

*Borough of Beach Haven, NJ
Friday, May 31, 2019*

Chapter 27. Personnel

Article I. Anti-Nepotism Policy

[Adopted 7-13-1998 by Ord. No. 98-16]

§ 27-1. Title.

This article shall be cited the "Anti-Nepotism Policy of the Borough of Beach Haven."

§ 27-2. Applicability.

- A. The prohibitions set forth in this article shall apply solely to employee positions for the Borough of Beach Haven.
- B. This article shall not apply to appointments to the various boards, commissions, committees and authorities of the Borough.
- C. Subject to the exception in § **27-4D** below, this article and the prohibition against certain hiring contained herein shall be applied prospectively only from the effective date of its enactment and shall not in any way be construed to prohibit or make unlawful any current employment relationship or situation or the hiring or promotion of any person currently employed by the Borough of Beach Haven as of the effective date of this article which may technically be violative of the terms hereof but for its prospective application. For purposes of interpreting this exception, persons appointed to positions of employment with the Borough for a set term shall be considered current employees, notwithstanding the fact that the term may have ended. Such persons holding positions of employment with the Borough under a set term may be hired to any position in the Borough, rehired, reappointed or promoted, as may be the case, without violating this article.
- D. The prohibitions and restrictions contained in § **27-4A** and **B** shall not apply in the case of seasonal part-time employment.

§ 27-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ELECTED OFFICIAL

Persons holding the position of Borough Council member.
[Amended 9-13-2010 by Ord. No. 2010-20]

RELATIVES

Includes spouse or significant other, child, parent, stepchild, sibling, grandparent, daughter-in-law, son-in-law, grandchild, niece, nephew, uncle, aunt or any other person related by blood or marriage residing in an employee's household.
[Amended 12-9-2013 by Ord. No. 2013-11C]

SUPERVISOR

Any employee of the Borough having supervisory duties and powers over another employee or employees within the respective department of the Borough.

§ 27-4. Restriction in hiring and promoting employees.

[Amended 11-14-2005 by Ord. No. 2005-27]

The following restrictions shall apply in the hiring and promotion of employees to employment positions for the Borough of Beach Haven:

- A. Nepotism procedure. Unless otherwise provided by law (or New Jersey Civil Service Commission rule if the position is subject to civil service) or collective bargaining unit agreements, immediate relatives shall not be hired, promoted or transferred to a regular full-time or regular part-time position where:

[Added 12-9-2013 by Ord. No. 2013-11C^[1]]

- (1) One relative would have the authority to appoint, remove, discipline or evaluate the performance of the other;
- (2) One relative would be responsible for auditing the work of the other; or
- (3) Other circumstances exist that place the relatives in a situation of actual or reasonably foreseeable conflict of interest.

[1] *Editor's Note: This ordinance also redesignated former Subsections A through D as Subsections B through E, respectively.*

- B. Supervision. No relative (as defined herein) shall be considered for employment by the Borough of Beach Haven or hired to a position of employment with the Borough where that person will be the supervisor of or be supervised by another relative who is an existing employee within

the same department.

- C. Applications. Applications for employment submitted by relatives of Borough employees holding current supervisory positions (hereinafter "supervisor") will not be accepted for positions in the same department of the Borough in which the supervisor works.
- D. Relatives of elected officials. No person who is a relative of any elected official of the Borough of Beach Haven (i.e., Borough Council member) shall be considered for employment as an employee of the Borough. This shall not restrict nor prohibit the continued employment of individuals to a position or positions with the Borough where a relative of an employee is elected as a Borough Council member after the date of the employee's start of employment with the Borough.
[Amended 9-13-2010 by Ord. No. 2010-20]
- E. Promotion of existing employees. Notwithstanding the prospective application as to the remainder of this article as described above, no elected official (Borough Council member) or supervisor in a department may participate in the promotion process or hiring process in that department of any existing employee who is a relative of such elected official or supervisor, as the case may be. Such elected official or supervisor shall abstain from participation in such personnel action as it applies to such relative.
[Amended 9-13-2010 by Ord. No. 2010-20]

§ 27-5. Purpose.

[Amended 12-9-2013 by Ord. No. 2013-11C]

This policy is not for the purpose of depriving any citizen of an equal chance for employment with the Borough, but is solely intended to prevent the potential for preferential treatment of the relatives of governmental personnel.

§ 27-6. Current employees.

Except as may be otherwise expressly provided for herein, this article shall not affect the employment of any present Borough employees and/or any existing contractual obligations with employees by the Borough of Beach Haven.

Borough of Beach Haven, NJ
Friday, May 31, 2019

Chapter 27. Personnel

Article II. Personnel Policies

[Adopted 12-13-1999 by Ord. No. 99-20^[1]]

[1] *Editor's Note: This ordinance also provided that future amendments to this policy may be accomplished by the adoption of a resolution.*

§ 27-7. Employee Handbook and Receipt and Acknowledgement Form.

[Amended 1-9-2006 by Ord. No. 2005-32; 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26]

- A. The Borough Manager with the assistance of the Labor Attorney shall draft an employee handbook for the approval of the Council. Once approved, copies will be distributed and employees will be required to sign an acknowledgement of receipt that will be placed in the official personnel file. The handbook will be revised and redistributed whenever there is a significant change in personnel practice or every two years.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- B. The Borough's Receipt and Acknowledgement Form is as follows:

**Borough of Beach Haven
Handbook of Personnel Policies and Procedures
Receipt and Acknowledgment Form**

By my signature below, I hereby acknowledge receipt of the Beach Haven Employee Handbook Personnel Policies and Procedures. I acknowledge that I read the Handbook and understand its contents.

I understand that the Handbook is not a contract nor does it contain any guarantees or promise of continued employment with Beach Haven. I further understand that if I have any questions regarding the Handbook or its application, I can direct those questions to my immediate supervisor or to the Borough Manager.

Name of Employee

§ 27-8. Purpose and disclaimers.

- A. (Reserved)^[1]

[1] *Editor's Note: Former Subsection A, regarding the subject of this section, and former Subsection B, regarding the purpose of this section, which immediately followed, were repealed 12-9-2013 by Ord. No. 2013-11C.*

- B. (Reserved)

- C. General purpose. These policies are enacted by the Borough of Beach Haven in order to further the following goals:

(1)

To provide a uniform system of personnel administration throughout the Borough service.

- (2) To ensure that recruitment, selection, placement, promotion, retention and separation of Borough employees are based upon employees' qualifications and fitness, and are in compliance with federal and state laws.
- (3) To assist department heads in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout the Borough.
- (4) To promote communication between directors, supervisor and employees.
- (5) To ensure, protect and clarify the rights and responsibilities of employees.

D. Scope.

- (1) Except for wages, benefits and conditions of employment Borough ordinances or state or federal law, the terms and conditions of that contract, rule or law shall prevail – these personnel policies and procedures shall apply to all Borough employees and elected officials and independent contractors. In all other cases, these policies and procedures shall apply.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (2) In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

- E. The Borough specifically reserves the right to repeal, modify or amend these policies at any time. None of these provisions shall be deemed to create a vested contractual right of any employee nor to limit the power of the Council to repeal or modify these rules. The policies are not to be interpreted as promises of specific treatment.
[Amended 9-13-2010 by Ord. No. 2010-20]

§ 27-9. General employment practices.

[Amended 8-11-2003 by Ord. No. 2003-11; 1-9-2006 by L.L. No. 2005-32]

- A. The subject of this section is “general employment practices.”

B. Statement of policy:

- (1) The Council must formally effect the creation of any new full-time position and authorize the filling thereof prior to the employment or engagement of a person to serve in any such position. Where positions are advertised, the media or other periodical utilized must have as wide circulation as possible to encourage applications from candidates from diverse backgrounds and must prominently state that the Borough of Beach Haven is an equal opportunity employer.
[Amended 9-13-2010 by Ord. No. 2010-20]
- (2) The application for employment form, to be obtained at the office of the Municipal Clerk, shall be completed by all persons seeking employment. The application is a confidential document and will not be available to anyone who is not directly involved in the hiring process, except as required by law.

- (3) The Borough Manager and/or Department head will administer and coordinate the hiring process for all position vacancies to ensure compliance with contractual, legal, and equal opportunity requirements. All questions must be in accordance with the New Jersey Division of Civil Rights Guidelines for Preemployment Inquiries. The Borough of Beach Haven will make reasonable accommodations to known physical and mental limitations of all applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided the accommodation does not impose an unreasonable hardship on the Borough.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
- (4) The New Jersey Civil Service Commission is responsible for the testing and certification of police officers and all non-entry-level, nonexempt positions.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (5) Whenever the Council shall make appointments, applicants shall be classified and given preference in order of the following classes:
[Amended 9-13-2010 by Ord. No. 2010-20]
 - (a) Residents of Beach Haven.
 - (b) Residents of Ocean County.
 - (c) Other residents of the State of New Jersey.
 - (d) All other qualified applicants.
- (6) Pursuant to the Americans with Disabilities Act,^[1] after an offer of employment is made and prior to commencing employment, the Borough Manager may require applicants to pass a physical examination in order to insure that they can perform the duties of their position without injury to themselves and others. The same post-offer physical examination must be performed on all applicants for a particular position. The Borough Manager may require periodic physical examinations to determine the employee's continued ability to perform the duties of the position. All physical examinations must be performed by a physician chosen by the Borough at the expense of the Borough. All medical records of employees and prospective employees are confidential and are to be maintained separate from the employee's official personnel file. Medical exams may include tests for drug and alcohol use.
[Amended 12-13-2010 by Ord. No. 2010-26]
[1] *Editor's Note: See 42 U.S.C. § 12101 et seq.*
- (7) Except when statutory requirements direct otherwise, all new employees shall be considered to be on probation for a period of three months, during which time they may be dismissed without recourse.
- (8) The Payroll Officer, or other employee so designated by the Council, will, for each employee, establish and maintain a personal history file and maintain a complete and accurate record of attendance, vacations, sick leave, overtime and other pertinent information. The same person will also serve as certifying agent for matters dealing with the New Jersey Department of Personnel.
[Amended 9-13-2010 by Ord. No. 2010-20]
- (9) Criminal background checks. Criminal background checks are required of all

candidates, 18 years old and older, whether paid or volunteer, that may work directly or indirectly with children/youth/minors in accordance with the procedures outlined in Subsection C, Background checks and procedures for candidates, employees and volunteers.

[Added 11-13-2018 by Ord. No. 2018-33C]

C. Background checks and procedures for candidates, employees and volunteers:
[Added 11-13-2018 by Ord. No. 2018-33C]

- (1) Background checks required. Criminal background checks are required of all candidates over the age of 18, whether for paid or volunteer positions, who will be working directly or indirectly with children/youth/minors. Criminal background checks will also be administered for each employee or volunteer that works directly or indirectly with children/youth/minors every three years.
- (2) Background check procedure.
 - (a) The Borough Administrator will perform or initiate criminal background checks and be the recipient of reports from outside agencies or contractors. These reports shall include, but are not limited to, court records; police department and corrections agency records; registries or watch lists; state criminal record repositories; and the Interstate Identification Index maintained by the FBI. The Borough Administrator will discuss potentially disqualifying information received with the employee's or volunteer's department head, and a determination that the information is disqualifying shall be made based on whether the disqualification is job-related for the position and is inconsistent with business necessity. Written information received as a result of a Request for Criminal History Record Information For A Noncriminal Justice Purpose will be destroyed immediately after it has served its authorized purpose, as required by the State Police. Such information will be kept confidential and will not be published or disclosed in any manner not consistent with the procedures listed herein. Such information will not be deemed a public record under P.L. 1963, c. 73 (N.J.S.A. 47:1A-1 et seq.), as amended and supplemented by P.L. 2001, c. 404 (N.J.S.A. 47:1A-5 et seq.).
 - (b) When a disqualification decision has been made as a result of the Borough's targeted screening process described below, the Borough Administrator will inform the candidate, volunteer, or employee, in writing, of any information that would disqualify the person from working with children/youth. If the Borough contracts with an outside vendor to process the background checks, that contractor may be authorized to inform the person, in writing, of any information that would disqualify the person from working with children/youth/minors. In addition, the individual shall be advised he/she has the opportunity to explain the criminal record and to demonstrate why the exclusion based on the employer's targeted screening process should not apply to him/her under the circumstances. This information may include evidence of an error in the criminal record; facts surrounding the conviction; age at the time of the conviction and/or release from prison; evidence of a clean criminal and employment record since release; rehabilitation efforts; positive references; and evidence that he/she is bondable. Thereafter, the Borough shall give the individual further consideration. Existing employees or volunteers will be placed on immediate suspension pending the outcome of a hearing or appeal. Employee suspensions may be with or without pay at the discretion of the Borough Administrator.

