working days in the first year.
- Ten (10) days for Years Two (2) through Five (5), inclusive.
- Fifteen (15) days for Years Six (6) through Ten (10), inclusive.
- Twenty (20) days for Years Eleven (11) through Fifteen (15), inclusive.
- Years Sixteen (16) through Twenty (20), inclusive. One additional day per year, not-to-exceed twenty-five (25) vacation days per year.

During an employee’s ninety (90) day probationary period, no vacation time is earned or available. Upon completion of the probationary period, one day will be credited for each month worked (calculated back to date of hire).

**Calculations of length of service are based on anniversary date of the employees hiring.
Vacation leave may not be carried forward into the succeeding year; such time must be used in that year or forfeited.**

An employee who terminates employment prior to completion of his or her probationary period has not accrued vacation time, and is therefore not entitled to payment for unused vacation time.

Vacation leave shall be expended in increments of not less than one half (1/2) work day

Vacations shall be scheduled at such times as the Department Head finds most suitable after considering the wishes of the employee and the requirements of the department. All requests for vacation must be approved by the Department Head prior to the commencement of the requested vacation.

Regular part-time employees shall accrue vacation on a pro rata basis and may receive compensation at their regular rate of pay for each hour of vacation earned.

Transfers: If an employee transfers from one department within the City to another, the vacation leave credits shall also be transferred. The established period of determining vacation credit will be from the employee's date of hire.

Vacation credit earned by an employee cannot be transferred to another employee.

Temporary employees shall not earn vacation nor be entitled to vacation upon separation.

Represented employees earn vacation time in accordance with their respective union agreement.

Vacation leave will not accrue while an employee is on leave of absence without pay. Accrued and unused vacation leave may be used to supplement sick leave if the employee has exhausted sick leave accruals.

Paid holidays occurring during vacation are not charged to vacation.

Earned vacation leave, sick leave and personal leave accruals must be exhausted prior to taking an unpaid medical leave of absence.

Upon resignation with proper notice or retirement from City employment an employee shall be paid at the normal rate of pay for his unused vacation leave, provided regular status has been attained. For each full month of employment the employee shall be allowed one-twelfth (1/12th) of the vacation leave to which he would be entitled if his employment were not terminating. If an employee is prevented by injury or illness from working a full month, he shall nevertheless be entitled to vacation leave payment for that month, provided he has accrued sick leave sufficient to cover the remaining days of the month. If, at the time of separation, the vacation time used exceeds the amount accrued, then the employee's final paycheck will be adjusted so as to reimburse the City for the unearned vacation pay.

If the employee retired or resigned, such employee thereupon shall be entitled to a sum of money equal to his/her former regular compensation for any earned vacation leave time which has not been used; provided however, that an employee who fails to provide at least two weeks advance written notice of resignation, or whose employment is terminated for cause, is not entitled to be compensated for unused vacation leave.

- 1. Department Heads are responsible for managing the vacation schedules in their departments and for administering the provisions of this policy.**
- 2. The City Administrator shall approve all vacation schedules for Department Heads.**

- 3. Vacation approvals by Department Heads shall be made only when the efficiency of City operations will not be adversely affected.**
- 4. Unless approved by the City Administrator in advance, a Department Head and next ranking employee cannot take vacations at the same time.**

Part-Time Employees:

Part-time employees shall accrue time on a pro-rata basis based on the schedule above.

Approval of Vacation Leave. An employee's supervisor must approve the use of vacation time, in advance. While approval of vacation leave shall not be unreasonably withheld, the use of vacation leave shall be subject to staffing levels as solely determined by the supervisor or Department Head. Employees should submit vacation requests as early as possible to ensure adequate staffing. Absent emergent circumstances, a request to use vacation leave submitted less than three (3) days prior to the day(s) off requested shall be granted only at the discretion of the Department Head.

Employees who have an approved vacation/benefit time scheduled who call in sick the day before or day following a vacation, holiday and/or leave, and/or any other authorized day of absence may be required to submit a physician's statement.

PERSONAL DAY POLICY

Upon completing a ninety (90) day probationary period, employees are entitled to two (2) personal days per year. Any unused personal days are forfeited at the end of each calendar year.

SICK LEAVE POLICY

The Employer 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; or
- (5) 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 Employer requires three (3) days' notice for any foreseeable use of leave. If the use of leave is unforeseeable, the employee should notify the Employer as soon as practicable of their need to use same. Should an employee need to use three (3) or more consecutive days of leave, said employee must provide the Employer 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).

An employee is eligible to use the earned sick leave beginning on the 120th calendar day after the employee starts work. The employee may subsequently use earned sick leave as soon as it is accrued. Employees will not be paid for any unused sick leave, except as expressly required by federal or State laws, or an applicable collective negotiations agreement.

An employee who exhausts all paid sick leave in any one year shall not be credited with additional paid sick leave until the beginning of the next calendar year.

All regular full-time and permanent part-time employees are entitled to nine (9) working days of sick leave per calendar year.

Sick leave is to be used only in cases where the employee is ill and unable to work, or in cases of the serious illness of a family member. Employees absent on sick leave for two or more consecutive working days must submit a doctor's verification of illness or injury. If an employee is attending to an immediate family member, including civil union partner, a doctor's verification of that individual is required. After the tenth day of absence on sick leave in one calendar year, a doctor's verification must be submitted for all sick leave absences, regardless of duration. Prior to the return to work, the City may require an employee to be examined by a physician designated by the City to verify fitness to return to normal duties. An employee will not be permitted to return to work until the verification is received.

Eligibility for sick leave benefits shall be granted upon completion of one (1) month of continuous and exclusive service to the City from date of hire, with one (1) day sick leave granted for every two months of continuous service (maximum of 6 days in the first calendar year).

Employees are required to provide a doctor's note to return to work after two (2) or more consecutive days of sick leave taken. A doctor's note will also be necessary after four singular sick leave days taken.

Temporary or seasonal employees shall not be eligible for paid sick leave.

If an employee is unable to report for work due to illness, this fact shall be reported to the department no later than one-half (1/2) hour after the start of the normal workday, or as soon as possible given certain extenuating individual circumstances. The employee must speak directly to a Department Head or supervisor. The employee should also let the supervisor know when he/she expects to return to work. Failure to comply may result in denial of sick leave pay.

Sick leave shall be rounded off to the nearest half hour. When possible, sick leave should be taken in increments of no less than two (2) hours.

No sick leave will be given to an employee in excess of the amount earned and available to the employee.

An employee may utilize vacation time when sick leave has been exhausted.

All sick, vacation, and personal leave must be exhausted prior to taking an unpaid medical leave of absence. (See section: FAMILY AND MEDICAL LEAVES OF ABSENCE.)

It is the responsibility of each Department Head to ensure the provisions of this policy are observed. Corrective action should be taken in instances of suspected abuses or misinterpretation of the utilization of sick leave.

Department Heads will ensure that any sick leave used will be reflected with the submission of time sheets. It is the responsibility of the Department Heads to ensure that proper accountability of sick leave is kept on all eligible employees. This shall include keeping a record of utilization.

At the end of each calendar year, the employee will be entitled to a buy-back of 50% of accumulated sick leave not previously used at the current rate of pay.

Employees will be paid for sick days that are bought back by the City in January of the following calendar year.

TEMPORARY DISABILITY LEAVE

Eligibility for temporary disability benefits shall be granted to all full time employees who have completed one (1) year of continuous and exclusive service to the City from date of hire.

Upon five (5) days of continuous absence due to illness or accidental injury, which is documented by a physician's report, an eligible employee shall return to work with a physician's report stating the employee is capable to resume their duties. Said 5 days will be charged against the employees' sick, vacation or personal leave, or unpaid medical leave of absence. In the event that an employee is not able to resume their duties, the employee shall be eligible to apply for temporary disability leave. All sick, vacation, and personal leave must be exhausted prior to taking an unpaid medical leave of absence. (See section: FAMILY AND MEDICAL LEAVES OF ABSENCE.)

An employee who is on temporary disability or sick leave shall keep his/her supervisor advised on a daily basis as to condition and expected date of return to duty. If requested, the employee shall file a doctor's certificate stating the cause of the absence and the nature of the illness before temporary disability payment is authorized.

<u>Years of Service:</u> <u>At Least</u>	<u>Less Than</u>	<u>Weeks at Full Salary</u>	<u>Weeks at One Half Salary</u>	<u>Total Weeks Coverage</u>
1	2	4	2	6
2	3	4	7	11
3	4	4	12	16
4	5	4	17	21
5	6	8	18	26
6	7	8	23	31
7	8	8	28	36
8	9	8	33	41
9	10	12	34	46

10	15	12	40	52
15	20	14	38	52
20	25	16	36	52
25	30	18	34	52
30 and over		20	32	52

Such benefits shall continue for the period of time of disability. Upon return to employment and service for two (2) continuous years, an employee will re-qualify for full coverage above.

If multiple incidents of “5 days of continuous absences” occur within a 24 month period:

- a. The unused benefits from the schedule above would continue as needed until exhausted.
- b. The end date of last incident shall be used as the start date for the required “continuous year of service” before an employee will re-qualify for full coverage above.

The City reserves the right to enroll in the State Disability Benefits (SDI) program, and therefore, cease utilizing the schedule of temporary disability leave listed above.

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 Employer. Wherever employment details in this policy differ from the terms expressed in a collective bargaining agreement with the Employer, the specific terms of the collective bargaining agreement will control.

DONATED LEAVE PROGRAM

The Employer will permit employees to voluntarily donate accrued benefit time, including sick and/or vacation days, to a fellow employee of the Employer who has exhausted their own earned leave as a result of a catastrophic health condition or injury suffered by themselves or an immediate family member which is expected to require a prolonged absence from work. The Donated Leave Program will be administered in such a manner as to ensure the goals of the program are met without interfering with any employee's rights to privacy as otherwise protected by Federal or State law, rules or regulations.

Eligibility. A permanent full-time employee shall be eligible to receive donated sick or vacation leave if the employee:

1. Has completed at least one year of continuous service;
2. Has exhausted all accrued sick, vacation, personal, compensatory and administrative leave as well as all sick leave injury benefits, if any;
3. Has not, in the two-year period immediately preceding the employee's need for donated leave, been disciplined in writing for chronic or excessive absenteeism, chronic or excessive lateness or abuse of leave; and
4. Either:
 - a) Suffers from a catastrophic health condition or injury;
 - b) Is needed to provide care to a member of the employee's immediate family who is suffering from a catastrophic health condition or injury; or
 - c) Requires absence from work due to the donation of an organ (which shall include, for example, the donation of bone marrow).

Definitions.

"Catastrophic Health Condition or Injury" shall mean:

- With respect to an employee, a "catastrophic health condition or injury" is a life-threatening condition or combination of conditions or a period of disability required by his or her mental or physical health or the health of the employee's fetus and requiring the care of a physician who provides a medical verification of the need for the employee's absence from work for sixty (60) or more work days.
- With respect to an employee's immediate family member, a "catastrophic health condition or injury" is a life-threatening condition or combination of conditions or a period of disability required by his or her mental or physical health and requiring the care of a physician who provides a medical verification of the need for the family member's care by the employee for sixty (60) or more work days.

"Immediate Family Member" shall mean: Father, mother, father-in-law, mother-in-law, spouse, domestic partner, child, son-in-law, daughter-in-law, grandparent, grandchild, brother or sister. Any interpretation of this definition shall be made in the sole discretion of the Chief Administrative Officer.

"Leave Recipient" shall mean an employee who is desirous of accepting leave time accrued and donated by fellow employees.

"Leave Donor" shall mean an employee who is desirous of providing, without compensation, accrued sick, vacation, or personal days to a fellow employee dealing with a Catastrophic Health Condition or Injury.

Procedure.

1. Written Request - An employee may submit a request, in writing, to their Department Head or the Chief Administrative Officer to participate in the Donated Leave Program either as a Leave Recipient or Leave Donor. A supervisor may submit a request to receive time on behalf of an employee unable to make the request.
2. Medical Verification - The employee requesting the employee's acceptance as a Leave Recipient shall submit to the Employer medical verification, signed by a physician licensed by the State of New Jersey, concerning the nature and anticipated duration of the disability resulting from either the catastrophic health condition or injury, or the donation of an organ, as the case may be. The medical verification required for the receipt of donated leave shall include the nature and anticipated duration of the catastrophic health condition or injury, or the donation of an organ. The same medical documentation set forth above will be required whether applying for donated leave to care for one's self or immediate family member.
3. Notice - Upon approval by the Chief Administrative Officer, the Department Head or Supervisor shall, with the Leave Recipient's consent, post or circulate the employee's name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time. If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.

Participation Requirements.

1. Leave Recipient must receive at least five (5) sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program.
2. Leave Recipient may not collect temporary disability benefits (TDI) or worker's compensation insurance benefits while utilizing time donated.
3. Leave Recipient is limited to a lifetime maximum of two-hundred and sixty (260) donated sick days or vacation days and shall not receive any such days on a retroactive basis.
5. Leave Donor shall donate only whole sick days or whole vacation days and may not donate more than thirty (30) such days to any one recipient.

6. Leave Donor shall not revoke the leave donation.
7. While using donated leave time, the Leave Recipient shall accrue sick leave and vacation leave under the normal Employer policies and shall be entitled to retain such leave upon his or her return to work.
8. Upon a Leave Recipient's return to work or separation from employment for any reason, any unused, donated leave shall be returned to the Leave Donors on a prorated basis upon the Leave Recipient's return to work, except that if the proration of leave days results in less than one day per donor to be returned, that the leave time shall not be returned.
9. Upon retirement, the Leave Recipient shall not be granted supplemental compensation on retirement for any unused days which he or she had received through the leave donation program.
10. An employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving the voluntary donation, receipt or use of donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee.
11. Upon receipt of a request to donate time, the human resources official will verify that the Leave Donor is eligible to donate time and said Department will deduct appropriate time from the Leave Donor.
12. Leave Recipients may use donated leave in one-half day or whole day increments. Recipients may return to work on a part time, or intermittent basis, and remain eligible for the program as long as they do not exceed two-hundred and sixty (260) days in a lifetime.
13. An incident is considered closed when the recipient is medically cleared to return to work without restrictions.
14. If the recipient returns to work or otherwise terminates employment, the remaining balance of unused donated leave must be equally returned to all donors in whole day increments only. Partial day increments will not be restored to the donor nor remain credited to the recipient.
15. An illness or injury of an immediate family member requiring an employee's absence from work to provide care must meet the same criteria applicable to an employee's own medical necessity.