(3) Conditions under which an employee will be disqualified from working with children/youth.

- (a) A candidate, volunteer, or employee may be disqualified from employment in a position that works with children/youth/minors if that person's criminal record history background check reveals a record of conviction of any of the following crimes and disorderly persons offenses as defined by New Jersey law or by analogous laws in other states:

- [1] Homicide (N.J.S.A. 2C:11).
- [2] Assault, reckless endangerment, threats, stalking (N.J.S.A. 2C:12).
- [3] Kidnapping (N.J.S.A. 2C:13).
- [4] Sexual offenses (N.J.S.A. 2C:14).
- [5] Offenses against the family, children and incompetents (N.J.S.A. 2C:24).
- [6] Controlled dangerous substances [N.J.S.A. 2C:35, except for 2C:35-10 (a)4].
- [7] Robbery (N.J.S.A. 2C:15).
- [8] Theft (N.J.S.A. 2C:20).

- (b) A disqualification from any position will be based only on a conviction for one or more of the above disqualifying crimes and offenses as a result of the Borough's targeted screening process, by which the Borough has taken into account the following factors: the nature and gravity of the offense or conduct, including the consideration of the harm caused by the crime, the legal elements required to prove the crime, and the classification of the crime (i.e., felony or misdemeanor, etc.); the time that has elapsed since the offense, conduct, and/or completion of the sentence; the nature of the job held or sought, including the consideration of the job duties (not merely the job title), the level of supervision to be provided, the working environment (e.g., private home, outdoors, warehouse), interaction with others, especially with vulnerable individuals such as children/youth/minors, and the relationship of the criminal history to the job to be performed. An acquittal, a dismissal, successful completion of pre-trial intervention (PTI), or an expungement of a criminal offense, including a disqualifying criminal offense, is not a disqualifying conviction. Further, an arrest record standing alone may not be used to disqualify a candidate, volunteer, or employee from an employment opportunity. However, the Borough may make a disqualification decision based on the conduct underlying the arrest if the conduct makes the individual unfit for the position in question, in which case the conduct, not the arrest, is relevant for employment purposes.

(4) Appeal process.

- (a) The Appeals Committee will be comprised of the Borough Administrator, Borough Clerk, and Police Chief.
- (b) Once a candidate, employee or volunteer has been notified of a disqualifying conviction, the employee has 14 calendar days to file a notice of appeal with the Borough. Such notice of appeal must be sent, in writing, to the Borough

Administrator. The notice of appeal shall include a notice of rehabilitation and/or a notice that the information is inaccurate or incorrect, pursuant to N.J.A.C. 13:59-1.6.

- (c) During the fourteen-day period listed above, and until the issuance of the decision of the Appeals Committee, an employee will be on a suspension with pay, pending the outcome of the notice of appeal.
- (d) In making a determination on the appeal, the following information will be considered:
 - [1] The nature and responsibility of the position which the convicted individual would hold, has held, or currently holds, as the case may be.
 - [2] The nature and seriousness of the crime or offense.
 - [3] The circumstances under which the crime or offense occurred.
 - [4] The date of the crime or offense.
 - [5] The age of the individual when the crime or offense was committed.
 - [6] Whether the crime or offense was an isolated or a repeated incident.
 - [7] Any social conditions which may have contributed to the commission of the crime or offense.
 - [8] Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received.
 - [9] Acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.
- (e) The Borough will issue a written determination on the employee's appeal of their disqualifying conviction, setting forth the reasons for the determination.

§ 27-10. Hours of work.

[Amended 6-11-2001 by Ord. No. 2001-9; 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

- A. The subject of this section is "hours of work."
- B. The purpose is to establish a policy setting uniform hours of work for regular full-time employees.
- C. Statement of policy:
 - (1) Except as otherwise provided by labor agreement, the normal daily working hours for employees are:
 - (a) Police Department personnel: eight hours daily, 2,080 hours annually.

- (b) Public Works personnel: eight hours daily, including a half-hour lunch period, 2,080 hours annually.
- (c) Office personnel: seven hours daily, not including one-hour lunch period, 1,820 hours annually. Upon agreement between the Borough and employee, employees may be permitted to work six hours daily, not including one-hour lunch period, 1,560 hours annually.
- (2) Employees are expected to be at their work location and ready to begin work at the beginning of their work schedule. The lunch period will be scheduled to allow for continuous staffing of all offices with at least one person.
- (3) All employees and supervisors are required to record their time at the beginning and end of their workday.
- (4) Employees must receive prior written authorization from their supervisor, the Borough Manager, or the Council in order to be compensated for time in excess of their normal work schedule. This includes time prior to the beginning of the workday.
- (5) Advance notice of anticipated tardiness is expected; notice of unavoidable tardiness is expected when possible. Failure to do so will be construed as an unexcused absence.
- (6) Advance notification should be made to the appropriate supervisor and/or Payroll Clerk of any absence or delay in reporting to work. Notification by another employee, friend, or relative is not considered proper unless in an emergency situation where the employee is physically unable to make the notification.

§ 27-11. Vacation leave.

[Amended 9-13-2010 by Ord. No. 2010-20; 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

- A. The subject of this section is "vacation leave."
- B. Statement of policy. The purpose is to establish a policy setting uniform hours of work for regular full-time employees.
 - (1) Each regular employee, unless a labor agreement states otherwise, shall accrue vacation time on the basis of the following schedule:

Calendar Year of Employment	Vacation Days Earned
First year	One day per full month
Second through 10th year	12 days per year
11th through 20th year	15 days per year
21st and over	20 days per year

- (2) Vacation time must be used by December 31 of the following year in which it is earned. Any remaining time at the close of the year will be automatically forfeited. Exceptions to this rule require the written permission of the Council. Time accrued prior to January 1, 1999, is unaffected by this policy and will be disposed of in a separate manner.
- (3)

No vacation time may be taken during the three-month probationary period immediately following appointment.

- (4) All vacations will be selected on the basis of position and then seniority.
- (5) All vacations are subject to the approval of the department head and will be scheduled so as not to unreasonably interfere with the operation of the department to which the employee is assigned.
- (6) An employee who has resigned or who has otherwise separated from employment in good standing shall be entitled to the vacation allowance prorated on the basis of the number of months worked in the calendar year in which the separation becomes effective.
- (7) If any employee shall terminate his or her employment with the Borough prior to the end of any calendar year during which calendar year the employee had already taken vacation allowance for the year, he or she shall be charged with the unearned part of such vacation, which charge shall be deducted from the employee's paycheck.
- (8) Permanent part-time employees shall be granted vacation time on a proportionate basis.
- (9) Temporary or seasonal employees shall not earn vacation nor be entitled to vacation upon separation.
- (10) Whenever a permanent employee dies, having to his credit any unused vacation leave, his estate shall be compensated for the unused days based upon his salary at the time of death.

§ 27-12. Sick Leave.

- A. The subject of this section is "sick leave."
- B. Statement of policy. All regular full-time employees shall be entitled to sick leave as follows:
 - (1) In the first calendar year of employment, permanent employees shall be entitled to one day of sick leave for each month or fractional part thereof calculated from day of permanent employment. Thereafter, employees shall be entitled to 15 days' sick leave each year. Unused sick days accrue to employees' credit without limit. Permanent part-time employees are entitled to pro-rata days according to the average number of hours worked.
 - (2) Sick leave benefits shall apply to bona fide cases of sickness, accidents, doctor or dental appointments, maternity leave, and requests for the employee's presence by immediate family, doctor or clergy due to family illness or emergency.
 - (3) An employee who does not expect to report for work on any working day because of personal illness or other legitimate reason must notify his or her department head by telephone or otherwise no later than one hour prior to the beginning of such employee's work day.
[Amended 12-9-2013 by Ord. No. 2013-11C]

- (4) An employee who is on sick leave for a period of three days or longer, or 15 days aggregate in a twelve-month period, shall, prior to being entitled to any compensation therefor, furnish without delay a report from a qualified doctor which shall contain a diagnosis of the sickness, whenever possible.
- (5) No employee, while on sick leave, shall be otherwise employed or engaged in any outside work or employment whatsoever.
- (6) A permanent full-time noncontractual employee may sell back to the Borough at the end of each year a maximum of 10 unused sick days at 100% of the value of the unused sick days. The benefit of this subsection only applies to employees who commenced employment on or before May 21, 2010.
[Added 8-11-2003 by Ord. No. 2003-11; amended 12-14-2015 by Ord. No. 2015-35C; 12-12-2016 by Ord. No. 2016-28C]
- (7) A permanent part-time noncontractual employee who commences employment on or before May 21, 2010, is entitled to sell back to the Borough at the end of each year a maximum of 25 hours of unused sick time at 100% of the value of the unused sick time hours. The benefit of this subsection only applies to employees who commenced employment on or before May 21, 2010.
[Added 8-11-2003 by Ord. No. 2003-11; amended 12-14-2015 by Ord. No. 2015-35C; 12-12-2016 by Ord. No. 2016-28C]

§ 27-13. Retirement.

A. The subject of this section is "retirement."

B. Statement of policy:

- (1) Upon retirement, the Borough of Beach Haven will pay to the employee a supplemental compensation payment computed at the rate of 1/2 the eligible employee's daily rate of pay for each day earned and unused accumulated sick leave, based upon the annual average compensation received during the last year of his/her employment prior to the effective date of his/her retirement.
- (2) ^[1]Payment for earned and unused, accumulated sick days will be based upon a maximum of 180 days.
[1] *Editor's Note: Former Subsection B(2), regarding terminal leave in lieu of payment, was repealed 12-9-2013 by Ord. No. 2013-11C. This ordinance also redesignated former Subsection B(3) and (4) as Subsection B(2) and (3), respectively.*
- (3) Any employee eligible to retire in a calendar year shall notify the Borough in writing no later than January 15 of that year, but in no event less than 30 days prior to the planned retirement date.

C. Retired employee's insurance plan. Subject to the definitions as set forth in N.J.S.A. 40A:10-16 and further subject to the terms of any applicable collective bargaining agreement, the Borough shall continue to provide for and pay the full premium of health, dental, vision and hospital benefit coverage as effected by Medicare of retired Borough management professionals or otherwise nonunion employees and their dependents at the time of retirement who take a PERS or PFRS retirement after 25 or more years of membership in the New Jersey Pension System.
[Added 12-13-2006 by Ord. No. 2010-26; amended 12-9-2013 by Ord. No. 2013-11C]

§ 27-14. Personal Leave.

- A. The subject of this section is "personal leave."
- B. Statement of policy:
- (1) Regular full-time, noncontractual employees are entitled to five personal days each year, which may be used for personal business.
 - (2) All requests for personal time are subject to the approval of the Department head and will be scheduled so as not to unreasonably interfere with the operation of the department to which the employee is assigned.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-9-2013 by Ord. No. 2013-11C]
 - (3) Personal days must be taken during the calendar year of entitlement or the day(s) will lapse.
 - (4) Unused personal days are not paid to terminated employees.
 - (5) Upon retirement, an employee's personal days will be prorated for that year.

§ 27-15. Bereavement Leave.

- A. The subject of this section is "bereavement leave."
- B. Statement of policy:
- (1) Represented employees receive bereavement leave in accordance with the provisions of their applicable collective bargaining agreement.
 - (2) A regular full-time or regular part-time employee who has a member of his/her immediate family taken by death shall receive up to five days off with pay as bereavement leave to arrange and/or attend funeral activities.
 - (3) "Immediate family" shall be defined as spouse, mother, father, mother-in-law, father-in-law, children, sister, brother, daughter-in-law, son-in-law, grandparents and grandchildren.
 - (4) Day leave is permitted on the day of the burial for uncle, aunt, nephew, niece, brother-in-law, sister-in-law or cousin of first degree.

§ 27-16. Holidays.

- A. The subject of this section is "holidays."
- B. Statement of policy:
- (1) The Borough shall celebrate the following holidays off with pay for regular full-time and regular part-time nonunion employees:
[Amended 9-8-2008 by Ord. No. 2008-8]

New Year's Day

Martin Luther King Day

Labor Day

Columbus Day

Lincoln's Birthday
 Washington's Birthday
 Good Friday
 Memorial Day
 Independence Day

Veterans Day
 Thanksgiving
 Day after Thanksgiving
 Christmas
 Day after Christmas

- (2) In the event that a holiday falls upon a Sunday, the following Monday shall be deemed to be the legal holiday. In the event that the legal holiday falls on a Saturday, the preceding Friday shall be deemed to be the legal holiday.
- (3) When a holiday falls within a period of paid leave, the holiday shall not be counted as a leave day in computing the amount of leave debited.

§ 27-17. Compensatory Time and Overtime.

A. The subject of this section is "compensatory time and overtime."

B. Statement of policy:

- (1) It is the policy of the Borough to comply with the provisions of all federal and state statutes governing compensatory time and overtime compensation. This policy shall be in compliance with the provisions of the federal Fair Labor Standards Act (FLSA) pertaining to the minimum rate of compensation for employment in excess of an established work period, excluding exempted positions.
- (2) Under the provisions of the FLSA, compensatory time may be as agreed upon by the employer and the individual employee at the request of the employee, but may not be imposed by the employer in lieu of overtime pay upon any nonexempt employee who has not requested such compensating time off.
- (3) The Borough's responsibility for payment of overtime and the granting of compensatory time is as follows:
 - (a) The Borough is not obligated by statute to grant all employee requests for compensatory time off instead of overtime pay.
 - (b) The Borough is required to compensate overtime worked by nonexempt employees at the rate of 1 1/2 for hours worked in excess of the number of hours allowed per work week as designated under the Fair Labor Standards Act.
 - (c) Upon request of a nonexempt employee, the Borough may grant compensatory time off in lieu of overtime at its discretion.

[1] *Editor's Note: Former § 27-17, Longevity, as amended, was repealed 12-9-2013 by Ord. No. 2013-11C. This ordinance also redesignated former §§ 27-18 and 27-19 as §§ 27-17 and 27-18, respectively.*

§ 27-18. Group medical insurance.

[Amended 8-11-2003 by Ord. No. 2003-11; 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

- A. The subject of this section is "group medical insurance."
- B. Statement of policy:
- (1) The Borough offers medical insurance to all regular full-time employees and eligible dependents provided through the State Health Benefits Program.
 - (2) Coverage becomes effective the first day of the month after serving a waiting period of two months. Specific plan benefits are described in brochures provided to each new employee by the Borough Payroll Clerk.
 - (3) The Borough shall not provide any payment to any employee for opting to waive his/her health coverage. Pursuant to N.J.S.A. 40A:10-17.1, the decision of a municipality to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.
[Amended 5-14-2018 by Ord. No. 2018-10C]
 - (4) (Reserved)^[1]
[1] *Editor's Note: Former Subsection B(4), regarding resumption of coverage following waiver of coverage, was repealed 5-14-2018 by Ord. No. 2018-10C.*
 - (5) For the purposes of the New Jersey Health Benefits Program, 32 hours per week average shall be the minimum requirement for full-time status.
- C. Extended health benefits. Subject to the definitions as set forth in N.J.S.A. 40A:10-16, and further subject to the terms of any applicable collective bargaining agreement, the Borough shall continue to provide for and pay the full premium of health, dental, vision and hospital benefit coverage as effected by Medicare of retired Borough management, professional or otherwise nonunion employees and their dependents at the time of retirement who take a P.E.R.S. or P.F.R.S. retirement after 25 or more years of membership in the New Jersey Pension System.

§ 27-19. (Reserved)

§ 27-20. Jury or Court Leave.

- A. The subject of this section is "jury or court leave."
- B. Statement of policy:
- (1) The Borough of Beach Haven encourages the participation of its employees in civic affairs. Accordingly, if any employee is legally selected for jury duty, every effort shall be made to enable such employee to serve as a juror.
 - (2) Employees are to return to work after jury duty although no more than the regularly scheduled number of hours for both jury duty and work shall be required. If excused as a juror on any given day, the employee is expected to contact his/her supervisor and to report to work as instructed.
 - (3) Employees who appear in court as the plaintiff or defendant in any action not related to their official duties shall not be paid for time away from work unless that time is accrued vacation or personal leave.

§ 27-21. Operation of Motor Vehicle and Driver's License Policy.

[Amended 1-9-2006 by Ord. No. 2005-32]

A. The subject of this section is "operation of motor vehicle."

B. Statement of policy:

- (1) All employees whose duties require the operation of a Borough-owned motor vehicle or who operate a privately owned vehicle while conducting official business as part of their employment with the Borough must possess a valid New Jersey driver's license and a safe driving record. The license must be appropriate to the type of vehicle operated.
- (2) Employees operating Borough-owned motor vehicles or privately owned vehicles while conducting official business shall observe all traffic laws, rules and regulations, and the dictates of common sense and good judgment.
- (3) Mileage will be reimbursed at a rate per mile equal to the allowable IRS rate for use of a privately owned vehicle.
- (4) Any employee who has permission to drive a Borough-owned vehicle to his/her residence shall not drive the vehicle for personal use. No other person shall be permitted to drive or be a passenger in the Borough-owned vehicle at any time, with the exception of another municipal employee.
- (5) All new employees who will be assigned work entailing the operating of a Borough vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

[Amended 12-9-2013 by Ord. No. 2013-11C]

(a) Evaluation system of motor vehicle records check:

- [1] Acceptable: no moving violations and/or preventable accidents over the last 36 months.
- [2] Marginal: up to two moving violations and/or preventable accidents in the last 36 months.
- [3] Probation: up to three moving violations and/or preventable accidents within the last 36 months.
- [4] Unacceptable: more than three moving violations and/or preventable accidents within the last 36 months, or more than two moving violations and/or preventable accidents within the most recent year, or any of the violations listed below:
 - [a] Driving while under the influence (DWI or DUI).
 - [b] Leaving the scene of an accident.
 - [c] Careless or reckless driving violations.
 - [d]

Homicide or assault through the use of a motor vehicle.

[e] Drivers who currently have a revoked or suspended license.

[f] Attempting to elude a police officer.

- (b) Drivers with acceptable, marginal or probation grading may be allowed to operate Borough vehicles or a privately owned vehicle to conduct business on behalf of the Borough
 - (c) Drivers with marginal or probation grading should have their MVRs reviewed semiannually. Additional violations or accidents may result in suspension of driving privileges.
 - (d) Drivers with unacceptable driving records will not be permitted to operate a Borough vehicle or a privately owned vehicle to conduct business of the Borough.
- (6) Annual checks of employees' driver's licenses through visual and formal Department of Motor Vehicles review checks shall be made by the Borough Clerk's Office. Any employee who does not hold a valid driver's license will not be allowed to operate a Borough vehicle until such time as a valid license is obtained.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (7) Any employee performing work which requires the operation of a Borough vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked. An employee that fails to report such an instance is subject to disciplinary action, including demotion or termination.
- (8) Any information obtained by the Borough in accordance with this section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act.

§ 27-22. Employee Conduct.

- A. The subject of this section is "employee conduct."
- B. The purpose is to outline specific areas which may result in employee discipline.
- C. Statement of policy:
 - (1) It shall be the duty of employees to maintain high standards of cooperation, efficiency and integrity in their work with the Borough. If an employee's conduct falls below standard, he/she may be subject to disciplinary action.
 - (2) Some general things for which an employee may be disciplined include, but are not limited to:
 - (a) Reporting to work under the influence of intoxicants or nonprescription/illegal drugs, or using such substances while on Borough property.
 - (b) Failure to follow the orders of one's supervisor(s).
 - (c) Being absent from work without permission or failure to report to the

supervisor or department head when one is absent.

- (d) Being habitually absent or tardy for any reason.
- (e) Failure to perform assigned work in an efficient or effective manner.
- (f) Being wasteful of material, property or working time.
- (g) Inability to get along with fellow employees so that the work being done is hindered and not up to required levels.
- (h) Failure to observe property security procedures.
- (i) Conduct on the job which violates the common decency or morality of the community.
- (j) If found guilty of an indictable or disorderly persons offense or the equivalent thereof.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (k) Violating safety rules and regulations.
- (l) Speaking critically or making derogatory or false accusations so as to discredit other employees or supervisors.
- (m) Removal of Borough money, merchandise or property, including property in custody of the Borough without permission.
- (n) Lying to supervisors in connection with one's job.
- (o) Dishonesty, including intentionally giving false information, intentionally falsifying records or making false statements when applying for employment.
- (p) Being on Borough premises during nonworking hours without permission.
- (q) Divulging or misusing confidential information, including removal from Borough premises, without proper authorization, any employee lists, records, designs, drawings, or confidential information of any kind.
- (r) Accepting fees, gifts or other valuable items in the performance of the employee's official duties for the Borough.
- (s) Inability or unwillingness to perform the assigned job.
- (t) Falsification of time records for payroll.
- (u) Abuse of sick leave privileges by reporting sick when not sick or obtaining sick leave pay falsely or under false pretenses.
- (v) The use of profanity or abusive language toward a fellow employee or member of the general public while performing official duties as a Borough employee.
- (w) Tampering in any way with the mail, incoming or outgoing, U.S. or interoffice.

§ 27-23. Disciplinary Action.

- A. The subject of this section is "disciplinary action policy."
[Amended 12-9-2013 by Ord. No. 2013-11C]
- B. The purpose is to establish policies and procedures related to disciplinary action for Borough employees.
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (1) Employees may be disciplined for areas detailed in the Policy on employee conduct, as outlined in § **27-31**, Alcohol/Drug-Free Work Place Policy.
 - (2) In addition, an employee may be subject to discipline for any of the following reasons:
 - (a) Falsification of public records, including attendance and other personnel records.
 - (b) Failure to report absence.
 - (c) Harassment of co-workers and/or volunteers and/or visitors.
 - (d) Theft or attempted theft of property belonging to the Borough, fellow employees, volunteers or visitors.
 - (e) Failure to report to work a day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence.
 - (f) Fighting on Borough property at any time.
 - (g) Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on Borough property and at any time during work hours.
 - (h) Insubordination.
 - (i) Entering any Borough building or facility without permission during nonscheduled work hours.
 - (j) Soliciting on Borough premises during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and/or sales of products, such as those from Avon, Amway, etc.
 - (k) Careless waste of materials or abuse of tools, equipment or supplies.
 - (l) Deliberate destruction or damage to Borough or suppliers' property.
 - (m) Sleeping on the job.
 - (n) Carrying weapons of any kind on Borough premises and/or during work hours, unless carrying a weapon is a function of your job duties.
 - (o) Violation of established safety and fire regulations.

- (p) Unscheduled absence, and chronic or excessive absence.
 - (q) Chronic tardiness.
 - (r) Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
 - (s) Defacing walls, bulletin boards or any other Borough or supplier property.
 - (t) Failure to perform duties, inefficiency or substandard performance.
 - (u) Unauthorized disclosure of confidential Borough information.
 - (v) Gambling on Borough premises.
 - (w) Horseplay, disorderly conduct and use of abusive and/or obscene language on Borough premises.
 - (x) Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort.
 - (y) Conviction of an indictable crime or disorderly persons offense.
 - (z) Violating any Borough rules or policies.
 - (aa) Conduct unbecoming a public employee.
 - (bb) Violation of Borough policies, procedures and regulations.
 - (cc) Violation of federal, state or Borough laws, rules, or regulations concerning drug and alcohol use and possession.
 - (dd) Misuse of public property, including motor vehicles.
 - (ee) Unauthorized use of computers, Internet, and email.
 - (ff) Other sufficient cause.
- (3) Major disciplinary action includes termination, disciplinary demotion or suspension or fine exceeding five working days. Minor discipline includes a formal, written reprimand or a suspension or fine of five working days or less. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the applicable grievance procedure and the procedure of the Civil Service Commission. All disciplinary actions involving suspensions without pay or termination require approval of the appointing authority prior to discipline being administered. In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing.
- (4) In cases of employee misconduct, the Borough Manager believes in corrective action for the purpose of correcting undesirable behavior and preventing a recurrence of that behavior. The corrective action taken will be related to the gravity of the situation, the number and kind of previous infractions and other circumstances. In every case, employees will be given an opportunity to state the situation from their point of view.