Paid Leave

Request for Time Off

Name of Employee: _____

Title: _____ Department: _____

Type of Leave Requested:

Vacation Sick Compensatory Bereavement

I request leave on the following dates:

Signature of Employee: _____ Date: _____

NOTE: Approval of vacation leave is subject to scheduling needs and seniority provisions. Employees must submit requests for administrative leave in writing to the Department Head at least forty-eight (48) hours in advance of the requested leave day.

Approval of Request for Time Off

Your request for Vacation Sick Compensatory Bereavement time off on the following dates has been approved:

Your request for Vacation Sick Compensatory Bereavement time off on the following dates has not been approved:

Signature of Department Head: _____ Date: _____

cc: Human Resources Official

FAMILY AND MEDICAL LEAVE

In accordance with the federal Family and Medical Leave Act (“FMLA”), the Employer 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 Employer’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 Employer 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 Service member in the line of duty or on active duty in the Armed Forces, National Guard of 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 service member medically unfit to perform the duties of the member’s office, grade, rank or rating.

Eligibility. Any employee who has been employed by the Employer 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 Employer, 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 Employer, 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 Employer, at its expense, may require an examination by a second healthcare provider designated by the Employer. If the second healthcare provider's opinion conflicts with the original medical certification, the Employer, 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 Service member to support such leave.

Absent unusual circumstances, medical certifications must be provided within fifteen (15) days. The Employer 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 Employer 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 Employer 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.

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

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

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

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

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 Employer 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 Employer. 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 Employer 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 Employer 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 six (6) weeks (twelve (12) weeks, effective July 2020) 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.

NEW JERSEY FAMILY LEAVE

The Employer 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 Employer and have worked at least 1,000 hours for the Employer 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.

Leave taken for reasons above must be consecutive 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 weekly, [but not daily,] work schedule for no more than twenty-four (24) consecutive weeks in a twenty-four (24) month period.
- Intermittently in increments lasting at least one week, but less than twelve (12) weeks in a consecutive twelve (12) month period, 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 Employer'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 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 Employer 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 Employer thirty (30) days' advance written notice. If advance written notice is not possible because of an emergency, the employee must provide the Employer with reasonable oral notice and then follow up with written notice.

The employee also must give the Employer a medical certification supporting the need for leave. The Employer reserves the right to require second or third medical opinions and periodic re-certifications. The employee must also provide periodic reports during the leave regarding the employee's status and intent to return to work as deemed appropriate by the Employer. If an employee fails to provide the required documentation, the Employer may delay the start of the employee's NJFLA leave, withdraw any designation of NJFLA leave or deny the leave, in which case the absences will be treated in accordance with the Employer'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 Employer 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 Employer 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 Employer'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 Employer-provided leave available to him/her).

Retaliation Prohibited. The Employer 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 Employer 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 six (6) weeks (twelve (12) weeks, effective July 2020) 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 Employer 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.

Application for Family and/or Medical Leave (FMLA)
and/or New Jersey Family Leave (NJFLA)

Name: _____ Date of Request: _____

Mailing Address: _____

Department: _____ Hire Date: _____

Title: _____

Start Date of Anticipated Leave: _____

Expected Date of Return to Work: _____

Reason for Leave:

- I request family leave to care for my newborn child, newly adopted child, or a newly placed foster child in my home.
- I request family leave to care for my family member with a serious health condition. I request family leave to care for:

Spouse Child Parent

NJFLA Only: Parent-in-Law Civil Union/Domestic Partner

Name: _____ Address: _____

- I request medical leave to care for my own serious medical condition.
Describe serious health condition: _____

- I request military family leave because of a qualifying exigency arising out of the fact that my
 Spouse Child Parent
is on active duty or called to active duty status in support of a contingency operation as a
member of the National Guard or reserves.
- I request military family leave because I am the
 Spouse Child Parent Next of Kin of a
covered service member with a serious injury or illness.

Application for FMLA and/or NJFLA (cont'd)

I understand that if my family or medical leave (total of paid and unpaid time) does not exceed twelve (12) weeks (twenty-six (26) weeks for military caregiver leave), I will be returned to my same or equivalent position.

I understand that if my family or medical leave exceeds twelve (12) weeks (twenty-six (26) weeks for military caregiver leave), the Employer may terminate my employment in accordance with the applicable law.

If my request for leave is approved, it is my understanding that unless the Employer has authorized an extension of my leave in writing, I must report to duty on the first workday following the date my leave is scheduled to end.

I understand that failure to return to work within five (5) consecutive working days following the expiration of the leave will constitute unequivocal notice of my intent not to return to work and the Employer may terminate my employment.

Signature of Employee: _____ Date: _____

Received By: _____
Employer Representative

Complete and Return To:

Christina Cortez, City Hall
(856) 845-1300 ext. 139
CCortez@woodbury.nj.us

Return to Work Medical Certification

Employee Name: _____ Position: _____

Date leave commenced: _____ Date employee can return to work: _____

To Be Completed by Health Care Provider:

_____ I have completely examined this employee. In my medical opinion, his/her functional capacity is limited such that there is no possible way to modify his/her work environment to accommodate his/her physical and/or mental limitations according to the attached job description that was reviewed by me.

_____ This employee's condition prevents him/her from safely performing the essential functions of his/her position and will be unable to return to work.

- or -

_____ This employee is unable to return to work at this time and should be out of work until (please provide date): _____

_____ I have completely examined this employee and in my medical opinion, his/her functional capacity is limited. This employee can continue to work safely if the job, according to the attached job description that was reviewed by me, is modified to match the modifications stated below:

_____ Modified duty status should continue until _____
Date _____

_____ I have completely examined this employee. In my medical opinion I believe this employee can resume/perform all functions of his/her position without restrictions according to the attached job description that was reviewed by me.

Signature of Health Care Provider: _____ Date: _____

Name of Health Care Provider: _____ Telephone: _____

Address: _____

Type of Practice: _____

Area of Specialization: _____

BEREAVEMENT LEAVE

Full-time employees shall be granted up to three (3) working days of bereavement leave with pay for a death in their immediate family or in the immediate family of the employee's spouse. "Immediate family" means spouse, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, , son-in-law, daughter-in-law, or any relative residing in the employee's household.

Employees shall be granted one (1) working day of bereavement leave with pay upon the death of an employee's aunt or uncle, or employee's spouse's aunt, uncle or grandparent.

In no event shall any part of bereavement leave occur more than fifteen (15) days from the date of death. The Employer may require that the employee produce reasonable proof of death and relationship. Bereavement leave shall not be charged to sick or vacation leave and such leave is not cumulative.

Procedure. To use bereavement leave:

1. Employees who request bereavement leave must notify their Department Head of their intent to take such leave as soon as possible. Unless impracticable, employees should request bereavement leave in writing.
2. The Department Head or his or her designee shall notify the designated human resources official that an employee is using bereavement leave.
3. Employees who request an extension of bereavement leave beyond the established number of days shall have such extensions charged to accumulated unused vacation or sick leave. If an employee has used all of his or her accrued leave time, extended bereavement leave will be considered as a request for a leave of absence without pay.

MILITARY SERVICE LEAVE POLICY

The Employer 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.

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 Employer without loss of privileges or seniority, the employee must report for duty with the Employer 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 Employer 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.

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.

JURY DUTY LEAVE

When an employee is called for jury duty and for the duration of such service, the employee shall be entitled to a temporary leave with pay provided that:

- The employee submits a written request with a copy of the summons to his or her Department Head within three (3) business days after receipt of the summons;
- The employee inquires about the anticipated length of service and informs his or her Department Head of the expected duration in advance of accepting service;
- The employee notifies his or her Department Head as soon as possible if the length of jury duty has been extended beyond the original return date;
- The employee communicates with their Department Head to determine when they will report to work at such time as his or her presence as a juror is not required;
- The employee provides his or her Department Head with an appropriate certification or order from the assignment judge, clerk of the court or such other officer as shall be appropriate setting forth the period of such jury duty service to be attached to the weekly time sheet; and
- The employee reimburses the Employer for any payments or fees received as a result of such jury service less any meal or travel expenses.

The Employer will reassigned shift workers to the day shift during jury duty leave.

Witness Duty Leave of Absence. The Employer is aware that employees may be subpoenaed to appear as witnesses in trials before the court. The Employer will provide employees with a paid leave of absence for matters stemming from their employment. For personal matters, employees will use available personal days or vacation days.

SECTION FOUR: PERSONNEL RULES AND REGULATIONS

APPEARANCE

Each employee is expected to dress appropriately for the job. The following factors are relevant to determining appropriate dress:

- nature of work
- safety, including necessary precautions when working with or near machinery
- nature of employee contact with the public and the normal expectations of outside parties toward employees
- practices of others in similar jobs
- consideration of the image the Employer wishes to project

This policy incorporates by reference all references to uniform and dress contained in all collective negotiations agreements in force between the Employer and its employees. Failure to abide by the terms of such agreements shall be deemed improper conduct.

Additionally, some Departments may have more detailed and restrictive rules governing appearance. Employees are required to abide by applicable Department rules.

The City will make reasonable religious accommodations that do not violate safety standards and will not discriminate on the basis of traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles, such as braids, locks, and twists. Employees violating this policy shall be required to take corrective action or will be sent home without pay.

ABSENTEEISM AND TARDINESS

Regular attendance at work, reporting on time, and completing the required hours of work are necessary for each employee so that the Employer may meet its commitments to its residents. Employee absences place an additional burden on the remaining work force and seriously affect the Employer's ability to service its residents. Management recognizes that circumstances beyond the employee's control may cause him or her to be absent from work for all or part of a day. The Employer, however, will not tolerate unexcused absence or tardiness.

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

Attendance and punctuality will be considered, among other factors, in the employee's performance review. If an employee needs to leave work early, the employee must receive permission from his or her supervisor to leave prior to the regularly scheduled departure time. An employee who is absent from duty for five (5) or more consecutive working days without approval or notification or fails to return to work for five (5) or more consecutive working days following an approved leave of absence shall be deemed to have voluntarily resigned from their employment.

To minimize the negative impact on both employees and residents, the Employer will regularly review employee time records to identify chronic absenteeism and/or tardiness problems. Employees who exhibit attendance and/or tardiness problems will be subject to established progressive disciplinary procedures.

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 City of Woodbury (the City) 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 City. This Policy highlights the City's New Jersey Drug-Free Workplace Policy. The City's Designated Employer Representative (DER) is the City Administrator. The Alternative DER is Richard Leidy, Public Works Manager.

The City recognizes the prime importance to the City 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 City has no intention of intruding into the private lives of its employees, the City 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 City 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 City. 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 City 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 City with a job related need to know, the DER and Alternate DER,

to defend against any administrative action brought by the employee against the City, 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, City 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 City's New Jersey Drug-Free Workplace testing will be provided on vacancy announcement and is posted in conspicuous locations on City 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 City 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 City 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 October 27, 2021, 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 City as safety-sensitive: *Police Officers and SLEO's, Fire Fighters, Fire Official, Public Works Driver/Laborers, Code Enforcement employees and any employee who is authorized to drive a city vehicle*. 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 City. 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 City 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 City 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 City 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 City for the cost of the test and any lost time. Under federal regulations, the MRO has the discretionary authority to notify the City 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 City 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 City'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.

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 City 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 City Policy.

WHAT ABOUT IMPAIRING EFFECT MEDICATIONS OR SUBSTANCES?

Any employee working in a safety-sensitive position as defined by City 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. This includes medical and recreational Marijuana, the use of which the City, for safety reasons, will not be able to accommodate employees working in safety-sensitive positions. However, for employees who are qualifying medical marijuana cardholders reporting to work in those states which have statutory anti-discrimination against the use of medical marijuana laws, qualifying employees, and applicants, may request a reasonable accommodation by contacting the DER and such request will be considered. 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 City 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 City 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 City, 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 City 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 City 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 City 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 City 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 City 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 City'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 City 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 ***Entity Type*** 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 City premises or property, including City-owned or leased vehicles, or vehicles used for City 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 City 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 City 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 City'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 City and other factors related to the impact of the employee's conviction on the City.
- 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 City or its designee, is a violation of City 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 City 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.
- k. We strictly prohibit employees from using hemp products, which some within the medical community have indicated may cause a positive marijuana test result. We will not

generally consider use of hemp products a valid medical explanation for a positive marijuana test result.

2. With respect to alcohol, employees violate this Policy by engaging in the following conduct during work time or on City premises or property:
 - a. Bringing and/or storing (including in a desk, locker, automobile, or other repository) alcohol on City premises or property, including City owned or leased vehicles, or vehicles used for City purposes.
 - b. Having possession of, being under the influence of, testing positive for or having in one's system, alcohol. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing alcohol. *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 offense occurring in the workplace. All employees must notify City in writing of any criminal alcohol conviction not later than five calendar days after such conviction. Alcohol 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 City'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 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 City and other factors related to the impact of the employee's conviction on the City.
 - 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 testing, medical or physical tests or examinations, when requested or conducted by City or its designee, is a violation of City 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.

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 City.

City of Woodbury
33 Delaware Street
Woodbury, NJ 08096
Phone: (856) 845-1300
Fax: (856) 845-1309

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 1-717-581-1901
www.naatp.org

National Council on Alcoholism and Drug Dependence, Inc. 1-212-269-7797
www.ncadd.org

Hope Line (24-hour affiliate referral) 1-800-NCA-CALL

Center for Substance Abuse Prevention's Workplace Hotline 1-800-WORKPLACE

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

Apple Counseling Services
259 Delsea Drive, Sewell NJ 08080
(856) 881-1666
info@applecounselingservices.com

CITY OF WOODBURY
ALCOHOL AND DRUG-FREE WORKPLACE POLICY
NEW JERSEY NON-DOT

NOTICE TO ALL EMPLOYEES AND APPLICANTS

DRUG-FREE WORKPLACE

City of Woodbury (the City) 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 Policy highlights the City's New Jersey Drug-Free Workplace Policy. The City's Designated Employer Representative (DER) is ***DER***. The Alternative DER is ***Alternate DER***.

The City recognizes the prime importance to the City 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 effects of substance abuse. While the City has no intention of intruding into the private lives of its employees, or preventing them from taking the medicine that they may need to stay safe and healthy, the City 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 alcohol or drug use. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The City 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 know that a fellow employee is working under the influence, owe a similar duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability.

To the extent this Policy supplements, and does not conflict with current collective bargaining agreements, it is applicable.

Notice of the City's New Jersey Non-DOT Drug and Alcohol testing will be provided on vacancy announcement and is posted in conspicuous locations on City 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 City 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. The City 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 October 27, 2021, 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.

CITY OF WOODBURY

DESIGNATED EMPLOYER REPRESENTATIVE (DER) GUIDELINES
ON USE OF FORM TOOLKITS

The following are helpful tips the DER and/or alternate DER may wish to consult in fulfilling their duties and responsibilities:

Getting Started:

Populate the **Drug and Alcohol Testing Policy Development Worksheet** with the information specific to your entity and have this reviewed by legal counsel. As part of this process, you should complete the **Determination of Safety-Sensitive Positions [DFW04]**. That is a significant role in designating those as safety-sensitive in your policy.

Establish date for introduction of the **Drug and Alcohol Testing Policy** to employees. This Policy includes the following parts: (1) Policy, (2) Drug Education Information, (3) Substance Abuse Professionals resource list. You should secure a drug and alcohol awareness video for the meeting and send out notice of meeting date and time. Make a copy of the **Policy** for each employee. **Note:** the **Forms Toolkit** and **DER Guidelines** are not to be given to the employees at the meeting but can be viewed by them at any time.

On the date of the employee awareness training, have an **Employee Awareness Training Session Log** out for employees to sign. Distribute to each employee the following 4 part Policy: **Drug and Alcohol Testing Policy, Drug Education Information, Substance Abuse Professional resource list, and the Active Employee Certificate of Agreement, Receipt of Drug-Free Workplace Policy Consent Form**. Then walk through significant Policy provisions. At the end of the program have each active employee sign the **Active Employee Certificate of Agreement Receipt of Employee Policy Statement Consent Form [DFW01]** and place in their personnel file.

Establish a time and date to conduct reasonable suspicion training for supervisors. This training should be one hour for alcohol and one hour for drugs and conducted by someone who can issue certifications of such training.

Prepare file folders for your Drug and Alcohol Testing Policy records retention and maintain these files separate from personnel files as you would medical records.

Select a Certified Medical Review Officer, Laboratory, collection site and Third Party Administrator to assist with your program.

Applicant/Employee Testing

Have all applicants sign the **Pre-Employment Substance Testing, Consent and Release Form [DFW02]** before you schedule them for a pre-employment drug test.

If the employee fails to show for testing on time, you should receive a call from the collection site. Failure to show up on time is usually determined to be a “refusal to test” subjecting the employee to discipline or rejection of application under your **Policy**. If there is a refusal, you may wish to consider faxing an **Acknowledgment of Consequences of Refusal to Participate in Drug or Alcohol Testing [DFW03]** to the collection site while the employee is still present.

CMRO Report

You should get to know your Certified Medical Review Officer (CMRO) and request that he/she explain their role and answer your questions.

Post-Accident

In the event the employee is involved in a work place accident, check that the employee is drug tested in accordance with your Policy and worker’s compensation requirements.

Reasonable Suspicion

The trainer that you have selected for Supervisory Reasonable Suspicion training should be able to provide you both Contemporaneous and Long-term Observation checklists.

Refusal to Submit to Testing

Use **Acknowledgment of Consequences of Refusal to Participate in Drug or Alcohol Testing [DFW03]** and have two (2) supervisors sign verifying that refusal.

Removal from Safety-Sensitive Duty on a Verified Positive or Refusal

Do not wait on the CMRO’s written report but act upon the CMRO’s oral report of verified positive drug test, adulterated or substituted drug test.

City of Woodbury
Active Employee Certificate of Receipt [DFW01]

I do hereby certify that I have received and read the New Jersey Drug-Free Workplace Policy, which explains the City's adherence to New Jersey Laws. I have had the terms and conditions of the City's Drug and Alcohol Testing policy explained to me relative to screening or tests by the City, for the purpose of determining the presence of, and content of, any or all of the following substances under circumstances as set forth in the City's Policy:

1. Amphetamines	4. Phencyclidine (PCP)
2. Cannabinoids	5. Cocaine
3. Opioids	

Testing may also include a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs. 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.

I understand that 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, 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.

POSITIVE DRUG OR ALCOHOL TEST, OR REFUSAL CONSEQUENCES:

- 1) Classified as a positive test or refusal to test**
- 2) Discharge from employment**
- 3) Possible disqualification from Workers' Compensation Benefits**
- 4) Possible disqualification from Unemployment Compensation Benefits**

I also understand that it is not the purpose of this test to identify any disability I may have and that all activities will be conducted in accordance with ADA regulations.

I also understand that the City and/or its designated representative will collect specimens for testing for the purpose of determining the presence of, and content of, drug and alcohol substances, as well as to obtain results from any alcohol or drug test administered post-accident by law enforcement and release of the results of said tests to the City, its DERs, to the City's Medical Review Officer, and as set forth in the Policy.

Employee Printed Name: _____

Employee Signature: _____ Date: _____

Witness Printed Name: _____ Witness Signature: _____

(This form is to be signed by employee and retained in personnel file.)

City of Woodbury
Pre-Employment Substance Testing
Consent and Release Form [DFW02]

I do hereby certify that I have been given notice of the City's pre-employment substance abuse testing policy; that I have been provided with access to a copy of the City's New Jersey Drug-Free Workplace Policy and have been made a conditional offer of employment. I hereby freely and voluntarily consent to submit to tests as shall be determined by the City in the selection process of final applicants for employment, for the purpose of determining the presence of, and content of, any or all of the following substances:

1. Amphetamines	4. Phencyclidine (PCP)
2. Cannabinoids	5. Cocaine
3. Opioids	

Testing may also include a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs. 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.

I agree that the employer representative, collection site, physician, or clinic may collect these specimens for screening or testing and may screen them or forward them to a testing laboratory for analysis.

I further agree to and hereby authorize the release of the results of said tests to the City, its DERs, and to the City's Medical Review Officer and its agents as provided in the Policy.

I understand that a negative test is a pre-condition of employment with the City and that refusal to submit to testing, or a positive test result will result in the rejection of my application, or the rescinding of a conditional offer of employment. I also understand that it is not the purpose of this screen or test to identify any disability I may have and that pre-employment screening and testing activities are conducted in compliance with ADA requirements.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original and shall continue while my application is being considered and during any post-consideration proceedings. I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

Applicant: Print name: _____ SS# _____

Applicant Signature: _____ Date _____

Witness Printed Name: _____ Witness Signature: _____

City of Woodbury
ACKNOWLEDGMENT OF CONSEQUENCES OF
REFUSAL TO PARTICIPATE IN DRUG TESTING [DFW03]

I, _____, an employee of City of Woodbury, acknowledge that I am refusing to report for Drug and Alcohol testing in accordance with the requirements of City of Woodbury New Jersey Drug-Free Workplace Policy. I am aware that I am in violation of the Policy. I am aware that I am subject to certain adverse consequences as a result of my choice.

REFUSAL CONSEQUENCES:

- 1) Classified as a refusal to test**
- 2) Possible Discharge from employment**
- 3) Possible Disqualification from Workers' Compensation Benefits**
- 4) Possible Disqualification from Unemployment Compensation Benefits**

I have read this Acknowledgment of Consequences of Refusal to Participate in Drug Testing and understand it.

Employee Signature

Date

Witness Signature

Witness Address (city, state, zip)

(If employee refuses to sign, please have two witnesses sign below)

Witness 1 Signature

Witness 2 Signature

Witness 1 Address (city, state, zip)

Witness 2 Address (city, state, zip)

City of Woodbury Determination of Safety-Sensitive Positions [DFW04]

To: City Administrator and Richard Leidy, Public Works Manager (DER and Alternate DER)
From: Robert Law, JIF Fund Commissioner
Re: Determination of Positions Classified as Safety Sensitive

I have reviewed the job descriptions and duties for the following positions and have determined that they meet the criteria for a safety-sensitive position as set forth in the Policy, in that:

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.

Using the above criteria, the following positions have been classified by the City as safety-sensitive: *Police Officers and SLEO's, Fire Fighters, Fire Official, Public Works Driver/Laborers, Code Enforcement employees and any employee who is authorized to drive a city vehicle or set forth below.* Elected officials who are not otherwise classified as employees are not subject to testing under this Policy.

Robert Law, JIF Fund Commissioner

10/27/2021
Date

CHANGING VITAL INFORMATION

It is the responsibility of each employee to notify the human resources official and the payroll office promptly, in writing, of any changes of vital information including but not limited to:

Name
Address
Telephone Number
Marital Status
Dependent Children
Change in status for health care programs
Change in status for dental coverage
Change of beneficiary on pension or life insurance policies
Change in tax status for tax withholding purposes
Persons to notify in case of emergency

Changes may be accomplished by completing and filing an Employee Information Change Form with the human resources official and by completing the necessary insurance and pension forms with the payroll office. When necessary, the payroll office will provide the employee with additional proper forms to change beneficiary, income tax deductions, etc.

Employee Information Change Form

Employee Name: _____ Department: _____

Indicate the change you are reporting by checking the appropriate line:

Name

Address

Phone Number

Birth of Child

Death of Covered Family Member

Marriage

Divorce

Child's Status as Dependent (for tax or insurance coverage benefits)

Please provide details relating to the change you have check above, including the date of the change.

I authorize these changes to be effective _____

Signature of Employee: _____ Date: _____

COMPUTER USE, ELECTRONIC MAIL, AND INTERNET POLICY

The Employer's e-mail, voicemail, computer systems and Internet service are for official Employer business and use for all other non-business purposes during working time is prohibited. "Working time" shall be defined as any time in which the employee is engaged in or required to be performing work tasks for the Employer. Working time excludes times when employees are properly not engaged in performing work tasks, including break periods and meal times. This includes, but is in no way limited to, the use of computers or Employer-issued mobile devices, use of social networking, gaming or TV/video.

Note: All e-mail, voicemail, text, and internet messages are official documents subject to the provisions of the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq.

The Employer operates in an environment where the use of computers, e-mail and the Internet are essential tools for certain employees. Those employees are encouraged to use computers, e-mail and the Internet; however, it is the responsibility of the employee to guarantee that these systems are solely used for business-related purposes during working time, (as defined above) and are used in a proper and lawful manner at all times.

- Employees are advised that all computers owned by the Employer are to be used for business purposes only during working time (as defined above), and that they have no expectation that any information stored on an Employer computer is private. Because e-mail messages are considered as business documents, the Employer expects employees to compose e-mails with the same care as a business letter or internal memo.
- Downloading or misusing software available through the Internet could violate copyright laws or licensing requirements.
- Personal use of any computer during working time (as defined above) is prohibited, unless expressly authorized by the employee's supervisor.
- The Employer reserves the right to block or cancel an employee's access to Internet sites or the Internet as a whole while using business computers or on the Employer's time.
- The e-mail, telephone, and Internet systems, as well as the messages thereon, are the property of the Employer.
- The Employer reserves its right to monitor its computer systems, including but not limited to, e-mail messages, computer files and Internet usage, with or without notice, at any time, at the Employer's discretion. The Employer also reserves the right to access and disclose such communications and recordings to third parties in certain circumstances. Therefore, employees shall have no expectation of privacy in any transmissions made or received using Employer computers or email accounts.

- Employees must be aware that the mere deletion of a file or message may not fully eliminate that file or message from the system.
- The existence of personal access codes, passwords and/or "message delete functions," whether provided by the Employer or generated by the employee, do not restrict or eliminate the Employer's access to any of its electronic systems as the employees shall be on notice that they should not have any expectation of privacy when using these systems.
- Employees shall not share personal access codes or passwords, provide access to an unauthorized user, or access another's e-mail or Internet account without authorization.
- The Employer's network, including its connection to the Internet, is to be solely used for business-related purposes during working time (as defined above). If permission is granted, an employee's personal use of the Employer's computer, e-mail and connection to the Internet shall not interfere with the employee's duties and shall comply with the Employer's policies and all applicable laws.
- Any messages or transmissions sent outside of the organization via e-mail or the Internet will pass through a number of different computer systems, all with different levels of security. Accordingly, employees must not send privileged and/or confidential communications (i.e. Social Security numbers, medical and/or HIPAA protected information, dependent information or other information protected from unlawful disclosure), via e-mail or the Internet unless the message is properly encrypted, and should consider a more secure method of communication for such data.
- Because postings placed on the Internet may display the Employer's address or other Employer-related information, and thus reflect on the Employer, make certain before posting such information that it exhibits the high standards and policies of the Employer. Under no circumstances shall data of a confidential nature (i.e. Social Security numbers, medical and/or HIPAA protected information, dependent information or other information protected from unlawful disclosure) be posted on the Internet.
- If you identify yourself as an employee in any manner on any internet posting or blog, comment on any aspect of the Employer's business or post a link to the Employer, you must include the following disclaimer in an openly visible location: "the views expressed on this post are mine and do not necessarily reflect the views of the Employer or anyone associated/affiliated with the Employer."
- Subscriptions to news groups or mailing lists are permitted only when the subscription is for a work-related purpose and authorized by Employer. Any other subscriptions are prohibited.
- All files downloaded from the Internet, e-mail attachments or the like should be checked for possible viruses. If uncertain whether your virus-checking software is current, you must check with the Employer's Network Administrator before downloading.
- Any "unauthorized use" of e-mail or the Internet is strictly prohibited while at work or while using an Employer computer. "Unauthorized use" includes, but is not limited to: connecting, posting, or downloading obscene, pornographic, violent, sexually suggestive, or discrimination based material;

attempting to disable or compromise the security of information contained on the Employer's computer systems; or sending or receiving obscene, violent, harassing, sexual or discrimination based messages. If an employee receives a message that is representative of an "unauthorized use" of the Employer's electronic media from someone outside of the Employer, it is the employee's duty to immediately inform the sender of such materials that he or she must refrain from sending such materials.

- Your Internet postings SHOULD NOT VIOLATE ANY OTHER APPLICABLE EMPLOYER POLICY, including, but not limited to, the following: the Employer's Anti-Harassment and Discrimination Policies.
- Employer business which is conducted by an employee on his or her personal computer or device is subject to this policy and may be subject to the provisions of OPRA.

Any employee who violates this policy shall be subject to disciplinary action, up to and including termination. This policy shall not be construed to restrict employees' rights to share information about their employment terms and conditions communicate with each other; or engage in other concerted activities for their mutual aid and protection.