- (5) In order to correct undesirable behavior, supervisors and managers may utilize the following corrective tools: verbal reprimand; Borough Manager review; written reprimand; suspension; fines, and, dismissal. At the discretion of the Borough of Beach Haven, action may begin at any step, and/or certain steps may be repeated or bypassed, depending on the severity and nature of the infraction and the employee's work/disciplinary record. The degree of discipline administered will depend on the severity of the infraction and shall be in accordance with any applicable labor contract, and Borough policies and procedures, as well as local, state or federal laws and regulations.
- (6) Neither this manual nor any other Borough of Beach Haven guidelines, policies or practices create an employment contract. Employment with the Borough of Beach Haven may be terminated at any time with or without cause or reason by the employee or the Borough.
- (7) The tenure of Borough employees shall be based on reasonable standards of job performance and personal and professional conduct. Failure or refusal to meet these standards shall constitute just cause for disciplinary action, including oral or written reprimand, suspensions, demotions and dismissal.
- (8) Disciplinary action is not primarily intended to be punitive, but rather to maintain the efficiency and integrity of Borough service. The nature and severity of the offense and the employee's prior record shall be considered.
- (9) It is the responsibility of each supervisor and department head to evaluate thoroughly the circumstances and facts as objectively as possible and then apply the most suitable form of discipline.

C. Statement of policy:

- (1) It shall be the policy of the Borough to administer discipline fairly, reasonably and impartially. Employees and the Borough are best served when discipline is administered to correct actions rather than to punish.
- (2) All disciplinary actions involving suspensions without pay or termination require approval of the appointing authority prior to discipline being administered.

D. Disciplinary action procedure.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (1) All employees are expected to meet the Borough's work performance standards. The intent of the disciplinary action procedure is to formally document problems and provide the employee with a reasonable time to improve performance. The process should encourage development by providing employees with guidance in areas that need improvement such as poor work performance, attendance problems, personal conduct, general compliance with the Borough's policies and procedures and other disciplinary problems.
- (2) Should a supervisor believe that an employee is not conforming to the Borough's policies and rules or to specific instructions, or has acted improperly, the supervisor and an appropriate witness will first privately discuss the matter with the employee to obtain the employee's view. If the supervisor determines that the employee has acted improperly, the supervisor shall take one of the following actions, depending upon the gravity and the employee's past record. At the discretion of the supervisor and the Borough Manager, action may begin at any

step, and/or certain steps may be repeated or bypassed.

- (a) Verbal reprimand: Depending on the circumstances, the supervisor may verbally notify the employee that the employee's actions have been improper and warn the employee against further occurrences. The supervisor will prepare a record of the verbal reprimand, including the date, time and what was discussed with the employee. This record must be forwarded to the Personnel Department for the employee's official personnel file.
- (b) Borough Manager review: Should the supervisor consider the offense sufficiently serious to warrant consideration by the Borough Manager, the employee will be so advised and a meeting arranged with the Borough Manager at the earliest possible date. All facts should be detailed at this meeting and, if possible, a determination will be made at that time of disciplinary action, if any.
- (c) Written reprimand: When a supervisor determines that a written reprimand is appropriate, the situation must be discussed with the Borough Manager. The reprimand should clearly identify the problem and outline a course of corrective action within a specific time frame. The employee should clearly understand both the corrective action and the consequence (i.e., termination) if the problem is not corrected or reoccurs. The employee should acknowledge receipt of the warning and may include additional comments. A copy of the written reprimand with the signed acknowledgement and comments must be forwarded to the Personnel Department for the employee's official personnel file.
- (d) Suspension: Whenever an employee is recommended for suspension, the Borough Manager will make the decision and may seek the advice of the Employment Attorney if appropriate. Suspended employees may request a hearing under the applicable grievance procedure and civil service procedure.
- (e) Dismissal: Whenever an employee is recommended for dismissal, the Borough Manager will make the decision only after seeking the advice of the Employment Attorney. There must be a complete review of the employee's personnel file and all other facts to determine if there is sufficient cause for the dismissal. Terminated employees may request a hearing under the applicable grievance procedure and civil service procedure.

§ 27-24. Grievance process.

A. The subject of this section is "grievance process."

B. Statement of policy:

- (1) A "grievance" shall mean a claim or dispute by an employee with respect to the interpretation, meaning or application of the provisions of the Borough's policies and procedures.
- (2) It is the policy of the Borough of Beach Haven to afford all employees a means of obtaining further consideration of problems when they remain unresolved at the supervisory level, and to establish policies and procedure that provide for timely resolution of grievances.
- (3)

Every attempt will be made to resolve the grievance to the mutual satisfaction of the employee and the Borough.

C. Procedure:

- (1) Within five working days of an act or omission constituting the basis of a grievance, the employee shall first present it verbally to his/her supervisor. It is the responsibility of the supervisor to arrange a meeting concerning the grievance within three working days to discuss and possibly resolve the grievance.
- (2) When an employee is informed by the supervisor of the decision, the employee may, within five working days, present the grievance in writing to the Council.
[Amended 9-13-2010 by Ord. No. 2010-20]
- (3) The Council will meet with the employees, and all other parties in interest, within 21 days from the filing of the signed grievance with the Borough Clerk. The decision of the Council, based upon impartial study, shall be binding on all parties, except as further provided herein.
[Amended 9-13-2010 by Ord. No. 2010-20]
- (4) If the grievance is not satisfactorily adjusted through the aforementioned procedure, then the grievance shall be presented, within 10 days, to PERC to be resolved according to its rules and regulations. The decision of PERC shall be binding upon all parties.
- (5) The foregoing provisions shall apply to all employees not covered by the provisions of any grievance procedure under any collective bargaining agreement.

§ 27-25. Emergency conditions.

A. The subject of this section is "emergency conditions."

B. Statement of policy:

- (1) In the event of inclement or severe weather conditions, Borough offices and activities shall remain open and in operation during established working hours. All employees should make every attempt to report for work on a timely basis.
- (2) The Borough Chief of Police, together with any member of Borough Council, may close Borough offices to protect the safety and welfare of Borough employees. In the event of such closure, all nonemergency service employees will receive full pay and no vacation or personal leave allowances shall be effected. Emergency service employees who work their regular hours during such an emergency closure shall not receive overtime pay merely because nonemergency employees have been dismissed; however, if they work beyond their regular work hours, they shall be eligible for appropriate overtime pay.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-9-2013 by Ord. No. 2013-11C]

§ 27-26. Americans with Disabilities Act.

[Added 7-10-2000 by Ord. No. 2000-17; amended 1-9-2006 by Ord. No. 2005-32; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

A.

The subject of this section is "Americans with Disabilities Act (ADA)/New Jersey Pregnant Worker's Fairness Act."

B. Statement of policy.

- (1) In compliance with the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination, as amended by the New Jersey Pregnant Worker's Fairness Act, the Borough of Beach Haven does not discriminate based on disability, pregnancy, pregnancy-related medical condition or childbirth. The Borough of Beach Haven will endeavor to make every work environment handicap accessible, and all future construction and renovation of facilities will be in accordance with applicable barrier-free federal and state regulations and the Americans with Disabilities Act accessibility guidelines.
- (2) It is the policy of the Borough of Beach Haven to comply with all relevant and applicable provisions of the Americans with Disabilities Act and the New Jersey Law Against Discrimination. The Borough of Beach Haven will not discriminate against any qualified employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth, breastfeeding or pregnancy-related medical condition. It will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities or pregnant, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an undue hardship on the Borough of Beach Haven.
[Amended 11-13-2018 by Ord. No. 2018-33C]
- (3) The Borough Manager shall initiate an interactive dialogue with disabled/pregnant employees and prospective disabled/pregnant employees, to identify reasonable accommodations, or their respective physician. In the case of an employee breastfeeding her infant child, the accommodation shall include reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to the work area for the employee to express breast milk for the child. All decisions with regard to reasonable accommodation shall be made by the Borough Manager. Employees who are assigned to a new position as a reasonable accommodation will receive the salary of their new position. The Americans with Disabilities Act does not require the Borough of Beach Haven to offer permanent light duty, relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, or wheelchairs.
[Amended 11-13-2018 by Ord. No. 2018-33C]

§ 27-27. Whistleblower Policy: New Jersey Conscientious Employee Protection Act (CEPA).

[Added 7-10-2000 by Ord. No. 2000-17; amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

- A. The subject of this section is "New Jersey Conscientious Employee Protection Act (CEPA)."
- B. Statement of policy:
 - (1) Employees have the right under CEPA to complain about any activity, policy or

practice that the employee reasonably believes is in violation of law, rule or regulation promulgated pursuant to law without fear of retaliation or reprisal. This right shall be communicated to all employees in an annual letter outlining the specific employee complaint procedure and in posted notices appropriately posted within the employee's workplace. A written acknowledgment that the employee has received, read and understood this letter will be included in the employee's official personnel file. The annual notice shall be in English and Spanish and must contain the name of the person who is designated to receive the written notification of policies or practices that may violate CEPA. This right will also be communicated in the Employee Handbook. All complaints will be taken seriously and promptly investigated by the appropriate Borough official.

- (2) The Borough of Beach Haven recognizes its obligations under the New Jersey Conscientious Employee Protection Act (CEPA), and all employees are urged to immediately report any perceived violations of the law or violation of public policy to their immediate supervisor.
- (3) The supervisor shall be required to report this action to the department head, who will institute remedial steps. Should the department head fail to take action, or if the employee is reasonably certain that the immediate supervisor has neglected to report his complaint to the higher authority, the employee shall report the violation directly to the Borough Manager.
- (4) In the event that the policy or practice is a clear violation and the employee has a reasonable certainty that the abuse is known to his superiors and fears retaliation, said employee shall have the right to disclose same to the Borough Manager.
- (5) Under no circumstance shall such employee be subject to retaliatory action, including, but not limited to, discharge, suspension or demotion for disclosing or threatening to disclose to the department head, the Borough Manager, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.), an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law.
- (6) No retaliatory action shall be taken against any employee who testifies before or provides information to any public agency conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law.
- (7) No retaliatory action shall be taken against an employee who objects to or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, rule or regulation promulgated pursuant to law, is fraudulent or criminal, or is incompatible with a clear mandate of public policy concerning the public health, safety or welfare.
- (8) In accordance with the statute, the employee must bring the violation to the attention of the Borough Manager. However, disclosure is not required where the employee is reasonably certain that the violation is known to one or more officials; where the employee reasonably fears physical harm; or the situation is emergency in nature. Employees are encouraged to complain, in writing, using the Employee Complaint form. See § 27-48, Employee Complaint Policy. Under the law, the employee must give the Borough of Beach Haven a reasonable opportunity to correct the activity, policy or practice. The administration of whistleblower complaints is not subject to the limitations in the Grievance Policy.
- (9)

The Borough recognizes that an employee or former employee retains his/her right to institute a civil action against the Borough for a CEPA violation within one year and to seek relief under the CEPA.

§ 27-28. Equal Employment Opportunity or Anti-Discrimination Policy.