Social Network Postings

For purposes of this policy, a social network is defined as a site that uses internet services to allow individuals to construct a profile within that system, define a list of others users with whom they share some connection, and view and access their list of connections and those made by others within that system. The type of network and its design vary from site to site. Examples of the types of internet based social networking activities include: blogging, networking, photo sharing, video sharing, microblogging, podcasting, as well as posting comments on the sites. The absence of, or lack of explicit reference to a specific site or activity does not limit the extent of the application of this provision.

The use of the internet and social networking sites, including but not limited to Snapchat, Facebook, and Twitter, is a popular activity; however, employees must be mindful of the negative impact of inappropriate or unauthorized postings upon the Employer and its relationship with the community. This provision identifies prohibited activities by employees on the internet where posted information is accessible to members of the general public, including, but not limited to, public postings on social networking sites.

Specifically, the Employer reserves the right to investigate postings, private or public, that violate work-place rules, such as the prohibition of sexual harassment and other discriminatory conduct, where such postings lawfully are made available to the Employer by other employees or third parties. Employees should use common sense in all communications, particularly on a website or social networking site accessible to anyone. If you would not be comfortable with your supervisor, coworkers, or the management team reading your words, you should not write them.

Be advised that employees can be disciplined for commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libelous, or that can create a hostile work environment. You can also be sued by agency employees or any individual who views your

commentary, content, or images as defamatory, pornographic, proprietary, harassing, libelous or creating a hostile work environment. What you say or post on your site or what is said or posted on your site by others could potentially be grounds for disciplinary action, up to and including termination. However, nothing in this social networking policy is designed to interfere with, restrain, or prevent social media communications during non-working hours by employees engaging in protected concerted activities regarding wages, hours, or other terms and conditions of employment pursuant to the New Jersey Employer-Employee Relations Act or to prevent communications which are protected by the First Amendment freedom of speech clause, unless such communications are made as part of the employees' official job duties.

TELEPHONE AND PERSONAL COMMUNICATION USAGE POLICY

Land-line Telephones. Employer telephones are for official business use only during working time. Charges for all other usage, including personal calls and unauthorized use of such devices, must be reimbursed to the Employer. Working time shall be defined as any time in which the employee is engaged in or required to be performing work tasks for the Employer, and excludes times when employees are properly not engaged in performing work tasks, including break periods and meal times.

Employer-Issued Mobile Phones/Devices. Employer-issued mobile devices may be issued to certain employees in the course of their employment with the Employer. Such Employer-issued devices are the sole and exclusive property of the Employer and are only to be utilized by employees in the course and scope of their employment during working time (any time in which the employee is engaged in or required to be performing work tasks for the Employer not to include times when employees are properly not engaged in performing work tasks, including break periods and meal times.) Employees will be charged for costs incurred due to their personal use of such devices. Accordingly, the Employer reserves the right to monitor the use of the Employer-issued cell-phones without notice, at any time, and any such data collected from the mobile device equipment is the sole and exclusive property of the Employer to be used for any purpose.

Similarly, the Employer reserves the right to review the manner and use of these mobile devices and physically inspect the equipment at any time with or without notice. Accordingly, the employee shall have no reasonable expectation of privacy in any transmissions made or received using an Employer-issued mobile device.

Employees are expected, at all times, to respect the integrity of the Employer-issued mobile devices and to maintain the equipment in proper working condition. If an employee discovers or recognizes that the mobile device is not in proper working condition, it is the employee's responsibility to bring this fact to the attention of his or her supervisor immediately.

Upon termination of employment or in the instance of an upgrade to the employee's phone or service, the employee must return the Employer-issued device to the Employer.

Prohibited Use of Personal Communication Devices. To alleviate distraction and disruption of regular work routines, personal communication devices are strictly prohibited from use during working time (any time in which the employee is engaged in or required to be performing work tasks for the Employer not to include times when employees are properly not engaged in performing work tasks, including break periods and meal times.) while in work areas, except where the Employer has provided such device(s) to employees for business use, or in case of an emergency (such as illness, accident, and calls of a similar emergent nature).

Employees are prohibited from using their personal communication device to copy and/or upload any, confidential information (i.e. Social Security numbers, medical and/or HIPAA protected information,

dependent information or other information protected from unlawful disclosure). Employees must make reasonable efforts to obtain supervisor approval prior to making emergency calls during working time. Personal communication devices are defined as, but not limited to, cellular or two-way phones, text-messaging devices, iPhones, Android-enabled devices, BlackBerrys and pagers.

Other Personal Electronic Devices. Employees are not permitted to utilize electronic devices such as personal laptops, game systems, MP3 players, portable DVD players or any other type of personal entertainment systems while at work.

Violation of this policy may subject an employee to disciplinary action up to and including termination.

CONDUCT OF EMPLOYEES

Employees are expected to conduct themselves in a manner which exhibits a respect for the rights and property of the Employer, fellow employees, and residents. While many of these behaviors are addressed under specific policies, the following list, while not all inclusive, further identifies examples of inappropriate behavior:

- Insubordination or the refusal by an employee to follow management's instructions concerning job-related matters
- Serious breach of discipline
- Neglect of duty
- Incompetency or inefficiency or incapacity
- Fighting or creating a disturbance among fellow employees
- Using obscene, abusive, or threatening language or gestures
- Sleeping on duty
- Use or possession of intoxicants, narcotics or controlled substances without a prescription, being intoxicated or narcotized while on duty
- Absence without leave or failure to report after authorized leave has expired or after such leave has been disapproved or revoked; provided that any regular member or officer of the police department who shall be absent from duty without just cause for a period of five days shall cease to be a member of the police department, as provided by N.J.S.A. 40A:14-122, as amended.
- Using leave for purposes other than for which it was granted
- False statements, misrepresentation, or fraud in application form or any other matter concerning employment
- Chronic or excessive absenteeism
- Disorderly or immoral conduct
- Theft, bribery or unauthorized use or possession of the Employer, co-worker or resident property
- Disregarding safety or security regulations
- Falsifying or otherwise altering Employer records or reports, such as applications for employment, medical reports, production reports, time records, expense accounts, absentee reports, or shipping and receiving records

- Negligence or willful damage to public property or wasteful, unnecessary or unauthorized use of Employer supplies, especially for personal purposes
- Conviction of a crime
- Failure to maintain confidentiality of employer information
- The use or attempted use of one's authority or official influence to control or modify the political action of any employee or engaging in any form of political activity during working hours
- Infringement of policies defined in this manual or failure to comply with departmental rules and regulations
- Rude or disrespectful conduct toward the public
- Failure to maintain workplace and area cleanliness and orderliness
- Smoking where prohibited by ordinance, law or Employer rules
- Improper attire or inappropriate personal appearance
- Engaging in any harassment or discrimination based upon a protected class
- Violation of Employer policies on solicitation or distribution
- Possession of firearms or other weapons on Employer property or while on official business, unless otherwise authorized by the Employer
- Other actions disruptive to the effective, efficient, economical operation of the Employer's affairs
- Conduct unbecoming a public employee. It is important that all employees perform to the best of their abilities at all times.

There will be occasions, however, where employees perform at an unsatisfactory level, violate a policy, or engage in inappropriate behavior. Except as otherwise provided by a collective negotiations agreement or by law, employment may be terminated at-will by the employee or the Employer at any time with or without cause and without following any system of discipline or warnings.

CONFIDENTIALITY OF PERSONNEL RECORDS

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.

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.

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 Employer's legal counsel, and members of the governing body on a need-to-know basis in connection with official duties. Additionally, the Employer will make the records available as required by law.

Employees are entitled to review the contents of their personnel folder, except for reference checks and other information provided to the Employer 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 Employer 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.

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.

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

- When required by law, or in response to a valid subpoena, court order or order of an authorized administrative agency;
- To an authorized governmental agency as part of an investigation of the City's compliance with applicable law;

- To City agents and attorneys, when necessary;
- In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the City are parties;
- In a workers' compensation proceeding;
- To administer benefit plans;
- To an authorized health care provider; and
- To first aid or safety personnel, when necessary.

CONTAGIOUS/LIFE THREATENING ILLNESS POLICY

The Employer is committed to providing and maintaining a healthy and safety work environment which allows all employees to perform their jobs in a safe and productive manner. The Employer respects the dignity and worth of every employee through its Equal Opportunity Employment statement, which explains its policy and practice with respect to prohibiting discrimination in every phase of employment. The Employer provides support for individual employees who may be facing the trauma of a life-threatening or catastrophic illness. The purpose of this policy is to support the physical and emotional health of all employees, minimize disruptions of productivity and morale caused by the presence of a worker with a life-threatening illness, and demonstrate the Employer's continued commitment to its affirmative action goals related to physically disabled employees.

If an employee has learned that he or she has a contagious or life threatening illness, the employee should take all steps to protect further spread of the disease or illness. When appropriate, the employee's Department Head should be notified of any illnesses that may affect the health, safety, and welfare of any co-employee or member of the general public.

The Employer will take the reasonable precautions to protect such information from inappropriate disclosure, including the following:

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

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

Consistent with the concern for employees with life-threatening illness, the Employer offers the following resources through the human resources official:

- 1) Employee education and information on terminal illnesses and specific life-threatening illnesses.
- 2) Referral to agencies and organizations which offer supportive services for life-threatening illnesses.

3) Consultation in assisting employees in efficiently managing health, leave and other benefits. The Employer encourages employees who need these resources to contact the human resources official.

DISCIPLINE AND TERMINATION 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 Employer. 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.

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 Employer, fellow employees, volunteers or visitors;
- Unauthorized absences and/or chronic or excessive absences;
- Fighting on Employer's property at any time;
- Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on Employer 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 Employer property and at any time during work hours;
- Entering the building without permission during non-scheduled work hours;
- Soliciting on Employer 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 Employer property or the property of other employees;
- Sleeping on the job;
- Carrying weapons of any kind on Employer 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 Employer or other employees;
- Unauthorized disclosure of confidential Employer information;

- Gambling on Employer premises;
- Horseplay, disorderly conduct and use of abusive and/or obscene language on Employer 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;
- Violating any Employer 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 Employer. Additionally, the Employer 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 Employer may be terminated at any time with or without cause or reason by the employee or Employer.

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

Primary HRO: City Administrator (856) 845-1300 ext. 130

**Secondary HRO: Christina Cortez, Asst. MFO (856) 845-1300 ext. 139,
CCortez@woodbury.nj.us**

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. In cases where domestic violence involved a sexual touching or sexual assault between state employees, the HRO is also required to report the incident to their agency's EEO Officer or Title IX Officer, **City Administrator (856) 845-1300 ext. 130**.
- F. If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team, **Woodbury Police Department (856) 845-0065**
- G. Maintain the confidentiality of the employee and all parties involved, to the extent practical

and appropriate under the circumstances, pursuant to this policy.

H. 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 Employer 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 work-station 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 (TDI); 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.

GRIEVANCE PROCEDURE

A grievance is any formal dispute concerning the interpretation, application and enforcement of any personnel policy or procedure. A grievance submitted by a union employee will be addressed pursuant to grievance procedure set forth in the applicable bargaining unit agreement. A grievance from a non-union employee must be submitted within five (5) working days after arising. Failure to report a grievance within such time period shall be deemed as a waiver of the grievance. In the event of a settlement or ruling that results in a determination of monetary liability, such liability shall not exceed more than thirty (30) working days prior to the date the grievance was first presented in writing.

- Step One: Any employee or group of employees with a grievance shall communicate their grievance to their supervisor or Department Head who will discuss the matter with the human resources official and/or the Chief Administrative Officer. The supervisor or Department Head will communicate the decision to the employee within five (5) working days.
- Step Two: If the employee is not satisfied with the decision, the employee must submit a written grievance to the human resources officer and/or the Chief Administrative Officer detailing the facts and the relief requested. The decision in Step One will be deemed final if the employee fails to submit a written grievance within five (5) working days of the Step One decision. After consulting with the human resources official and counsel, as appropriate, the City Administrator will render a written decision to the employee within ten (10) working days after receipt of the written grievance.

The above referenced grievance procedures do not apply to employee complaints made under the Employer's Anti-Harassment and Discrimination Policies.

EMPLOYEE DATING POLICY

The Employer strongly believes that an environment where employees maintain clear boundaries between employee personal and business interactions is most effective for conducting business. Although this policy does not prevent the development of friendships or romantic relationships between coworkers, it does establish very clear boundaries as to how relationships will progress during working hours and within the working environment. Individuals in supervisory relationships or other influential roles are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information and their ability to influence others.

Procedures.

1. During working time and in working areas, employees are expected to keep personal exchanges limited so that others are not distracted or offended by such exchanges and so that productivity is maintained.
2. During non-working time, such as lunches, breaks and before and after work periods, employees are not precluded from having appropriate personal conversations in non-work areas as long as their conversations and behaviors could in no way be perceived as offensive or uncomfortable to a reasonable person.
3. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person while anywhere on Employer premises, whether during working hours or not.
4. Employees who allow personal relationships with coworkers to affect the working environment will be subject to the appropriate provisions of the Employer disciplinary policy which may include counseling for minor problems. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.
5. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.
6. Supervisors, managers, executives or anyone else in sensitive or influential positions must disclose the existence of any relationship with another coworker that has progressed beyond a platonic friendship. Disclosure may be made to the immediate supervisor or the Department Head. This disclosure will enable the Employer to determine whether any conflict of interest exists because of the relative positions of the individuals involved.
7. Where problems or potential risks are identified, the Employer will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure that the parties involved no longer work together on matters where one is able to influence the other or take action for

the other. Matters such as hiring, firing, promotions, performance management, compensation decisions, financial transactions, etc. are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage.

8. In some cases, other measures may be necessary such as transfer to other positions or departments.
9. Refusal of reasonable alternative positions, if available, will be deemed a voluntary resignation.
10. Continued failure to work with the Employer to resolve such a situation in a mutually agreeable fashion may ultimately be deemed insubordination and therefore serve as cause for immediate termination. The organization's disciplinary policy will be consulted to ensure consistency, however, before any such extreme measures are undertaken.
11. The provisions of this policy apply regardless of the sexual orientation of the parties involved.
12. Where doubts exist as to the specific meaning of the terms used above, employees should make judgments on the basis of the overall spirit and intent of this policy.
13. Any employee who feels they have been disadvantaged as a result of this policy, or who believes this policy is not being adhered to, should make their feelings known to the human resources official or other designated individual.

EMPLOYMENT REFERENCES

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

Employees should not, under any circumstances, provide another individual with information regarding a current or former employee. Any employee, including Department Heads, who receives a request for reference information should forward the request to the human resources official. Generally, unless otherwise required by law, the Employer 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 Employer's response to a request for reference information shall be communicated in writing only. The Employer does not honor oral requests for employment references.

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

NEPOTISM

The hiring, promoting, transferring, demoting or reassigning of relatives is prohibited if the employment of such an individual would result in the creation of a prohibited employment relationship.

A prohibited relationship is created when:

1. One relative would have the authority to supervise either directly or from one level above, appoint, remove, discipline, evaluate or otherwise affect the work or employment of another relative.
2. The relative would be responsible for auditing the work of the other.
3. Other circumstances exist which would place the relatives in a situation of actual or reasonably foreseeable conflict between the Employer's interest and their own.

Employees who marry or become related by marriage may continue in their employment if the marriage does not result in the creation of a prohibited relationship. Where the marriage results in the creation of a prohibited relationship, the Employer will explore potential accommodations including the reassignment of one or both employees to available positions for which the employees are qualified. Relative includes spouse, parent, step-parent, child, step-child, sibling, step sibling, half-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, and first cousins.

This policy applies to all employees hired, promoted, transferred, demoted, or reassigned on or after the date of adoption and to all prohibited relationships created on or after the date of adoption.

Applicant Relative Disclosure Form

Name of Applicant: _____

The Employer prohibits the hiring of relatives if the employment of such an individual would result in the creation of a prohibited employment relationship. A prohibited relationship is created when:

1. One relative would have the authority to directly supervise, appoint, remove, discipline, evaluate or otherwise affect the work or employment of another relative.
2. The relative would be responsible for auditing the work of the other.
3. Other circumstances exist which would place the relatives in a situation of actual or reasonably foreseeable conflict between the Employer's interest and their own.

Relative includes spouse, parent, step-parent, child, step-child, sibling, step sibling, half-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, and cousins.

Do any of your relatives currently work for the Employer or are any of your relatives an elected or appointed official?

Yes No

If you answered "yes" to the previous question, please disclose the name(s) of your relative (s) who work(s) for the Employer, his or her title, and his or her relationship to you.

Relative #1

Name: _____

Title: _____

Relationship: _____

Relative #2

Name: _____

Title: _____

Relationship: _____

Applicant Relative Disclosure Form (cont'd)

Relative #3

Name: _____

Title: _____

Relationship: _____

Relative #4

Name: _____

Title: _____

Relationship: _____

Note: An applicant's failure to fully disclose his or her relationship to an individual employed by the Employer or elected or appointed official may result in the rejection of the employment application or, if employed, the termination of employment.

I acknowledge that I have read and understand the above Disclosure Form and that I have disclosed all relatives who work for the Employer or serve as elected or appointed officials.

Signature of Applicant: _____ Date: _____

PERFORMANCE EVALUATION

The Employer recognizes that an employee job performance evaluation system is the basis for assisting in employee growth and development. The Employer requires supervisors to conduct performance appraisals at least once a year 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 Employer 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.

POLITICAL ACTIVITY

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. In accordance with State law, employees are prohibited from engaging in political activities while performing their public duties and from using the Employer's time, supplies or equipment in any political activity. Political activities include, but are not limited to, advocating the election or appointment of any candidate for office, verbally or otherwise, and soliciting funds for campaigns or campaign materials.

Additionally, State law precludes employees from directly or indirectly using their position to control or affect the political action of another person.

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 Employer. Employees should report any violation of this policy to their supervisor or Department Head.

PROTECTION AND SAFE TREATMENT OF MINORS (REVISED 6/25/2021)

I. **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 Employer is committed to the safety of all individuals in its community, however, the Employer has particular concern for those who are potentially vulnerable, including minor children. The Employer 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 Employer is fully committed to protecting the health, safety and welfare of minors who interact with officials, employees, and volunteers of the Employer to the maximum extent possible. These Policy and Procedures establish the guidelines for officials, employees, and volunteers who set policy for the

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

II. **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 Employer, 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 Employer to report all possible cases of abuse.
- **Employees, Staff, or Counselors** – persons working for the Employer on a full-time or part-time basis, and compensated by the Employer.
- **Facilities** - Facilities owned by, under the control of, or rented or leased to the Employer.
- **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 Employer, 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 Employer.
- **Volunteers** - Individuals volunteering their time to provide services to the Employer who are not on the payroll and receive no compensation.

III. Policy:

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

IV. 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 Employer in perpetuity.

- ii. Background checks that disclose any negative or questionable results must be reviewed and approved by the Employer 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 Employer PRIOR TO starting employment or volunteer service. In addition to completing the training course adopted by the Employer, it is highly recommended that all volunteer coaches complete the Rutgers SAFETY Clinic course (Sports Awareness for Educating Today's Youth™), 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 Employer 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.

V. 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 Employer. 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 Employer.

➤ Officials of the Employer are required to :

- i. Complete the initial training course adopted by the Employer, and any updated/refresher 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 Employer 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 Employer 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 Employer.

VI. Program Procedures:

All Employer programs operated by, sponsored by, or affiliated with the Employer 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 Employer. As an essential element of compliance with the overall objective of protecting and addressing the safe treatment of minors, the Employer shall:

- a. 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 Employer shall provide information to parents or legal guardians detailing the manner in which the participant can be contacted during the program.
- b. Make certain that all program participants provide a Medical Treatment Authorization form annually to the Employer.
- c. 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 Employer shall set forth rules and procedures governing when and under what circumstances participants may leave the the Employer'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 Employer'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 Employer to be shared on any social

media platform without the expressed written consent of a parent or legal guardian.

- If possible, the Employer 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.

VII. Procedures for Law Enforcement Officers:

Law enforcement officers of the Employer 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 Employer 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.

VIII. Training Requirements:

Individual training courses have been designed for each of the following categories, and all officials, employees, and volunteers of the Employer are required to complete training (and refresher course training) adopted by the Employer. ALL employees of the Employer shall complete the training course whether they interact with children/minors or not. Although training records will be maintained, it is recommended that each Employer 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 Employer, 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 Employer adhere to all policies and procedures as adopted.

b. Volunteers and Employees of the Employer

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

IX. 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 Employer 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 Employer:

- 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.

X. 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 Employer encourages all officials, employees, and volunteers in programs operated by the Employer or affiliated programs or activities to report suspected cases of abuse with the following in mind.

- i. *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.

- ii. 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.*
- iii. 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.*

XI. 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 Employer. The same process shall be used for any revised policy issued in the future.

Appendix A: Indicators of Child Abuse/Neglect

The New Jersey Department of Children and Families issued the following guidelines to assist in recognizing the indicators of child abuse/neglect.

Indicators of Child Abuse / Neglect

Different types of abuse and neglect have different physical and behavioral indicators.

Physical Abuse

Physical Indicators	Behavioral Indicators
<p>Unexplained bruises and welts:</p> <ul style="list-style-type: none">• On face, lips, mouth• On torso, back, buttocks, thighs• In various stages of healing• Cluster, forming regular patterns• Reflecting shape of article used to inflict (electric cord, belt buckle)• On several different surface areas• Regularly appear after absence, weekend or vacation <p>Unexplained burns:</p> <ul style="list-style-type: none">• Cigar, cigarette burns, especially on soles, palms, back or buttocks• Immersion burns (sock-like, glove-like doughnut shaped on buttocks or genitalia)• Patterned like electric burner, iron, etc.• Rope burns on arms, legs, neck or torso <p>Unexplained fractures:</p> <ul style="list-style-type: none">• To skull, nose, facial structure• In various stages of healing• Multiple or spiral fractures <p>Unexplained laceration or abrasions:</p> <ul style="list-style-type: none">• To mouth, lips, gums, eyes• To external genitalia	<p>Wary of adult contacts Apprehensive when other children cry Behavioral extremes:</p> <ul style="list-style-type: none">• Aggressiveness• Withdrawal <p>Frightened of parents Afraid to go home Reports injury by parents</p>

Physical Neglect

Physical Indicators	Behavioral Indicators
Consistent hunger, poor hygiene, inappropriate dress Consistent lack of supervision, especially in dangerous activities or long periods Constant fatigue or listlessness Unattended physical problems or medical needs Abandonment	Begging, stealing food Extended stays at school (early arrival and late departure) Constantly falling asleep in class Alcohol or drug abuse Delinquency (e.g. thefts) States there is no caregiver

Sexual Abuse

Physical Indicators	Behavioral Indicators
Difficulty in walking or sitting Torn, stained or bloody underclothing Pain or itching in genital area Bruises or bleeding in external genitalia, vaginal or anal areas Venereal disease, especially in pre-teens Pregnancy	Unwilling to change for gym or participate in P.E. Withdrawn, fantasy or infantile behavior Bizarre, sophisticated or unusual sexual behavior or knowledge Poor peer relationships Delinquent or run away Reports sexual assault by caregiver

Emotional Maltreatment

Physical Indicators	Behavioral Indicators
Habit disorders (sucking, biting, rocking, etc.) Conduct disorders (antisocial, destructive, etc.) Neurotic traits (sleep disorders, speech disorders, inhibition of play)	Behavior extremes: <ul style="list-style-type: none">• Compliant, passive• Aggressive, demanding Overly adoptive behavior: <ul style="list-style-type: none">• Inappropriately adult• Inappropriately infant

Appendix B – Grooming Behavior

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.

Here are some common characteristics of someone attempting to "groom" a child.

- Molesters often refer to their intended victims by pet names and use gifts to foster exclusivity and build a relationship while starting the practice of keeping 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 so good – too good to be true, in fact.
- Inevitably, the favoritism is not enough to keep the victim, 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 itself, victims often begin to show tell-tale signs, including:
 - 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.
 - Also, look for cuts and scratches or other self-inflicted injuries.

Appendix C – Frequently Asked Questions Concerning the Model Policy

1. Is the Model Policy for the Protection and Safe Treatment of Minors mandatory?
 - a. Yes, the policy is mandatory for all NJMEL members.
2. Can the Model Policy be modified?
 - a. The model policy is a guide that includes recommended “best practices” based on research conducted by the Safety Director’s office, in consultation with the NJMEL attorney and other experts, including a noted Child Psychologist. The form and content of the policy may be modified, so long as it is approved by legal counsel. The model policy includes certain elements that should not be modified or deleted. Before making any significant modifications or deleting any portions of the policy, it is recommended that officials consult with and seek an opinion from their local attorney.
3. Are background checks mandatory for minors?
 - a. It may be difficult to obtain any background information for minors. For minors between the ages of 16 to 18 who will be working with children, we recommend acquiring as much background information, including a check of all work references, if any, and a copy of their driver’s license.
4. The model policy specifically mentions a “fingerprint” background check. Is that the only acceptable method?
 - a. No. Municipalities and counties may also conduct a background check themselves or through a third-party agency, as long as that background check includes a criminal history check of all 50 states, a review of the applicant’s motor vehicle history, a check of Megan’s law directory for NJ and other states where the applicant or volunteer has lived, and a credit check. The NJMEL put together a list of qualified vendors, which can be found in **Appendix D**.
5. Why is a credit check recommended?
 - a. A credit check is recommended because credit check results include a listing of the applicant’s known addresses for at least the past 20 years. This information is of value in the following ways:
 - i. If a job application required a listing of all known addresses for the past 20 years, and an applicant failed to disclose that information, a prospective public employer would be justifiably concerned about the applicant’s honesty and would have immediate grounds to disqualify the applicant.
 - ii. For individuals working with children in a paid or volunteer capacity, the out-of-state addresses on the credit check would

provide a basis to check Megan's Law websites for the other states.

b. Please note that credit checks and background checks should comply with the **New Jersey Fair Credit Reporting Act** and in accordance with the guidance from your legal counsel.

6. Do we have to conduct background checks on volunteers?

a. The recommended "best practice" is to treat volunteers who work with children the same way as prospective paid employees are treated for background checks. Unfortunately, there are many claims in which volunteers have been accused of sexually molesting minors. However, appointed board members, such as Planning and Zoning board members, and other similar board members who do not work with children in any capacity may be considered for exclusion.

7. The model policy states, "background checks that disclose any negative or questionable results must be reviewed and approved by the (local unit type) prior to the individual being hired and/or working with minors. Provisional hiring is not permitted." What constitutes "negative or questionable results," and who makes the final determination on whether to hire the individual or permit the volunteer to participate?

a. Some examples of "questionable results" would be:

- i. Any results from a criminal history check that do not agree with the applicant's statements on their job application, such as arrests or convictions not listed.
- ii. Reference checks with prior employers that do not match the applicant's information.
- iii. Refusal to allow an employer to check with former employers may be a "red flag."
- iv. An unexplained "blank space" in an applicant's employment history.
- v. Personal reference checks that reveal negative information about the applicant.
- vi. Any information that proves to be false on the job application.

b. It is a local decision as far as who decides to hire the individual or permit the volunteer to participate. In many, if not most municipalities, the public employer's chief administrative officer is responsible for making that decision or making the final recommendation to hire someone or accept an individual as a volunteer. However, that is a local decision. We recommend that local communities establish appropriate guidelines, standards, and an appeal process with respect to decisions not to hire an individual or volunteer to participate based on the outcome of a background check.

8. If there is a break in seasonal employment, do the background checks need to be re-run? Is there an acceptable "break in service time"?

- a. Many municipalities run background checks every year regardless of whether the employee has worked there in the past, and that is a "best practice" from the standpoint of protecting the municipality; however, as far as what the acceptable frequency is for conducting background checks on seasonal employees, that is a local decision. There is no absolute time frame in the policy pertaining to a "break in service" for the requirement of new background checks for seasonal employees because that is a local decision.

9. Do background checks carry over from other entities? For example, if, a school teacher, teaches a class for the township, can we use or assume his/her background check is valid and satisfies our needs?

- a. Unless the local government entity has access (i.e., a copy or certification from the other entity) to the background check, we would be reluctant to recommend acceptance. If a problem arises in the future concerning an employee, I am not sure that reliance on a background check from another employer would be a sufficient defense. It would be best to check with your local attorney on this issue before accepting a background check from another entity.

10. If a municipality does not have a police or fire department or hold any recreational activities and does not have any programs that hire children. Is this policy still required to be adopted?

- a. We recommend that the municipality adopt the policy and complete the training. Unfortunately, municipalities sometimes find themselves named in cases like this by the plaintiff's attorneys, even though the municipality has nothing to do with the matter. By adopting the policy and completing the training, you will be able to provide documentation of that as part of any defense.

11. Who is required to take the training?

- a. All municipal officials, employees, and volunteers are required to take the training.