[Added 7-10-2000 by Ord. No. 2000-17; amended 1-9-2006 by Ord. No. 2005-32; 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

- A. The subject of this section is "equal employment opportunity anti-discrimination policy."
- B. Statement of policy. The Borough of Beach Haven is committed to the principle of equal opportunity and antidiscrimination 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, as amended by the New Jersey Pregnant Worker's Fairness Act. Under no circumstances will the Borough of Beach Haven discriminate on the basis of race, color, creed, religion, national origin, ancestry, age, sex, marital status, civil union status, domestic partnership status, political affiliation, affectional or sexual orientation, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy (including pregnancy-related medical condition), childbirth, breastfeeding, liability for service in the United States Armed Forces, gender identity or expression, and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor or, if they prefer, their department head or the Borough Manager.
[Amended 11-13-2018 by Ord. No. 2018-33C]

§ 27-29. Sexual Harassment Policy.

[Added 7-10-2000 by Ord. No. 2000-17; 1-9-2006 by Ord. No. 2005-32]

- A. The subject of this section is "sexual harassment policy." It is the Borough's policy to prohibit sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee or nonemployee. The Borough prohibits sexual harassment from occurring in the workplace or at any other location at which the Borough-sponsored activity takes place. Sexual harassment of nonemployees by Borough employees is also prohibited. The purpose of this policy is not to regulate personal morality or to encroach upon one's personal life, but to demonstrate a strong commitment to maintaining a workplace free of sexual harassment.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- B. Statement of policy:
 - (1) "Sexual harassment" is defined as the unwelcome sexual advance, request for sexual favors and other verbal or physical contact of a sexual nature in the following circumstances:

- (a) When submission to such conduct is made explicitly or implicitly a condition of an individual's employment.
 - (b) When submission to or rejection of such conduct becomes the basis for an employment decision that affects the individual concerned.
 - (c) When such conduct has the effect of interfering with an employee's ability to perform the job function or creates a hostile work environment.
- (2) Sexual harassment may include unwanted sexual advances; offering employment benefits in exchange for sexual favors; visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects, or pictures, cartoons or posters); verbal sexual advances, propositions or requests; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, notes or invitations; and/or, physical conduct (touching, assault, impeding or blocking movements).
- (a) If an employee is witness to or believes to have experienced harassment, immediate notification of the supervisor or other appropriate person should take place. Refer to the Employee Complaint Policy.
 - (b) Harassment of any employees, in connection with their work, by nonemployees may also be a violation of this policy. Any employee who experiences harassment by a nonemployee or who observes harassment of an employee by a nonemployee should report such harassment to the supervisor. Appropriate action will be taken against any nonemployee.
 - (c) Harassment of any nonemployees by a Borough employee, during working hours, is also in violation of this policy. Any nonemployee who experiences harassment by a Borough employee or an employee who observes harassment of a nonemployee by another employee should report such harassment to the supervisor, the department head or the Borough Manager.
[Added 12-9-2013 by Ord. No. 2013-11C^[1]]
[1] *Editor's Note: This ordinance also redesignated former Subsection B(2)(c) through (d) as Subsection B(2)(e) through (f), respectively.*
 - (d) Regarding unwelcome sexual advances toward nonemployees, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:
[Added 12-9-2013 by Ord. No. 2013-11C]
 - [1] Submission to such conduct is made either explicitly or implicitly in exchange for a benefit;
 - [2] Submission to or rejection of such conduct by an individual is used as the basis for a decision affecting the individual; or
 - [3] Such conduct has the purpose or effect of unreasonably interfering with an individual's activities or creating an intimidating, hostile or offensive environment.
 - (e) Notification of appropriate personnel of any harassment problem is essential to the success of this policy. The Borough of Beach Haven cannot resolve a harassment problem unless it knows about it. Therefore, it is the

responsibility of all employees to bring those kinds of problems to the attention of the appropriate officials so that steps can be taken to correct them.

- (f) Violation of this harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

§ 27-30. Contagious/Life-Threatening Illness Policy.

[Added 7-10-2000 by Ord. No. 2000-17]

A. The subject of this section is "contagious/life-threatening illness policy."

B. Statement of policy:

- (1) The Borough of Beach Haven encourages employees with contagious diseases or life-threatening illnesses to continue their normal pursuits, including work, to the extent allowed by their condition. The Borough of Beach Haven shall make reasonable accommodations to known physical or mental limitations of all employees, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an unreasonable hardship on the Borough of Beach Haven.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (2) Definition. "Contagious/life-threatening illness" or "illnesses" for the purpose of this policy include, but are not limited to, cancer, heart disease, multiple sclerosis, hepatitis, tuberculosis, human immune-deficiency virus (HIV) and acquired immune deficiency syndrome (AIDS).
- (3) Employees infected with a contagious disease will be treated no differently than any other employee. Therefore, if the contagious disease affects the employee's ability to perform assigned duties, he/she will be treated like other employees who have disabilities which limit their job performance.
- (4) Employees who are diagnosed with contagious diseases and who want an accommodation should provide the Borough of Beach Haven with any pertinent medical information needed to make decisions regarding job assignments, ability to continue working or ability to return to work. The Borough of Beach Haven may also require a doctor's certification of an employee's ability to perform job duties. Additionally, the Borough of Beach Haven may request that an employee undergo a medical examination to determine that the employee is fit for duty.
- (5) The Borough of Beach Haven will take reasonable precautions to protect such information from inappropriate disclosure, including the following:
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (6) Managers and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action.
[Added 12-9-2013 by Ord. No. 2013-11C^[1]]
[1] *Editor's Note: This ordinance also renumbered former Subsection B(6) through (8) as Subsection B(7) through (9), respectively.*
- (7) The Borough of Beach Haven will comply with applicable occupational safety regulations concerning employees exposed to blood or other potentially infectious

materials.

- (8) Employees concerned about being infected with a contagious disease by a coworker or other person should convey this concern to their supervisor. Employees who refuse to work with or perform services for a person known or suspected to have a contagious disease, without first discussing their concern with a supervisor, will be subject to discipline, up to and including termination.
- (9) The Borough of Beach Haven supports, where feasible and practical, educational programs to enhance employee awareness and understanding of contagious diseases.

§ 27-31. Alcohol/Drug-Free Workplace Policy.

[Added 7-10-2000 by Ord. No. 2000-17; amended 6-11-2001 by Ord. No. 2001-9]

A. The subject of this section is "alcohol/drug-free workplace policy."

B. Statement of policy:

- (1) The Council of the Borough of Beach Haven, hereafter referred to as the "Council," recognizes a need to provide a specific and comprehensive policy and program to ensure an alcohol/drug-free workplace to all employees of the Borough of Beach Haven. Said policy conforms to the Drug-Free Workplace Act of 1988 (P.L. 100.690 Title V, Subtitle D) and the Department of Transportation Workplace Drug and Alcohol Testing Program Rules, 49 CFR Parts 40, 653 and 654.

[Amended 9-13-2010 by Ord. No. 2010-20]

- (2) The Council recognizes that the unlawful use, manufacture, and distribution of controlled substances or unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees of the Borough of Beach Haven, as well as those employed by contractors and grantees directly engaged in the performance of work under grants administered by or through the Borough of Beach Haven or pursuant to a contract with the Borough. The Council further recognizes that physical or mental impairment, by the misuse or abuse of alcohol, can be detrimental and as hazardous as drugs in the workplace.

[Amended 9-13-2010 by Ord. No. 2010-20]

- (3) In order to provide an alcohol/drug-free workplace and atmosphere at every level of Borough employment, this policy establishes the rules, regulations, procedures and penalties for violations thereof.

C. Definitions. For the purposes of this section, the following terms shall have the meanings set forth below unless otherwise specified herein:

ACCIDENT

An occurrence associated with the operation of a vehicle and/or equipment, where:

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (1) The vehicle(s) involved incurs disabling damage and is towed away from the scene;
- (2) An individual dies; or
- (3)

An individual suffers a bodily injury requiring immediate medical treatment away from the scene.

ALCOHOL

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low-molecular weight alcohols, including methyl and isopropyl alcohol.

ALCOHOL USE

The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

ALCOHOL/DRUG-FREE WORKPLACE

Any worksite or office building, or designated work location in which the employees of the Borough of Beach Haven are engaged to perform their respective jobs, or any employee of a grantee of any grant or any employee of a contractor directly engaged in the performance of work pursuant to the provisions of the grant administered by or through the Borough of Beach Haven or pursuant to the contract with the Borough of Beach Haven. "Alcohol/drug-free", as hereinafter used, shall include the meaning "free from alcohol/drug use, misuse or abuse."

BOROUGH

The Borough of Beach Haven.

COMMERCIAL MOTOR VEHICLE (CMV)

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

- (1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- (2) Has a gross vehicle weight rating of 26,001 or more pounds;
- (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 HazMat Transportation Act and which requires the motor vehicle to be placarded under the HazMat Regulations (49 CFR Part 172, Subpart F).

COMMERCIAL MOTOR VEHICLE OPERATOR

Any person who, pursuant to law, is required to possess a commercial driver's license (CDL) in the performance of his/her duties.

CONVICTION

A finding of guilt or a pleading of guilt or no contest or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug/alcohol statutes.

DRUG (CONTROLLED SUBSTANCES)

Includes, but is not limited to, marijuana, cocaine, opioids, amphetamines and phencyclidine (PCP).

[Amended 6-11-2018 by Ord. No. 2018-16C]

EMPLOYEE

A person receiving compensation or providing volunteer service, utilizing Borough equipment covered by Borough liability insurance. For purposes of pre-employment testing, the term "employee" includes any person applying for a position with the Borough of Beach Haven.

[Amended 12-9-2013 by Ord. No. 2013-11C]

MEDICAL REVIEW OFFICER

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the Borough's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.

MOVING VIOLATION

Any violation of state or local law which results in the issuance of a police summons which is directly related to the movement of the vehicle.

REFUSE TO SUBMIT (TO AN ALCOHOL OR DRUG TEST)

An employee fails to provide adequate breath for alcohol testing or to provide a urine sample without a valid medical explanation after he or she has received notice of the requirement to be tested in accordance with the provisions of this section, or engages in conduct that clearly obstructs the testing process.

SAFETY-SENSITIVE POSITION (FUNCTION)

A position which can be potentially dangerous to the health and safety of Borough employees, property, or members of the general public. Such positions shall include, but not be limited to, all law enforcement and security personnel, persons authorized to carry firearms, and anyone operating, maintaining, repairing or controlling dispatch or movement of a Borough vehicle or motorized equipment or machinery.

D. Overview.

- (1) This policy is intended to provide guidance to employees of the Borough of Beach Haven, and for more detailed information interested parties should review the federal regulations located at 49 CFR Parts 40, 653, and 654. The Manager is hereby designated by the Borough to any questions concerning this section.
[Amended 12-13-2010 by Ord. No. 2010-26]
- (2) Any drug/alcohol use or abuse which renders an employee unfit for his/her work assignment, or as a result of which the employee cannot satisfactorily perform his/her occupational duties, whether such alcohol/drug use or abuse was at or outside of the workplace, may be grounds for disciplinary action. Any employee who is intoxicated or under the influence of alcohol or drugs at the workplace during work hours may be immediately suspended and subject to termination, in accordance with the New Jersey Administrative Code, Title 4A (Personnel).
- (3) Any employee shall not remain on duty while having a blood alcohol concentration in excess of 0.00 or using or having used a controlled substance. Any supervisor having actual knowledge that an employee has such an alcohol concentration or has used a controlled substance which may impair his/her ability to operate a vehicle shall not permit the employee to perform or continue to perform any functions and shall report the occurrence to the department head or such supervisor or may be subject to disciplinary action.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (4) Any employee holding a commercial driver's license shall not possess medication, food, or other alcohol-containing product regardless of alcohol content which is not specifically manifested to be on the vehicle. Any supervisor having actual knowledge that such an employee possesses same shall not permit him/her to perform or continue to perform the safety-sensitive function and shall report the occurrence to the department head or may be subject to disciplinary action.
- (5) Any employee holding a commercial driver's license shall not possess any controlled substance or product containing a controlled substance not specifically manifested to be on the vehicle. Any supervisor having actual knowledge that such an employee possesses same shall not permit him/her to perform or continue to perform the safety-sensitive function and shall report the occurrence to the department head or may be subject to disciplinary action.
- (6) Employees must notify their supervisor within five days of conviction for a drug- or alcohol-related violation, whether or not the violation occurred in the workplace.
[Added 12-9-2013 by Ord. No. 2013-11C^[1]]
[1] *Editor's Note: This ordinance also redesignated former Subsection D(6) as Subsection D(7).*
- (7) No employee shall use alcohol while performing safety-sensitive functions. Any supervisor having actual knowledge that an employee is using alcohol while performing safety-sensitive functions shall not permit the employee to perform or continue to perform safety-sensitive functions and shall contact the department head or may be subject to disciplinary action.
- (8) Employees are prohibited from consuming prescription drugs that are not prescribed in their name on Borough property or while performing Borough business. Soliciting or distributing prescription drugs for or to other employees is also strictly prohibited.
[Added 12-9-2013 by Ord. No. 2013-11C^[2]]
[2] *Editor's Note: This ordinance also redesignated former Subsection D(8) through (11) as Subsection D(9) through (12).*
- (9) If an employee is required to take a prescription medication pursuant to the instruction of a licensed physician, he/she shall provide documentation of same which effectually states that the medication does not adversely affect the ability of the employee to safely perform a safety-sensitive function. This documentation shall be presented to the employee's department head who will forward same to the Manager.
[Amended 12-13-2010 by Ord. No. 2010-26]
- (10) No employee shall use alcohol within the four hours preceding the performance of safety-sensitive functions. Any supervisor having actual knowledge that an employee has used alcohol within four hours shall not permit the employee to perform or continue to perform safety-sensitive functions and shall contact the department head or may be subject to disciplinary action.
- (11) Employees shall not refuse to submit to any alcohol and/or controlled substance test as required by this section.
- (12) Testing will be conducted in compliance with current medical practices and in