1. Elected officials, managers, administrators, supervisors, and department heads must complete the **Virtual Instructor-Led training**. The course is available through the NJMEL Learning Management System, and classes are scheduled periodically. Please note: Elected and appointed officials, supervisors, and department heads

who already attended the course offered by the NJMEL at the NJSLOM conference in November of 2019 or any of the webinar sessions conducted by the Safety Director's office or Risk Managers up to now have already complied with this MEL requirement.

2. Police superior officers will receive training as part of their annual or semi-annual training provided by the Safety Director's Law Enforcement Risk Control Unit.
3. All other employees and volunteers, regardless of whether they work with children or not, must view the 20-minute video available through the MEL MSI Learning Management System. Please make sure you register to view the video to document your training.

12. How often is "refresher training" expected?

- a. For existing employees, we recommend refresher training every two years. New employees should receive training before they begin work.

13. Should every volunteer or employee sign off on the entire policy?

- a. All Employees and volunteers should be required to read the entire policy and, at a minimum, sign off on the Code of Conduct.

14. Our municipality does not operate any recreational sports leagues. Other outside organizations are fully responsible for the leagues; however, the sports leagues are conducted on our fields and facilities. Is our municipality still accountable for any claims that arise?

- 1) Even if your municipality does not directly operate recreational leagues, if the activity occurs on fields or facilities owned by the municipality, it is more likely than not that the municipality may be brought into any litigation or claim. For that reason, the recommended "best practice" is for municipalities to draft and enter into written agreements annually with the organizations who are operating the leagues that set forth the following at a minimum:
 - i) Insurance requirements, including a copy of a Certificate of Insurance for the organization naming the municipality as an additional insured and including a "hold harmless" clause.
 - ii) A certification by the organization that they have read the Model Policy and will adhere to conduct requirements, including

mandatory background checks for all coaches and volunteers involved in the program. Completing the Rutgers Safety Course (or acceptable equivalent course) by all coaches, viewing the MEL Protecting Minors video, and adherence to a "Code of Conduct" for all coaches and parents.

- iii) The permitted dates and hours of use for the facilities and a requirement that the organization will keep the fields clean and safe for use.

A Model agreement is available on the NJMEL website.

15. Our Lifeguards have separate male and female locker/shower rooms, but the locker/showers do not have stalls for privacy. We have employees aging from 16 to 70 years old. What protocols would you recommend that the municipality implement to protect the minors while in the locker/shower rooms? The MEL's model policy speaks to the procedures for the use of restrooms used by minors. Should we follow the same procedure as the locker rooms?

- a. It is essential to make sure that the municipality recognizes and implements a policy addressing the lifeguards who are minors that acknowledges the need to separate them from the adult-aged Lifeguards. If the municipality follows the Model Policy recommendations for the use of bathrooms, that should be more than sufficient to protect the minors working as Lifeguards.

Questions Raised by Library Personnel Concerning How the Policy Impacts Library Operations

- Do the provisions in the Model Policy apply to daily library operations when children are present?
 - Most of the "best practices" in the model policy were written for organized programs sponsored or conducted by a local governmental unit. All of the provisions would apply, for example, to programs sponsored by or conducted by the library or third party individuals in the library. Examples of these types of programs would be story hours, tours of the library, arts and crafts programs, and educational programs. If parents or guardians attend any of these programs along with children, and children are not left on their own, then the library would not be acting "In Loco Parentis" in those situations. However, if children are dropped off for whatever purpose, the library will need to provide safeguards to eliminate opportunities for abuse, including but not limited to monitoring bathrooms and making sure that children are not left alone in portions of the library where they are vulnerable.

Appropriate library personnel should be assigned to the critical task of monitoring these areas.

- Also, it is vitally important for the library to follow the hiring guidelines and training requirements pertaining to employees and volunteers in light of the number of children who typically use the library.
- Can the library request that parents opt out of any photo opportunities and/or social media exposure for their children instead of asking permission any time the Library wants to do so? The Library uses such photos and social media exposure as a way of advertising their programs.
 - This would be acceptable as long as the library would be able to document that: (1) parents and guardians have been made aware of the policy (i.e., have adequate notice) and (2) the library maintains copies of the "opt-out" documentation (i.e., signed "opt out" forms).

Appendix D – List of Qualified Vendors for Background Checks
Developed by the NJMEL Through an RFQ Process June 2021

Found at:

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

Castle Branch, Inc
1844 Sir Tyler Drive
Wilmington, NJ 28405
Phone: 888-723-4263
Email: rfp@castlebranch.com

Adam Safeguard
1187 Washington St.,
Suite # 2
Toms River, NJ 08753
Phone: 732-506-6100
Email: terrih@nsshire.com

Southern Background Services
7 Lattimer St.
Hazelhurst, GA 31359
Phone: 912-205-3113
Email: ddukes@southernbackgrounds.com

TABB Inc.
PO Box 10
555 E. Main St.
Chester, NJ 07930
Phone: 908-879-2038
Email: bbodkin@tabb.net

True View BSI, LLC
25 Newbridge Road
Suite 210
Hicksville, NY 11801
Phone: 516-289-0275
Email: wmanning@trueviewbsi.com

SAFETY POLICY

The Employer endeavors to provide a safe and healthy work environment for all employees and shall comply with the requirements of the Public Employees Occupational Safety and Health Act (“PEOSHA”). The Employer is equally concerned about the safety of the public.

Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action.

Any occupational or 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 Employer'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.

SECURITY POLICY

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

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

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

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

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

STATE RESIDENCY REQUIREMENT

Every employee shall have his/her principal place of residence in the State of New Jersey. New hires shall have one year from the time of taking office, employment or position to satisfy the requirement of principal residency. Failure to satisfy this requirement shall render the employee unqualified for holding office, employment or position with the Employer.

If, however, an employee holds an office, employment, or position with the Employer as of Sept. 1, of 2011 (the effective date of P.L.2011, c.70), but does not have his or her principal residence in this State on that effective date, he/shall will not be subject to the residency requirement while that employee continues to hold office, employment, or position without a break in public service of greater than seven (7) days.

POLICY FOR USE OF EMPLOYER VEHICLES (NON-LAW ENFORCEMENT)

The Employer owns and maintains a fleet of vehicles ("Employer Vehicles") that are used in furtherance of the business of the Employer. The following policy governs the use of all Employer Vehicles (with the exception of vehicles utilized for law enforcement purposes), and supersedes all other vehicle policies previously in effect. Any employee violating the provisions contained herein will be subject to disciplinary action, up to and including termination, in accordance with applicable laws and regulations. Violations of this policy may also result in the denial of indemnification and/or defense by the Employer to the employee in any civil or criminal matter brought in any Court arising from improper use of an Employer vehicle. The Employer also expressly reserves its right to seek indemnification and/or contribution from employees (including their personal automobile insurance policies) found to have acted in violation of this policy to the maximum extent permitted by law.

Driving Privileges and Licensure. The use of an Employer Vehicle by an employee is subject to the approval and discretion of the Chief Administrative Officer. Any employee operating an Employer 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 Employer's insurance carrier before an employee will be permitted to operate an Employer Vehicle.

A. Employees are required to file a copy of a valid driver's license with the Employer prior to the use of an Employer Vehicle.

1. 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.
2. Employees shall inform the Employer within twenty-four (24) hours of any changes in the status of their driving privileges.
3. Failure to comply with the requirements of this section will result in an immediate suspension of an employee's privilege to operate an Employer vehicle and may also result in the denial of indemnification and/or defense by the Employer to the employee in any civil or criminal matter brought in any Court arising from the use of an Employer vehicle while said employee's driving privileges were suspended or revoked.

B. The Employer reserves the right to obtain a driving abstract record from the New Jersey Motor Vehicle Service Commission or other regulatory and law enforcement agencies.

1. The Employer reserves the right to suspend an employee's Employer driving privileges if the Employer deems necessary based on the employee's driving record.

2. The Employer 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.

C. The Employer occasionally offers safe driving courses and reserves the right to compel employee attendance at such courses.

D. 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.

E. 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 Employer and await clearance to resume driving.

Official Use Only. The use of Employer Vehicles is restricted to official Employer business only. Employees shall not be permitted to use Employer vehicles for travel or activity unrelated to Employer business. Likewise, no supervisor may authorize such use or any use of an Employer Vehicle for other than Employer business or use which is otherwise inconsistent with this policy.

Employer Vehicles assigned to employees under this policy are to be operated only by the employee while acting within the scope of their employment. No employee shall authorize or permit any other non-Employer employee, including but not limited to family members of the employee, to operate or ride as a passenger in an assigned Employer Vehicle, unless said passengers are assisting in the official business of the Employer.

Location of Vehicles. Employees who are assigned the regular use of an Employer Vehicle for official business may, with written permission of his/her Department Head, take the Employer Vehicle home at night and keep said vehicle at home while off duty.

If the employee will be absent from duty for more than two (2) working days, or more than five (5) consecutive days, including weekends and holidays, he/she must surrender the Employer vehicle to his/her direct supervisor unless directed otherwise. An employee storing the vehicle at his residence must provide safe parking for the vehicle at all times.

Commuting. The use of an Employer Vehicle for driving to and from work is voluntary and does not entitle the employee to compensation or pay while engaged in that activity.

Accidents and Incidents. Prior to operation of any Employer 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.)

A. In the event of an incident or accident involving the use of an Employer 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.

B. 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 Employer.

Citations and Violations. Operators of Employer 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 Employer 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 Employer should be notified of the receipt of a parking ticket within 48 hours of receipt of said ticket.

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

General Policies and Procedures. Employees authorized to use an Employer 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:

A. 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.

B. Employees assigned exclusive use of an Employer Vehicle are responsible for scheduling all repairs and manufacturer recommended maintenance with the Employer, in order to maintain all manufacturers' warranties (including routine oil changes).

C. 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).

D. No smoking is allowed in Employer Vehicles at any time.

E. 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 Employer Vehicles is prohibited. This prohibition includes the sending or reading of e-mails, text messages and other similar communications.

F. 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."

G. 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.

H. 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.

Violation of this policy may result in disciplinary action up to and including the suspension of the employee's privilege to operate an Employer Vehicle and/or termination.

Unless otherwise designated by this manual, City owned vehicles are not to be taken home under any circumstances, without prior written approval from the Mayor, his/her designee, or the City Administrator. These temporary approvals may include facilitating responses to after-hours emergency calls. When an employee is granted authorization to take home a City vehicle, it is to be used only for official City business; any other use is not permitted. Any violation of this policy constitutes cause for disciplinary action including possible suspension or dismissal.

The following represents the City Employees authorized to take home a City vehicle

- **Police Department:** The Chief of Police will have the option to take a City vehicle home for emergency use only. No other employees will have the authority to take home a City vehicle without written prior approval from the Mayor or his/her designee.
- **Fire Department:** The Fire Marshal is authorized to take a City vehicle home for emergency use only. No other employees will have the authority to take home a City vehicle without written prior approval from the Mayor or his/her designee.

Public Works/Water Department: No employees are authorized to take home a City vehicle without written prior approval from the Mayor or his/her designee. All vehicles will be secured in the PW yard at the end of every shift. On Call, or Duty Call, personnel will report to the PW yard to pick up the assigned vehicle prior to responding to a call. At the completion of any Duty Call, the City vehicle must be immediately returned to the PW yard and secured.

Construction/Code Enforcement/Housing: No employees are authorized to take home a City vehicle without prior approval from the Mayor or his/her designee.

City vehicles are not permitted outside the geographical limits of the City either during or after business hours, without prior written approval from the Mayor or City Administrator. A Pre-approved list of locations where City Employees and vehicles regularly visit will be compiled by the Manager of Public Works and filed in the office of the City Administrator. This list may include landfills, City wells, reservoirs, or water facilities, or other County facilities.

TRANSITIONAL DUTY POLICY

1. Purpose: To establish guidelines and procedures for transitional duty work assignments to employees who are recovering and recuperating from a work-related injury or illness, with temporary physical work restrictions or limitations, as diagnosed by a treating physician. Transitional duty assignments are temporary in nature.

2. Policy and Benefits: According to a report authored by the American College of Occupational and Environmental Medicine, unnecessary, prolonged work absence can cause significant harm to a worker's well-being. Workers who are on extended disability often lose social relationships with co-workers, as well as the self-respect and self-esteem that comes from earning a living. For many workers, their job is part of their identity, and being kept away by illness or injury is a very stressful experience. By allowing a more accelerated return to work and more significant support during recovery, transitional duty programs can help employees reduce the stress and disruption that injuries or illness cause in their daily lives, leading to better recovery. Transitional Duty programs offer time-limited, modified and meaningful work assignments to employees who, due to an on the job injury or illness, have been rendered temporarily incapable of meeting the physical demands of their usual duties. These assignments are modified to accommodate the physical limitations imposed by injury or illness, as determined by medical professionals involved in the care of the worker.

The Employer is committed to providing opportunities for employees who have been injured on the job to return to the workforce as soon as possible. The Employer views the Transitional Duty Program as a partnership with the employees who have been injured, with the sole objective of enhancing the recovery of employees to facilitate their return to work in their previous position as soon as possible.

The Employer will make every effort on a case by case basis to accommodate an employee under the Americans with Disabilities Act (ADA) absent an undue hardship by the Employer.

Benefits of an effective transitional duty program include:

- Greater control and monitoring of worker's compensation claims, and an increased chance for a positive resolution of those claims.
- Retaining the services of trained and valuable employees.
- Avoidance of replacement and training costs of hiring a new employee.
- Faster recovery by injured employees, both physically and psychologically.
- Discouragement of fraudulent claims.
- Enhancement of employee morale.
- Compliance with the Americans with Disabilities Act (ADA) by accommodating disabilities and avoiding costly and unnecessary lawsuits.

- Identification of cross-training opportunities.
- Enhanced awareness of safe work practices and injury prevention.

3. Definitions:

Americans with Disabilities Act (ADA): Federal legislation passed in 1990 that prohibits discrimination against people with disabilities. The ADA makes it unlawful to discriminate against a disabled person in terms of employment opportunities, access to transportation, public accommodations, communications, and government activities. The law prohibits state and local governments from discriminating against the disabled. Employers are required to make reasonable accommodations in order for a disabled person to perform their job function.

Fair Labor Standards Act (FLSA): Federal legislation enacted in 1938, and subsequently amended, setting forth the standards for minimum wage requirements, overtime payments, necessary recordkeeping provisions, and child labor in the U.S., which affect those employees working both on a full- time and part-time basis in the federal, state, and local government as well.