accordance with all applicable federal and state guidelines, including but not limited to the regulations set forth in 49 CFR 40, 653 and 654. The Borough will provide a testing site at which authorized personnel will properly obtain the samples and forward them to a NIDA (National Institute of Drug Abuse) certified drug testing laboratory. The testing site will also provide a trained and certified BAT (breath analysis technician) for all alcohol testing. All drug testing results will be forwarded to a MRO (medical review officer) who has extensive training on drugs and drug abuse. He/she shall interpret the test and certify all results.
[Amended 12-9-2013 by Ord. No. 2013-11C]

E. Preemployment.

- (1) All applicants for employment in the Borough of Beach Haven are required to submit to a urinalysis for controlled substances. The Borough will notify the applicant of the result of any test(s) that is positive for any substance included in the procedure. A copy of the test results will be given only to applicants who appear in person and sign a release within 60 days of being notified of the disposition of the employment application.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (2) The Borough shall not permit any employee to perform any functions unless the employee has been administered a pre-employment controlled substance test with a verified negative result.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (3) Any applicants who test positive for controlled substances as outlined above shall be precluded from employment with the Borough.

F. Transfers. Current employees transferring from one position to another may be required to undergo a pre-duty controlled substance test with a verified negative test result prior to beginning the new function.
[Amended 12-9-2013 by Ord. No. 2013-11C]

G. Post-accident testing.

- (1) In the event of an accident involving any vehicle or other equipment owned by the Borough of Beach Haven and operated by a covered employee, the employee shall be required to undergo testing for alcohol and controlled substance.
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (a) Any person is fatally injured; or
 - (b) The employee performing the safety-sensitive function is issued a summons for a moving violation.
- (2) The employee(s) in the vehicle(s) must notify his/her/their supervisor(s) and/or department head(s) of the accident. The department head shall in turn inform the Borough Manager.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
- (3) In the event of an accident occurring as described above, the employee(s) shall remain at the scene if able or shall remain readily available to undergo testing for alcohol and controlled substance use.
- (4) In the event of an accident involving a vehicle operated by a employee and a loss of human life, each surviving employee on duty in the vehicle(s) at the time of the

accident shall be required to undergo testing for alcohol and controlled substance use. Any other employee whose performance could have contributed to the accident, as determined by the Borough, including but not limited to maintenance personnel and dispatchers associated with the vehicle(s) involved in the accident, shall also be required to undergo testing for alcohol and controlled substance use. [Amended 12-9-2013 by Ord. No. 2013-11C]

- (5) In the event of an accident involving a vehicle operated by a covered employee where there is no loss of human life, each covered employee on duty in the vehicle(s) at the time of the accident who received a summons under state or local law for a moving traffic violation arising from the accident shall be required to undergo testing for alcohol and controlled substance use. Any other covered employee whose performance could have contributed to the accident, as determined by the Borough including but not limited to maintenance personnel and dispatchers associated with the vehicle(s) involved in the accident, shall also be required to undergo testing for alcohol and controlled substance use.
- (6) Any employee subject to post-accident testing as required by this section who fails to remain readily available for such testing, including notifying his/her supervisor and/or department head of his/her location if he/she leaves the scene of the accident prior to submission to such tests, shall be deemed to have refused to submit to breath alcohol/controlled substance testing. Such a refusal shall be treated by the Borough in the same manner as if the employee had an alcohol test result of 0.04 or greater or a verified positive test result for controlled substance use.
- (7) Any employee who is required to take a post-accident alcohol test shall not use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- (8) All alcohol testing required by this section shall be performed by the Borough or its authorized agent as soon as practicable following an accident, but no more than eight hours after the time of the accident. The time of the accident shall be determined by the hour utilized on the New Jersey police accident report.
- (9) If an alcohol test required by this section is not administered within two hours following the accident, the department head shall prepare and maintain on file a report stating the reasons the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the Borough shall cease attempts to administer same and the Manager shall maintain the above-referenced report.
[Amended 12-13-2010 by Ord. No. 2010-26]
- (10) All controlled substance testing required by this section shall be performed by the Borough or its authorized agent as soon as practicable following an accident, but no more than 32 hours following the accident. If a controlled substance test required by this section is not administered within 32 hours following the accident, the Borough shall cease attempts to administer same and the department head shall prepare and maintain on file, a report stating the reasons the test was not promptly administered.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (11) Law enforcement agencies with the authority to do so may perform the alcohol/controlled substance testing required by this section, provided that it is performed in compliance with United States Department of Transportation

requirements. The employee for whom the tests are conducted shall be required to obtain the results and forward them to the Manager.
[Amended 12-13-2010 by Ord. No. 2010-26]

- (12) Any work-related injury requiring evaluation or treatment by the Borough Physician or an emergency services provider shall be required to submit to alcohol/controlled substance testing and shall be required to adhere to Subsection **G(6)** through **(10)** above.
[Added 12-9-2013 by Ord. No. 2013-11C]

H. Random testing.

- (1) The Borough shall annually and randomly test a minimum of 25% of its employees for alcohol and a minimum of 50% of its employees for controlled substances. The total number of employees subject to this unannounced testing shall be based upon the total number of employees. The dates for administering random tests shall be spread reasonably throughout the calendar year.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (2) Any employee may only be randomly tested for alcohol usage while he/she is performing Borough functions, just before performing Borough functions or just after performing Borough functions.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (3) Any employee may be tested for controlled substance use at any time during normal working hours.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (4) The selection of employees for random alcohol and controlled substances testing shall be completed according to the selection criteria as determined by the Joint Insurance Fund. Once selected to undergo testing, the employee's name will be re-entered into the system for the next round of testing announcements. This ensures that each covered employee has an equal chance of being tested at least once annually without elimination. The desired effect, therefore, is that an employee may not be selected at all during the course of the year or he/she may be picked several times.
- (5) Upon the selection of an employee for random alcohol or controlled substances testing, the department head shall advise the employee to report immediately and directly to the testing site. In the event that the selected employee is performing a safety-sensitive function at the time of notification, he/she shall cease that function consistent with safety and proceed to the testing site as soon as possible.
- (6) In the event that an employee is absent from work due to illness, injury, or vacation, his/her name shall be skipped and maintained on file and the next person's name on the list shall be selected and tested.
[Amended 12-9-2013 by Ord. No. 2013-11C]

I. Reasonable suspicion testing.

- (1) When a trained supervisor has reasonable suspicion to believe that any employee may be under the influence of alcohol or a controlled substance, he/she shall contact the department head immediately to report the occurrence.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- (2)

Reasonable suspicion testing for alcohol is permitted only where the observations resulting in the reasonable suspicion determination are made during, just preceding or just after the period of a work day during which the employee is required to comply with the requirements set forth in this section concerning alcohol use. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or a controlled substance test shall be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body or breath odors of the employee. The Borough may require an employee to undergo reasonable suspicion testing for alcohol only while the employee is performing Borough functions, just before the employee is to perform Borough functions or just after the employee has ceased performing such functions. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (3) Alcohol testing, as authorized by this section, shall be conducted within two but not more than eight hours after the reasonable suspicion determination has been made by the supervisor. If the required testing is not performed within the two-hour time period, a report shall be prepared and maintained by the employee's supervisor indicating the reason(s) for not promptly administering same. In the event that an alcohol test required by this section is not administered within eight hours following the reasonable suspicion determination, the supervisor and the Borough shall cease attempts to administer a test and state in the report the reasons for not administering the required test.
- (4) The required observation reports must be received by the Manager within 24 hours of said observation.
[Amended 12-13-2010 by Ord. No. 2010-26]
- (5) Whether or not a reasonable suspicion alcohol test is performed under this section, any employee shall not report for duty or remain on duty requiring the performance of any Borough functions while the employee is under the influence of or impaired by alcohol, as shown by observations of the employee's behavior, speech or performance. The employee shall not perform or continue to perform Borough functions until:
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (a) An alcohol test is administered and the employee's alcohol concentration measures less than 0.00; or
 - (b) The start of the employee's next regularly scheduled duty period, but not less than eight hours following the reasonable suspicion determination.
- (6) Controlled substance testing must be performed, as authorized by this section, within 32 hours of the observation of the supervisor. If testing is not performed within the thirty-two-hour time period, a report shall be prepared by the employee's supervisor indicating the reason(s) for not promptly administering same. In the event that a controlled substance test required by this section is not administered within 32 hours of the observation, the supervisor and the Borough shall cease attempts to administer a test. Under this type of testing, employees will not be permitted to perform safety-sensitive functions, pending the outcome of the tests.

J. Return to duty testing.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (1) Prior to returning to duty requiring the performance of any Borough function, an employee who was determined to have engaged in alcohol use prohibited by this section, notwithstanding any discipline that may have been imposed, shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of not more than 0.00 and, if recommended by the substance abuse professional (SAP), a controlled substance test with a verified negative result.
- (2) Prior to returning to duty, any employee who was determined to have engaged in alcohol use prohibited by this section shall be evaluated by a SAP to determine that the employee has properly followed any prescribed rehabilitation program.
- (3) Prior to returning to duty, an employee who refused to submit to a drug test or has a verified positive drug test result:
 - (a) Shall be evaluated by a SAP to determine whether the employee has properly followed the SAP's recommendations, including participation in any rehabilitation program;
 - (b) Shall take a return to duty drug test with a verified negative result; and
 - (c) May be subject to disciplinary action in accordance with N.J.A.C. Title 4A.
- (4) If recommended by the SAP, any employee who refused to submit to a drug test or has a verified positive drug test result shall be required to take a return to duty alcohol test with a result indicating a blood alcohol concentration not in excess of 0.00.

K. Follow-up testing.

- (1) Any employee who has required referral, evaluation, and/or treatment by a substance abuse professional (SAP) for alcohol/controlled substance use shall be subject to unannounced follow-up testing as directed by the SAP and/or at the discretion of the Borough.
- (2) The employee shall be subject to a minimum of six unannounced alcohol and/or controlled substance tests during the first 12 months of return to duty. If so indicated by the SAP, the follow-up testing may continue for up to 60 months.
- (3) Follow-up testing for alcohol use as required by this section shall be conducted when the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive function, or just after the employee has ceased performing such functions. Follow-up testing for controlled substance use as required by this section shall be conducted at any time during normal work hours.
- (4) The SAP shall provide the Borough with written notification as to the follow-up testing required to be conducted on any employee pursuant to this section.
- (5) All follow-up testing required by the SAP in accordance with this section shall be paid for by the employee.

L. Penalties for violation.

- (1) Alcohol possession, use and testing. Appropriate disciplinary action may be

- imposed consistent with the Borough Personnel Handbook and N.J.A.C. Title 4A, including but not limited to removal effective from the date of suspension.
- (2) Controlled substances possession, use and testing. Appropriate disciplinary action may be imposed consistent with the Borough Personnel Handbook and N.J.A.C. Title 4A, including but not limited to removal effective from the date of suspension.
 - (3) The following specifically enumerated offenses or violations may be grounds for immediate dismissal of the offending employee by the Borough Manager:
[Added 12-9-2013 by Ord. No. 2013-11C]
 - (a) Reporting for work under the influence of alcohol or drugs.
 - (b) Consuming, ingesting and/or otherwise using alcohol or drugs on Borough property or while performing Borough duties off premises.
 - (c) Possession, sale and/or transfer of alcohol, drugs or drug paraphernalia on Borough property or while performing Borough duties off premises.
 - (d) Improper, illegal and/or unauthorized use of prescription drugs or other controlled dangerous substances on Borough property or while performing Borough duties off premises.
 - (e) Testing positive for any controlled, dangerous substance, including, but not limited to, marijuana.
 - (f) Conviction for any drug offense, including, but not limited to, entry into a pretrial intervention or other diversionary program.
 - (g) Refusal to submit to a random and/or reasonable suspicion drug or alcohol test.
 - (h) Possession and/or use of any drugs or substances in violation of and as defined in N.J.S.A. 24:21-1 et seq. or N.J.A.C. 2C:35-1 et seq.

M. Confidentiality.

- (1) Except as required by law or expressly authorized or required by the United States Department of Transportation, the Borough shall not release employee information contained in records required to be maintained under 49 CFR Sections 653.71 and 654.51.
- (2) Any affected employee may request in writing copies of any written records pertaining to his/her own use of alcohol and/or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. A fee may be charged consistent with Borough policy.
- (3) Employee alcohol and controlled substance records shall be made available to a subsequent employer upon receipt of written authorization from an employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's request. A fee may be charged consistent with Borough policy.
- (4) The Borough may disclose information required to be maintained under 49 CFR Sections 653.71 and 654.51 pertaining to an employee to the employee or the

decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or controlled substance test administered under this section or from the Borough's determination that the employee engaged in conduct prohibited by this section (including, but not limited to, a worker's compensation, unemployment compensation or other proceeding relating to a benefit sought by the employee). A fee may be charged for the disclosure of such records, consistent with Borough policy.

[Amended 12-9-2013 by Ord. No. 2013-11C]

- (5) The Borough shall release for a fee consistent with Borough policy information regarding an employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving same is permitted only in accordance with the terms of the employee's consent.
- N. Employee assistance program. The employee assistance program (EAP) is available to assist all employees with drug/alcohol counseling. If you need further information regarding the EAP, contact your department head.
- O. Referral, evaluation and treatment.
- (1) An employee who has engaged in alcohol use prohibited by this section and/or controlled substance use shall be advised by the Borough of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and/or the use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs. Said employee shall be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use.
 - (2) The Borough shall designate a substance abuse professional for the purpose of rendering services in connection with the anti-drug/alcohol program set forth in this section.
 - (a) The designated SAP shall determine whether an employee who has refused to submit to a drug and/or alcohol test, has a verified positive drug test result or engages in alcohol use prohibited by this section is in need of assistance in resolving problems associated with prohibited drug and/or alcohol use. The SAP shall then recommend a course of action to the employee.
 - (b) The SAP shall determine whether an employee who has refused to submit to a drug and/or alcohol test, has a verified positive drug test result or engages in alcohol use prohibited by this section has properly followed the SAP's recommendations and/or any rehabilitation program prescribed by the SAP. The SAP shall notify the Borough as to whether the employee has so complied.
 - (3) Upon referral to a SAP, the employee shall be required to abide by his/her recommendations for return to duty.
 - (4) The employee shall pay for the cost of utilizing the SAP through his/her own health insurance. The Borough shall not be required to pay for the use of a SAP either directly or indirectly.
 - (5)

The requirements of this section with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a preemployment controlled substance test or who have a preemployment controlled substance test with a verified positive result.

P. Medical review officer (MRO).

- (1) The Borough's authorized agent shall provide the medical review officer.
 - (a) The MRO shall forward the Borough copy of the urine testing, custody and control form to the Manager upon collecting specimens for analysis by the outside laboratory.
[Amended 12-13-2010 by Ord. No. 2010-26]
 - (b) The MRO shall ensure that the Manager receives copies of all verified results from laboratories, either positive or negative.
[Amended 12-13-2010 by Ord. No. 2010-26]
 - [1] If a controlled substance test received is positive, the identity of the substance(s) shall be included.
 - [2] The MRO shall review confirmed positive test results prior to transmitting the results to the Manager. Prior to making a final decision to verify a positive test result for an employee, the MRO shall give the employee an opportunity to discuss the test result with him/her. Specifically, upon notification by the laboratory that the initial sample is positive, the MRO shall contact the affected employee on a confidential basis as soon as practicable, but in no case later than eight hours, and advise him/her of the results and afford him/her an opportunity to discuss the test results.
 - [3] If, after making all reasonable efforts and documenting them, the MRO is unable to reach the employee directly, the MRO shall contact the Manager who shall direct the employee to contact the MRO as soon as possible. If it becomes necessary to reach the affected employee through the Manager, the Manager shall employ procedures that ensure, to the maximum extent practicable, the requirement that the employee contact the MRO is held in confidence.
 - [4] The MRO shall also forward to the Manager copies of the record which details the notification of the affected employee.
 - [5] Following verification of a positive test result, the MRO shall refer the case to the Manager.
 - (c) The MRO shall maintain all dated records and notifications, identified by individual, for a minimum of five years for verified positive controlled substances test results.
 - (d) The MRO shall maintain all dated records and notifications, identified by individual, for a minimum of one year for negative and cancelled controlled substances test results.
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (e) The MRO shall not release any employee's controlled substances test results to any person without first obtaining a specific written authorization from the tested employee.
 - (f)

The provisions of this section shall not prohibit the MRO from releasing controlled substances test records to the Borough, Federal Secretary of Transportation, any United States Department of Transportation agency, or any state or local officials with the regulatory authority over the controlled substances testing program under 49 CFR Part 382.409 of the United States Department of Transportation regulations.

- Q. Employer notification. The Borough shall notify an employee of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this section if the test results are verified positive. The Borough shall advise the employee of the controlled substance(s) identified in a verified positive test.
- R. Release of test information by previous employers.
- (1) The Borough may obtain, pursuant to an employee's written consent, any information concerning his/her alcohol and/or controlled substance use or testing from previous employers.
 - (2) The Borough shall not use any employee to perform functions if any information obtained indicates that he/she tested with an alcohol concentration of 0.00 or greater, that he/she had a verified positive controlled substance test result, or that he/she refused to be tested, unless the employer provides evidence that the employee has been evaluated by a substance abuse professional, completed any required counseling, passed a return to duty test, and been subject to follow-up testing.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- S. Accident reporting procedures.
- (1) Upon being involved in an accident while operating a Borough vehicle or Borough equipment the operator shall:
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
 - (a) Contact the appropriate supervisor by the fastest possible means, relating the vehicle identification number, and the location of the accident;
 - (b) The Supervisor shall notify the law enforcement agency having jurisdiction to respond;
 - (c) The employee's supervisor shall respond to the scene of the accident if possible and/or practical;
 - (d) The employee's supervisor shall contact the Manager by the fastest possible means in the event of a fatality or if the operator of the Borough motor vehicle will receive a police traffic summons for a moving violation; and
 - (e) Upon receipt of the message that one of the above scenarios has occurred, the supervisor will be informed as to what action to take.
 - (2) This section and Subsection **G** herein are in no way intended to prevent an injured person from receiving necessary medical attention immediately following an accident or to prohibit a covered employee 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.
- T. Conflict. In the event that any of the provisions contained in this section conflict or are

inconsistent with any of the regulations set forth in 49 CFR Parts 40, 653 and/or 654, the applicable regulations shall be controlling.

- U. Amendments and modifications to federal regulations. In the event that any of the federal regulations pursuant to which this section is adopted are amended and/or modified, this section may be revised accordingly.

§ 27-32. Continuing Education Provisions.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "continuing education provisions."
- B. Statement of policy:
[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
 - (1) The Borough of Beach Haven, in conjunction with the Borough Labor Attorney will arrange for employment practices seminars at least annually to train all managerial/supervisory personnel. The Borough of Beach Haven will also offer nonmandatory training to all other employees with special emphasis on employee rights and protections under various federal and state laws as well as Borough employment practices records will be maintained in the official personnel files of all employees trained under this procedure.
 - (2) Managerial and supervisory personnel will also update employees periodically by departmental meetings and memoranda that should address specific problems and concerns which may arise. Every effort will be made to encourage employees' suggestions about ways to avoid employer-employee disputes and violations of employment rights.
 - (3) Attendance at seminars, training and conferences is an integral part of continuing education for municipal employees, and participation therein is encouraged by the department head. Such seminars, training and conferences should be of direct benefit to the Borough of Beach Haven and should improve job-related work or abilities. Approval of seminars, training and conferences is required by the department head.

§ 27-33. Policy of Posting Employee Notices.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "policy of posting employee notices."
- B. Statement of policy:
 - (1) The Borough of Beach Haven shall provide, as a minimum, three bulletin boards. The boards shall be located in the Police Department, the Department of Public Works and in the Municipal Building.
 - (2) The bulletin boards shall be employed to post all notices relative to workplace conditions as required by state and federal law. Said notices shall include, but not be limited to right-to-know, unemployment and disability insurance, New Jersey Child Labor Law abstract, PEOSHA notification and any materials relevant to

employees' rights and workplace safety.

§ 27-34. Periodic Employee Evaluations.

[Added 7-10-2000 by Ord. No. 2000-17; amended 1-9-2006 by Ord. No. 2005-32; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

- A. The department head will complete a written evaluation and appraisal form for every employee to measure progress and to encourage self-improvement at least once a year. The evaluation will also record additional duties performed, educational courses completed as well as a plan to correct any weak points using the employee counseling form. After completing the evaluation, the supervisor or department head will review the results with the employee and return the form(s) with the signed acknowledgement to the Borough Manager. After review by the Manager the forms will be forwarded for inclusion in the employee's official personnel file. As part of the evaluation, employees have the right to request a conference with the Borough Manager.
- B. Performance evaluation procedure. Periodic evaluations are critical to create a formal record of an employee's performance over time and establish a foundation for personnel actions such as promotion and termination. In addition to day-to-day feedback to the employee, a performance evaluation must be conducted for all employees at least annually. The completed appraisal becomes part of an employee's permanent record. Performance discussions must also provide employees with guidance regarding their ability to meet job standards. Extraordinary skills or abilities should be recognized in addition to areas for improvement. Supervisors or department heads should review future training needs and career planning. The reviewer should also encourage the employee to make suggestions about how the department can improve. The reviewer should ask employees for feedback regarding the employees' skills as they relate to communication, team building, delegation, and sensitivity to needs of subordinates. Open communication is the key to improvement.
 - (1) Setting the stage: The reviewer must create a productive climate for the discussion. In preparing the evaluation form, prior evaluations should be reviewed to identify trends. Employees must be notified in advance of the meeting and should be given a copy of the blank evaluation form. The meeting should be private, without interruptions, in a comfortable environment.
 - (2) Confirm expectations: The reviewer should start the discussion of each performance area by reviewing expectations. Ask the employee to confirm the employee's understanding of job requirements. Refer to the job description as appropriate.
 - (3) Rating: Continue the discussion by giving the employee's rating in each performance area. The supervisor should be prepared to refer to documentation. Employees should be evaluated based on set standards, not as they compare to other employees. It is rare that any person's rating in all areas is either high or low. The evaluation should consider performance during the entire period, not just the recent past. Care should be taken to avoid allowing one aspect of a person's performance to overshadow all other performance factors, be it positive or negative. Ideally, each performance area should be evaluated individually based on specific behaviors exhibited.
 - (4) Discussing future plans: This is where the reviewer should turn to the discussion to the future performance and development of the employee. A Counseling Action

Plan form must be completed if any item is rated "Needs Improvement" or "Does Not Meet Minimum Standards." Specific performance goals must be established for the next review period along with plans for achieving those goals.