Functional Capacity Evaluation (FCE): A series of tests used to evaluate an injured employee's work-related physical abilities. A functional capacity evaluation is designed to be safe and to provide impartial information about an injury or illness. The tests in an FCE are performed by an evaluator certified to conduct these examinations.

Injured Worker (IW): An employee (including persons on probationary, regular, casual or temporary status) of the Employer who, due to an on the job injury or illness, has been rendered temporarily incapable of meeting the physical demands of their usual duties

Job Bank: A listing of the job assignments available to injured employees under the Transitional Duty Program compiled, update and maintained by, the Transitional Duty Coordinator. The assignments may be in ANY department of the Employer, and not necessarily in the department where the injured employee works typically.

Maximum Medical Improvement (MMI): The point at which the Treating Physician determines that (1) the condition resulting from the injury or illness is stable, (2) additional medical treatment or physical therapy will not improve the patient's condition or (3) the patient has reached the medical plateau of recovery.

Meaningful Work: Work assigned under the transitional duty program which in the judgment of the Employer, has a serious, meaningful or useful quality and purpose. A written description of the work to be performed and the expected outcome shall be provided to each employee assigned meaningful work.

Nurse Case Manager (NCM): The medical professional assigned to each worker's compensation case who, along with the Treating Physician, works with the employee and the Employer in directing the care of the injured employee.

Transitional Duty Assignment: A temporary work assignment that does not exceed an employee's medical work restrictions during a period of recovery from a work-related injury or illness. A transitional duty assignment does not evolve at any time into a permanent position, and the injured employee is returned to work on a regular full-time basis as soon as possible.

Transitional Duty Program Coordinator (TDC): An employee of the Employer who has been duly assigned the responsibility of managing and directing the Transitional Duty Program by the Chief Administrative Officer or governing body of the Employer.

Treating Physician (TPJ): The authorized medical professional assigned to each worker's compensation case by the Employer's insurance professionals who, along with the Nurse Case Manager, works with the employee and the Employer in directing the care of the injured employee. The Treating Physician is ultimately responsible for recommending an injured employee's ability to return to work under the transitional duty policy, and what restrictions should be imposed.

4. Transitional Duty Program Guidelines:

The Employer has established the following guidelines for the Transitional Duty Program:

a. Transitional Duty assignments are temporary in nature, and made at the sole discretion of the Employer Transitional Duty Coordinator (TDC).

b. In order for transitional duty to be offered to an employee, the employee must be qualified to perform the transitional duty assignment. If the employee is not qualified to perform the assignment (or cannot be trained by the Employer to perform the assignment), the transitional duty assignment may be refused by the Employer.

c. Transitional Duty is **temporary**, lasting no more than 45 calendar days. This time frame may be extended at the sole discretion of the Employer Transitional Duty Coordinator (TDC).

d. All employees who are receiving Workers' Compensation indemnity payments and working Transitional Duty assignments must follow the restrictions imposed by the Treating Physician (TP) while engaging in all activities.

e. The Transitional Duty policy does not affect the rights and privileges of employees under the provisions of the, Fair Labor Standards Act OR Americans with Disabilities Act or other federal or state law or regulations.

f. Refusal of a transitional duty assignment may adversely affect the employee's worker's compensation temporary disability benefits.

g. As long as the assignment involves "meaningful work" (as defined herein), and it falls within the physical restrictions established by the medical professionals, the employees may be assigned transitional duty work in ANY department of the Employer.

h. Employees shall follow the policy of the Employer regarding time off to attend medical appointments and physical therapy sessions which have been scheduled by the Nurse Case Manager. However, the employee is responsible for notifying the Employer when they are unable to report to their transitional duty assignment due to a scheduled medical appointment.

i. Transitional duty assignments are not guaranteed. Each assignment is reviewed on a case by case basis in accordance with the procedure set forth herein.

j. The Employer reserves the right at any time to request a functional capacity evaluation (FCE) of the injured employee to determine their fitness for assignment.

k. Employees will be paid in accordance with applicable policies, salary ordinances, and collective bargaining agreements while on Transitional Duty. Employees participating in Transitional Duty assignments shall receive the full salary as long as they are working a full work day. All overtime assignments must be approved in advance by the department head, and must be in accordance with the transitional duty assignment and limitations set forth by the Treating Physician.

l. The employee's time card or work hours shall be maintained by the department to which the employee is regularly assigned.

5. Creation of the Job Bank:

In order to set up the "Job Bank," the Transitional Duty Coordinator (TDC) will contact all of the department heads in Employer, and encourage each to fill out the Form found in the Appendix entitled, "Possible Transitional Duty Assignments." Based on the input from Department Heads, the TDC will establish a "Job Bank," which will be used for the assignments under the Transitional Duty program. The TDC will update the Job Bank assignments as frequently as necessary. In addition, the TDC will collaborate with the Nurse Case Manager assigned to the Employer, and formulate brief job descriptions for each of the assignments, including any medical restrictions that may be accommodated (i.e. standing, sitting, lifting, driving, bending, etc.).

6. Transitional Duty Program Procedure:

Transitional duty assignments are the collective responsibility of the employer, (specifically the Transitional Duty Coordinator), along with the Claims Administrator, Treating Physician and Nurse Case Manager. The Transitional Duty Coordinator shall pay particular attention to the following:

- The TDC will make assignments with the goal of returning the employee to full duty as soon as possible. This may require the adjustment or modification of duties in the assignment as the employee's medical condition progresses (or regresses).

- The TDC shall maintain the confidentiality of all medical information related to the transitional duty assignments. Only individuals with an administrative "Need to Know" shall be included in discussions on transitional duty.
- The TDC shall contact upper management and the Claims Administrator if he or she becomes aware that an injured employee may have permanent medical restrictions. Permanent restrictions must be treated differently than temporary restrictions, and must be evaluated in accordance with possible implications under the Americans with Disabilities Act (ADA).

The Transitional Duty assignment process is as follows:

A. An initial medical assessment of the injured employee is completed by the Treating Physician in order to determine (1) the work restrictions imposed, and (2) the estimated duration of the recovery period. The results of the written medical assessment are provided to the Nurse Case Manager for review. The Nurse Case Manager will consult the Treating Physician if any clarification is necessary. The Employer will maintain an updated copy of all job descriptions and will forward job descriptions to the Nurse Case Manager for review as part of the assessment process.

B. The NCM will contact the TDC to discuss the results of the initial medical assessment, and whether or not the injured employee is a candidate for a Temporary Duty assignment, and, if so, what Temporary Duty assignments are available. The TDC will consider the employee's skills, knowledge, abilities, risks (if any) to the motoring public or other employees, in addition to the physical limitations set forth by the TP. The following skills may be necessary to participate in a transitional duty assignment:

- a. Sit or stand for some tasks
- b. Understand and follow directions and procedures
- c. Accept direction and function cooperatively
- d. Communicate effectively and coherently using telephone, or when initiating or responding to verbal communication
- e. Read and understand documents
- f. Exercise independent judgment.

If the injured employee is not a candidate for an assignment, the NCM will review the case after each medical appointment with the Treating Physician to determine if the injured worker's status has changed, and if so, the NCM will contact the TDC.

It is extremely important for the TDC to communicate with the NCM regarding the employee's disposition relative to a Temporary Duty assignment.

C. If a work assignment is available, prior to an assignment, the injured worker will meet with the TDC to go over the work assignment, what the expectations are, and any other concerns the injured worker may have. If necessary, the TDC shall arrange for training for the IW. During that meeting, the IW will be given the ***Letter Offering Transitional Duty Assignment***. The IW

will be asked to sign the letter acknowledging his/her acceptance OR rejection of the work assignment. If the IW declines the assignment, he/she will be directed to state the reasons in writing on the letter, and the TDC shall notify the IW that failure to accept the TD assignment may adversely affect his/her ability to collect worker's compensation temporary disability benefits. If the injured worker's objection is based on a disagreement with the Treating Physician's or Nurse Case Manager's work-related restrictions, the TDC shall discuss the case with the NCM and, if necessary the TP, prior to making a final decision. The decision of the TDC will be final, and shall be communicated to the IW and NCM.

D. The TDC will review ALL assignments in 14 day intervals, and, if necessary meet with the injured worker. The NCM shall update the TDC on the employee's medical status after each medical visit. If it appears as if the IW will not be able to return to work after the initial **60 day limit**, the TDC will consult with the NCM, and, if necessary, the TP, to determine whether the assignment should be continued until the employee reaches maximum medical improvement (MMI) OR until the employee can return to work to his/her former position without restrictions. The decision of the TDC will be final.

OUTSIDE EMPLOYMENT

Full-time City employees are permitted to engage in outside employment under appropriate circumstances. Outside employment may take place provided:

1. Prior authorization is obtained. If an employee submits a request for authorization to engage in outside employment, the City shall endeavor to respond to the request within one week. If the employee does not receive a reply within thirty days the request shall be deemed to be granted.

2. There is no conflict with the employee's duties. Outside work or employment may not be permitted to interfere with an employee's responsibilities to the City. Absences from City work or tardiness, resulting from outside employment, will be subject to disciplinary action.

3. The total amount of employment does not interfere with the employees' ability to perform his/her duties appropriately.

4. It is clearly recognized and understood that the employees' primary work responsibility is to the City of Woodbury. In any instance where a conflict shall arise, the employee shall treat the City as her / his primary employer. Any situation where the employee fails to respond to a departmental recall i.e. fire, civil disturbance, hurricane, snow storm or like circumstances may be viewed as abandonment of her / his position.

5. No employee while on sick leave or leave of absence without pay shall be elsewhere or otherwise employed or engaged in any outside work or employment whatsoever.

6. That the employee discloses to the City any alteration in the status or nature of any outside employment within seven (7) days of such occurrence. Failure to do so may result in disciplinary action.

Nothing herein contained shall prohibit activity on behalf of a labor organization with which the employee may be affiliated.

APPENDIX A

CDL Drug and Alcohol Testing Policy

These sample policies and procedures are not intended to be all-encompassing and are believed to conform to current law and practice at the time of preparation. However, municipalities and authorities are cautioned to seek legal advice from a qualified employment attorney before adopting any employment policies and procedures.

*Please note any information NOT italicized in this policy is **REQUIRED** for compliance with NJDOT regulations. **Non-mandatory language** is italicized and is optional.*

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SECTION A - GENERAL

This policy and 49 CFR Part 40 Regulations of the U. S. Department of Transportation Procedures For Transportation Workplace Drug And Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered employees. They may be viewed at <http://www.dot.gov/odapc> Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40.

City of Woodbury shall test, in accordance with Federal regulations, employees required to have a Commercial Driver's License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol.

PURPOSE 382.101

The purpose of this policy, in addition to meeting Federal regulations, is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

APPLICABILITY 382.103

(a) This policy applies to every person of City of Woodbury who operates a commercial motor vehicle in commerce in any State, and is subject to:

- (1) The commercial driver's license requirements of part 383;
- (2) All Drivers Operating Commercial Motor Vehicles for City; or
- (3) The commercial driver's license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to employers and the requirements in this policy that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

The COVERED EMPLOYEE CERTIFICATE OF RECEIPT contains the name, address, and phone number of the responsible individual(s). The CONTROLLED SUBSTANCES AND ALCOHOL USE

AND TESTING POLICY complies with requirements of the Department of Transportation regulations as set forth in 49 CFR § 382 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.); maintaining a locked file system on all test results; and overseeing the referral of employees for evaluation and treatment. City of Woodbury shall ensure that all covered employees are aware of the provisions and coverage of City of Woodbury's CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

City of Woodbury SERVICE AGENT CONTACT INFORMATION

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Richard Leidy

TITLE: Public Works Manager

ADDRESS: 651 S. Evergreen Ave., Woodbury NJ 08096

PHONE: (856) 853-0892 ext. 202

E-MAIL: RLeidy@woodbury.nj.us

HOURS WHEN AVAILABLE: 7am to 3pm

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: City Administrator

MEDICAL REVIEW OFFICER (MRO)

NAME: ***MRO***

ADDRESS: ***MRO Address***

PHONE: **MRO Phone**

FAX: ***MRO Fax***

LABORATORY

NAME: ***LAB***

ADDRESS: ***LAB Address***

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: ***SAP***

ADDRESS: ***SAP Address***

PHONE: ***SAP Phone***

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: ***TPA***

ADDRESS: ***TPA Address***

PHONE: ***TPA Phone***

City of Woodbury'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect City of Woodbury's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent the City's state specific non-DOT City Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, City's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions* (See Definitions).

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that **City of Woodbury** as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). **City of Woodbury** shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. **City of Woodbury** shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES 382.105

City of Woodbury shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to City of Woodbury by 382.105.

DEFINITIONS 382.107

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

Actual knowledge for the purpose of Section B of this policy means actual knowledge by City of Woodbury that a driver has used alcohol or controlled substances based on **City of Woodbury**'s direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol. *[Caution: Certain brands and types of cough medicines contain alcohol.]*

CFR means Code of Federal Regulations.

Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

It is the position of the Federal Motor Carrier Safety Administrator that the above section (2) language covers all municipal vehicles which fit within the "Commercial Motor Vehicle" definition below, even if that vehicle does not cross state lines.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;

- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of Federal regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

Designated employer representative (DER) is an individual identified by City of Woodbury as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of City. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:
 - i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - ii. Tire disablement without other damage even if no spare tire is available.
 - iii. Headlight or taillight damage.
 - iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity, *including a municipal employer*, employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));
- (2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));
- (6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));
- (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

- (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- (9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (11) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

(c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, using a vehicle for road clearing, snow removal, trash and recycling removal, remaining in readiness to operate the vehicle, and
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

- (1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

- (a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
 - (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
 - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.
- (b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, City of Woodbury, or the general public.

OTHER REQUIREMENTS IMPOSED BY City of Woodbury 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of City of Woodbury, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. *Accordingly, the City may adopt, under its own authority, a Non-DOT drug and alcohol testing program.*

REQUIREMENT FOR NOTICE 382.113

Before performing an alcohol or controlled substances test under the Federal regulation, City of Woodbury shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. City of Woodbury shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS 382.115

- (a) All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.
- (b) All foreign-domiciled employers must implement the requirements of this policy on the date the employer begins commercial motor vehicle operations in the United States.

PUBLIC INTEREST EXCLUSION 382.117

City of Woodbury shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R. *This is a service agent who has been found by the DOT to be disqualified from providing services to DOT regulated employers.*

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

- (a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:
 - (1) The admission is in accordance with City of Woodbury's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
 - (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
 - (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
 - (4) The driver does not perform a safety sensitive function until City of Woodbury is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
- (b) A qualified voluntary self-identification program or policy must contain the following elements:
 - (1) It prohibits City of Woodbury from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
 - (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
 - (3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
 - (4) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
 - (5) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

- (a) For each alcohol test performed, the City shall provide the driver's commercial driver's license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).
- (b) For each controlled substance test performed under this part, the City shall provide the following information, which must be recorded as follows:
 - (i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).
 - (ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

EMPLOYEE ASSISTANCE PROGRAM

City of Woodbury's employee assistance program (EAP) is a confidential program designed to assist in the identification and resolution of problems associated with employees impaired by alcohol or drugs, or other personal concerns that may adversely affect employee job performance.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If City of Woodbury has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE 382.205

No driver shall use alcohol while performing safety-sensitive functions. If City of Woodbury has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE 382.207

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If City of Woodbury has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT 382.209

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST 382.211

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. City of Woodbury shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AN/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the City by the DOT in 49 CFR 382.111 to imposed other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the City to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the City) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the City; 3) if the Driver is still insurable at standard rates under the City fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES 382.213

- (a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- (b) City of Woodbury, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.
- (c) City of Woodbury may require a driver to inform City of Woodbury of any therapeutic drug use.

All drivers of City of Woodbury are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at City of Woodbury to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, City of Woodbury, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137).

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although City of Woodbury shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. City of Woodbury, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test

and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

- (a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
- (b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
- (c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
- (d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

SECTION C - TESTS REQUIRED

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of City of Woodbury), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the City of Woodbury allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

City RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by City pursuant to 49 CFR Part 40 and 49 CFR Part 382, The City reserves the independent authority to screen and/or test employees under City's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for City of Woodbury, the driver shall undergo testing for controlled substances as a condition prior to being used, unless City of Woodbury uses the exception in paragraph (b) of this section. City of Woodbury shall not allow a driver, who City of Woodbury intends to hire or use, to perform safety-sensitive functions unless City of Woodbury has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. *City of Woodbury shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, City of Woodbury shall accept the result as a negative test.*

(b) City of Woodbury is not required to administer a controlled substances test required by paragraph (a) of this section if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and
- (2) While participating in that program, either--
 - (i) Was tested for controlled substances within the past 6 months (from the date of application with City of Woodbury), or

- (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with City of Woodbury); and
 - (3) City of Woodbury ensures that no prior employer of the driver of whom City of Woodbury has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.
- (c)
 - (1) If City of Woodbury exercises the exception in paragraph (b) of this section, City of Woodbury shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:
 - (i) Name(s) and address(es) of the program(s).
 - (ii) Verification that the driver participates or participated in the program(s).
 - (iii) Verification that the program(s) conforms to part 40 of Federal regulations.
 - (iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.
 - (v) The date the driver was last tested for controlled substances.
 - (vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.
 - (2) If City of Woodbury who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If City of Woodbury cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, City of Woodbury shall conduct a pre-employment controlled substances test.
- (d) City of Woodbury may, but is not required to, conduct pre-employment alcohol testing under this policy. If City of Woodbury chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:
 - (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
 - (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
 - (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
 - (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
 - (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, City of Woodbury shall test for alcohol for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, City of Woodbury shall test for controlled substances for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

<u>Type of accident involved</u>	<u>Citation issued to</u>	<u>Test must be performed</u>
Human fatality	<u>the CMV driver</u>	<u>by City of Woodbury</u>
	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, City of Woodbury shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, City of Woodbury shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, City of Woodbury shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by City of Woodbury to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) City of Woodbury shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by City of Woodbury.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by City of Woodbury.

(h) Exception. This section does not apply to:

- (1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or
- (2) An occurrence involving only the loading or unloading of cargo; or
- (3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by City of Woodbury unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

- (a) City of Woodbury shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
 - (2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
- (c) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
 - (2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
 - (3) Each driver selected for testing shall be tested during the selection period.
- (d) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, City of Woodbury, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in City of Woodbury's random testing pool, and all covered drivers must be in the random pool. If City of Woodbury conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) City of Woodbury does not need to compute this total number of covered drivers rate more than on a once per month basis.
 - (2) City of Woodbury may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, City of Woodbury must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool
- (e) (1) City of Woodbury shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
 - (2) City of Woodbury shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.
- (f) City of Woodbury shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, City of Woodbury shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
- (g) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- (h) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for City of Woodbury, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(i) If City of Woodbury is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, City of Woodbury may--

- (1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or
- (2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which City of Woodbury is subject.

REASONABLE SUSPICION 382.307

(a) City of Woodbury shall require a driver to submit to an alcohol test when City of Woodbury has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. City of Woodbury's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) City of Woodbury shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. City of Woodbury's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of City of Woodbury who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving City premises driving a motor vehicle.*

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the Federal regulation. A driver may be directed by City of Woodbury to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, City of Woodbury shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, City of Woodbury shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall City of Woodbury permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or

(ii) Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, City of Woodbury shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit City of Woodbury with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of City of Woodbury who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

RETENTION OF RECORDS 382.401

(a) General requirement. City of Woodbury shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. City of Woodbury shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following records shall be maintained for a minimum of five years:

- (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
- (ii) Records of driver verified positive controlled substances test results,
- (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
- (iv) Driver evaluation and referrals,
- (v) Calibration documentation,
- (vi) Records related to the administration of the alcohol and controlled substances testing programs,
- (vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and
- (viii) A copy of each annual calendar year summary required by 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by City of Woodbury while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) Types of records. The following specific records shall be maintained. “Documents generated” are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used,
- (ii) Documents relating to the random selection process,
- (iii) Calibration documentation for evidential breath testing devices,

- (iv) Documentation of breath alcohol technician training,
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,
- (vi) Documents generated in connection with decisions on post-accident tests,
- (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and
- (viii) A copy of each annual calendar year summary as required by 382.403.

(2) Records related to a driver's test results:

- (i) City of Woodbury's copy of the alcohol test form, including the results of the test,
- (ii) City of Woodbury's copy of the controlled substances test chain of custody and control form,
- (iii) Documents sent by the MRO to City of Woodbury, including those required by part 40, Subpart G,
- (iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and
- (v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.
- (vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that City of Woodbury:
 - (A) Must obtain in connection with the exception contained in 382.301 of this policy, and
 - (B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

- (i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and
- (ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

- (i) Materials on alcohol misuse and controlled substances use awareness, including a copy of City of Woodbury's policy on alcohol misuse and controlled substances use,
- (ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,
- (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
- (iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and

(v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

(i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,

(ii) Names and positions of officials and their role in City of Woodbury's alcohol and controlled substances testing program(s),

(iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and

(iv) City of Woodbury's alcohol and controlled substances testing policy and procedures.

(d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at City of Woodbury's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

(a) City of Woodbury shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Woodbury or any of its drivers.

(b) If City of Woodbury is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report City of Woodbury's annual calendar year summary information, City of Woodbury shall prepare and submit the report to the FMCSA by March 15 of that year. City of Woodbury shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. City of Woodbury must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). City of Woodbury may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see:

<http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. City of Woodbury shall ensure the accuracy and timeliness of each report submitted by City of Woodbury or a consortium.

(d) If City of Woodbury has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for City of Woodbury), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. City of Woodbury may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of City of Woodbury. However, a City official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS 382.405

(a) Except as required by law or expressly authorized or required, City of Woodbury shall not release driver information that is contained in records required to be maintained under 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. City of Woodbury will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) City of Woodbury shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Woodbury or any of its drivers.

(d) City of Woodbury and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the City and any other information pertaining to the City's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Woodbury or any of its drivers.

(e) When requested by the National Transportation Safety Board as a part of a crash investigation:

(i) City of Woodbury must disclose information related to the City of Woodbury's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and

(ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.

(f) When requested by the National Transportation Safety Board as part of an accident investigation, City of Woodbury shall disclose information related to City of Woodbury's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

(g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(h) City of Woodbury may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the

individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).

(i) City of Woodbury shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO City of Woodbury 382.407

The medical review officer shall report the results of controlled substances tests to City of Woodbury in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

(a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.

(b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

(a) City of Woodbury shall notify a driver of the results of a pre-employment controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. City of Woodbury shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. City of Woodbury shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

(a) City of Woodbury must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the City must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers.

Exception: When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

(c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the City must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION 382.415

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

- (a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.
- (b) City of Woodbury shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if City of Woodbury has determined that the driver has violated this policy.
- (c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING 382.503

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. City of Woodbury shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT 382.505

- (a) No driver tested under the provisions of Section C of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for City of Woodbury, including driving a commercial motor vehicle, nor shall City of Woodbury permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- (b) Except as provided in paragraph (a) of this section, City of Woodbury shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit City of Woodbury with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on City of Woodbury's property, or in any of City of Woodbury's vehicle, or on City of Woodbury's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify City of Woodbury's personnel when contacted. Failure to advise City of Woodbury of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

City of Woodbury and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL

City of Woodbury'S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

(a) *General requirements.* City of Woodbury shall provide educational materials that explain the requirements of this policy and City of Woodbury's policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

(1) City of Woodbury shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) City of Woodbury shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by City of Woodbury to answer driver questions about the materials; (*COVERED EMPLOYEE CERTIFICATE OF RECEIPT*)

(2) The categories of drivers who are subject to the provisions of this policy; (*APPLICABILITY*)

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with the policy; (*PERIOD OF THE WORK DAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE*)

(4) Specific information concerning driver conduct that is prohibited by this policy; (*SECTION B - PROHIBITIONS*)

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d); (*SECTION C - TESTS REQUIRED*)

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); (*49 CFR part 40*)

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy; (*REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST*)

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences; (*DEFINITIONS*)

(9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O; (*CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E*)

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; (*OTHER ALCOHOL-RELATED CONDUCT 382.505*)

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;

(c) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse (once established):

(1) A verified positive, adulterated, or substituted drug test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to any test required by subpart C;

(4) An employer's report of actual knowledge, as defined at § 382.107;

(5) On-duty alcohol use pursuant to § 382.205;

(6) Pre-duty alcohol use pursuant to § 382.207;

(7) Alcohol use following an accident pursuant to § 382.209; and

(8) Controlled substance use pursuant to § 382.213;

(9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;

(10) A negative return-to-duty test; and

(11) An employer's report of completion of follow-up testing.

(d) *Optional provision.* The materials supplied to drivers may also include information on City of Woodbury's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on City of Woodbury's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(e) *Certificate of receipt.* City of Woodbury shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. City of Woodbury shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

City of Woodbury shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT 382.605

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

SECTION G – REQUIREMENTS AND PROCEDURES

FOR IMPLEMENTATION OF THE COMMERCIAL

DRIVER’S LICENSE DRUG AND ALCOHOL

CLEARINGHOUSE

The purpose of City of Woodbury Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of the City’s efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule issued December 5, 2016; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) *Pre-employment query required.*

(1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.

(2) City of Woodbury must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) *Annual query required.*

(1) City of Woodbury must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, City of Woodbury may obtain the individual driver’s consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell City of Woodbury whether there is information about the individual driver in the Clearinghouse, but will not release that information to City of Woodbury. The individual driver may give consent to conduct limited queries that is effective for more than one year.

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer

must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) *Employer notification.* If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at

§ 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

(1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

(2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

(e) *Recordkeeping required.* Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.703

(a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.

(b) Before City of Woodbury may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:

(1) A verified positive, adulterated, or substituted controlled substances test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to a test in violation of § 382.211;

(4) An employer's report of actual knowledge, as defined at § 382.107, of:

(i) On duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use pursuant to § 382.213;

(5) A SAP report of the successful completion of the return-to-duty process;

(6) A negative return-to-duty test; and

(7) An employer's report of completion of follow-up testing.

(c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.

(d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).

(e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE 382.705

(a) *MROs.*

(1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:

- (i) Verified positive, adulterated, or substituted controlled substances test results;
- (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).

(2) MROs must provide the following information for each controlled substances test result specified in paragraph (a)(1) of this section:

- (i) Reason for the test;
- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
- (iii) Driver's name, date of birth, and CDL number and State of issuance;
- (iv) Employer's name, address, and USDOT number, if applicable;
- (v) Date of the test;
- (vi) Date of the verified result; and

(vii) *Test result.* The test result must be one of the following:

- (A) Positive (including the controlled substance(s) identified);
- (B) Refusal to test: adulterated;
- (C) Refusal to test: substituted; or

(D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) *Employers.*

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
- (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) *Test result.* The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and

testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

(ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);

(iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and

(iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

(i) On-duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

(i) Driver's name, date of birth, CDL number and State of issuance;

(ii) Employer name, address, and USDOT number, if applicable;

(iii) Date the employer obtained actual knowledge of the violation;

(iv) Witnesses to the violation, if any, including contact information;

(v) Description of the violation;

(vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and

(vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs.* Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate

responsibility for compliance with this section. Exception: an employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs.*

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

- (i) SAPs name, address, and telephone number;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Date of the initial substance-abuse-professional assessment; and
- (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately.* Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	<ul style="list-style-type: none"> — Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	<ul style="list-style-type: none"> — Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION
382.707

(a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.

(b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.

(c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

(a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

- (1) Employer Clearinghouse registration must include:
 - (i) Name, address, and telephone number;
 - (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
 - (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.
- (2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.
- (3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
- (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
- (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) *C/TPAs and other service agents.* Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
- (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

- (a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.
- (b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.
- (c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

- (a) *C/TPAs.* No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
- (b) *SAPs.* A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

- (a) Petitions limited to inaccurately reported information.
 - (1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.
 - (2) *Exceptions.*
 - (i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.
 - (ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).
 - (iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).
- (b) *Petition.* Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:
 - (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;

- (2) Detailed description of the basis for the allegation that the information is not accurate; and
- (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition.* The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision.* Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e) *Request for expedited treatment.*

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review.*

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

- (1) The SAP reports to the Clearinghouse the information required in § 382.705(d);
- (2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;

(3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and

(4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

(1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.

(2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. *Exception:* No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

(c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

- (b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.
- (c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.
- (d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

- (e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

- (i) *Exceptions.*

- (A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.
 - (B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

- (ii) *[Reserved]*

- (f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

- (2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Attachment A

City of Woodbury

Commercial Motor Vehicle Driver's

Certificate of Compliance with DOT Cell-Phone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

*Except as prohibited under City policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.*

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. City can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by City of Woodbury to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)