- (5) Closing the discussion: When all performance areas have been discussed, close the discussion by summarizing all of ratings in an overall rating for the review period.
- C. It is crucial that all reviewers complete the evaluation forms with care and with complete candor. Although reviewers are encouraged to set forth areas of strength and utilize tact in presenting criticism, it is important that all performance issues of any significance be addressed thoroughly and in unambiguous terms in the evaluation form, and verbally with the employee.
- (1) "Exceeds Expectations" means consistently exceeds established standards in most areas of responsibility. All requirements must be met and objectives achieved above the established standards.
 - (2) "Meets Job Requirements" means all job requirements were met and planned objectives accomplished within established standards. There were no critical areas where accomplishments were less than planned.
 - (3) "Needs Improvement" means performance in one or more critical areas does not meet expectations. Not all planned objectives were accomplished within the established standards and some responsibilities were not completely met.
 - (4) "Does Not Meet Minimum Standards" means performance is unacceptable and important objectives have not been accomplished. Needs immediate improvement.
- D. After completing the evaluation, the reviewer will return the form(s) with the signed acknowledgement to the Borough Manager. After review by the Borough Manager, the form(s) are to be forwarded to the Personnel Department for inclusion in the employee's official personnel file. As a part of the evaluation, employees have the right to request a conference with the Borough Manager or Personnel Department.

§ 27-35. Compliance with collective bargaining agreement policy.

- A. The subject of this section is "compliance with collective bargaining agreement policy."
- B. Statement of policy:
- (1) In the event that the employee manual conflicts with any collective bargaining agreement, the collective bargaining agreement shall take precedence. The term "supervisor," when referring to the Department of Public Works, shall mean the Superintendent of Public Works or, in his absence, the Supervisor of Public Works.

§ 27-36. Standard application form.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "standard application form."
- B. Statement of policy:
 - (1) The Borough of Beach Haven will use a standard application form that is designated by the Borough Manager and is compliant with state and federal law. This form will be used for all applicants for positions in the Borough of Beach Haven, with the exception of the Beach Haven Police Department, which has its own employment application form.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

§ 27-37. Update of Risk Management Loss Control Plan and Employee Manual.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "update of Risk Management Loss Control Plan and Employee Manual."
- B. Statement of policy:
 - (1) This Risk Management Loss Control Plan and the Employment Practices Plan will be reviewed and updated as needed.

§ 27-38. Disclaimer of employment contract.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "disclaimer of employment contract."
- B. Statement of policy:
 - (1) The Borough of Beach Haven reserves the right to terminate an individual's employment in accordance with the guidelines establishment by the Employment Practices Plan and regulations of the Department of Personnel. No representative (s) of the Borough, jointly or unilaterally, have the authority to make any verbal assurances or to offer any employment contract to any individual which is inconsistent with the aforementioned plan.

§ 27-39. Personnel Officer; Attorney.

[Added 7-10-2000 by Ord. No. 2000-17]

- A. The subject of this section is "designation of personnel officer, labor consultant, Labor Attorney, Municipal Attorney."
- B. Statement of policy:
 - (1) The Borough Manager shall act as the personnel officer for purposes of this article. The Labor Attorney or Municipal Attorney shall act as attorney for matters relating to this plan.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

§ 27-40. Smoking.

[Added 7-10-2000 by Ord. No. 2000-17]

A. The subject of this section is "smoking."

B. Statement of policy:

- (1) To comply with the statutes of the State of New Jersey and in keeping with the Borough's intent to provide a safe and healthful work environment, the Borough has adopted the following smoking policy:
 - (a) Smoking is prohibited at all times in all areas within the Municipal Building, the police station and Public Works and Water Department facilities, including, but not limited to, offices, meeting rooms, corridors, garages, bathrooms and lobbies.
 - (b) Smoking shall only be permitted either outside the Municipal Building, the police station and Public Works and Water Department facilities.
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (c) An employee leaving the work area to smoke outside the building may not leave their office unattended. Smoking shall not interfere with the employee's productivity.
- (2) The Borough policy responds to evidence that tobacco smoke creates a danger to the health of people who are present in a smoke-filled environment and establishes the means to regulate the use of smoking materials by Borough employees while on duty. Every attempt will be made to obtain, to the greatest extent possible, freedom for the nonsmoker from the effects of smoking materials while preserving a reasonable degree of freedom for those who chose to smoke.

§ 27-41. Use of municipal vehicles when off duty.

[Added 7-10-2000 by Ord. No. 2000-17]

A. The subject of this section is "use of municipal vehicles when off-duty."

B. Statement of policy:

- (1) Any municipal employee who has permission to drive a municipally owned vehicle to his/her residence shall be directed by the following policy:
 - (a) The employee shall not drive the vehicle for personal use.
 - (b) No other person shall be permitted to drive or be permitted to be a passenger in the municipally owned vehicle at any time with the exception of another Borough of Beach Haven employee.

§ 27-42. Use of Borough-Owned Motor Vehicles.

[Added 5-14-2001 by Ord. No. 2001-6]

A. Use of Borough-owned motor vehicles.

B.

Statement of policy:

- (1) Borough-owned motor vehicles shall be used for official Borough business only. Borough vehicles must be available for Borough business at all times.
- (2) The department head shall be responsible for assigning employees to particular vehicles. Other employees or individuals shall not use any vehicle without first obtaining the permission of the department head, Borough Manager, or the Council.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26]
- (3) No other person shall be permitted to drive or be permitted to be a passenger in a Borough-owned vehicle at any time, with the exception of another Borough of Beach Haven employee.
- (4) The use of hand-held cell phones or texting while driving any vehicle or utilizing any Borough equipment while performing Borough business is prohibited.
[Added 12-9-2013 by Ord. No. 2013-11C^[1]]
[1] *Editor's Note: This ordinance also redesignated former Subsection B(4) through (7) as Subsection B(5) through (8), respectively.*
- (5) The employee to whom the vehicle is assigned is responsible for the mechanical condition of the vehicle, reporting any mechanical difficulties or safety defects to the department head and the mechanic.
- (6) Only those employees who are required to be "on call" and subject to frequent return to work calls, or when availability of a car is a condition of employment, are eligible to use a Borough vehicle for commuting purposes.
- (7) The employee granted the privilege of using a Borough vehicle for commuting shall not use it for any other purpose than driving to and from work. If the vehicle is used for other than Borough business, the employee shall relinquish that privilege immediately.
- (8) If a Borough vehicle is not available for an employee to use for official business, the employee may request reimbursement for mileage costs incurred for the use of the personal vehicle; however, permission must first be obtained by the department head.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

C. All-terrain vehicle use by Borough employees:

[Added 12-9-2013 by Ord. No. 2013-11C]

- (1) All-terrain vehicles, hereafter referred to as "ATVs," are motor vehicles designed to travel over all types of terrain, containing three to six tires and powered by a gasoline engine not exceeding 600 cubic centimeters, not including golf carts.
- (2) No Borough employee less than 18 years of age will be permitted to operate an ATV with an engine capacity greater than 90 cubic centimeters.
- (3) Borough employees operating ATVs will complete an all-terrain vehicle safety education and training course.
- (4) Borough employees operating ATVs on public streets will wear a protective helmet as prescribed by the Director of Motor Vehicles.

- (5) Borough employees operating ATVs during the hours between sunset and sunrise will use headlights and taillights.

§ 27-43. Use and Maintenance of Equipment and Supplies.

[Added 5-14-2001 by Ord. No. 2001-6]

- A. The subject of this section is "Use and maintenance of equipment and supplies."
- B. Statement of policy. Employees and municipal officials are responsible for taking care of any equipment assigned to them. Supplies are to be properly utilized. Employees of the Borough shall not remove or in any way assist in the removal of supplies, materials, goods or equipment belonging to the Borough unless the Borough Manager or the Council has authorized such removal in writing. Employees are not to use equipment, supplies, postage, or other materials of the Borough for personal use. Unauthorized use or removal of Borough equipment and supplies shall be cause for disciplinary action and/or removal from employment.

[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26]

C. Procedure.

- (1) Employees who are assigned equipment are responsible for ensuring that the equipment is kept clean, in good condition, and serviced in accordance with the preventive maintenance schedule.
- (2) Borough property, equipment, records or other materials shall not be removed from the premises without prior authorization of the Borough Manager or the Council, nor shall they be used or allowed to be used for other than officially approved activities or as provided by law.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26]
- (3) All Borough property shall be returned to the department head upon separation of any employee.
- (4) Department heads are responsible for ensuring that all employees under their direction comply with this section.

§ 27-44. Personal and Electronic Privacy.

[Added 4-11-2005 by Ord. No. 2005-1; amended 12-9-2013 by Ord. No. 2013-11C; 11-14-2016 by Ord. No. 2016-22C]

A. Statement of policy:

- (1) An employee's work product and the resources supplied by the Borough to create that product are the property of the Borough.
- (2) Employees may not invade other employees' work spaces (lockers, desks, offices or computer files, for instance) and examine any personal items or work product. This prohibition does not apply to items kept in plain view and subject to casual observation.
- (3) Except in cases of an ongoing criminal investigation, supervisors with a legitimate need to know may inspect any Borough-owned property used by employees,

including work spaces, desks, lockers and electronic files. In the case of ongoing criminal investigations or police investigations, the existing Attorney General guidelines regarding access to this information shall be followed. Employees who choose to keep personal items, whether tangible or electronic, on Borough property should anticipate that the property is subject to inspection by supervisors and managers.

- (4) Employees should have no expectation of privacy regarding business-related or private communications via telephone, computer, voicemail, or electronic mail when using Borough facilities. All e-mail, voicemail and internet messages are official documents subject to the provisions of the Access to Public Records Act. Employees are restricted from accessing or using the Borough's communication media for personal purposes during Borough time on Borough equipment without prior authorization from the Borough Administrator to do so.
[Amended 11-13-2018 by Ord. No. 2018-33C]
- (5) The Borough respects the individual privacy of its employees. However, employee communications transmitted by the Borough's communication media are not private to the individual. All communication media, and all communications and stored information transmitted, received, or contained in or through such media, may be monitored by the Borough. The Borough reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Borough's communication media. By using the Borough's equipment and/or communication media, employees consent to have such use monitored at any time, with or without notice, by Borough personnel. The existence of passwords does not restrict or eliminate the Borough's ability or right to access electronic communications. However, the Borough cannot require the employee to provide his/her password to his/her personal account.
- (6) All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (N.J.S.A. 47:1A-1). Employees of the Borough are required to use the assigned municipal e-mail account for all Borough business and correspondence. The use of private e-mail accounts for any Borough business or during business hours is strictly prohibited. Employees are hereby advised that if they conduct work-related business on their personal e-mails, cell phones, or other personal communication media, it is also subject to the provisions of the Open Public Records Act. However, nothing in this policy prevents employees from using his/her own personal communication media during the employee's nonworking hours to engage or participate in protected concerted activities pursuant to the New Jersey Employer-Employee Relations Act. Protected concerted activities include when an employee addresses group concerns with the employer; forms, joins or helps a labor organization; initiates, induces or prepares for group action; or speaks on behalf of or represents other employees. Nevertheless, employees are encouraged to resolve workplace grievances internally by discussing issues with their supervisor and/or the Borough Administrator, and are asked to refrain from posting comments or materials on communication media that can be viewed as malicious, obscene, threatening, intimidating, or that could create a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law if the employee chooses to address their grievances using communication media.
[Amended 11-13-2018 by Ord. No. 2018-33C]
- (7) Employees can only use the Borough's communication media for legitimate

business purposes. Employees may not use Borough communication media in any way that is defamatory, obscene, or harassing or in violation of any Borough rules or policy. Examples of forbidden transmissions or downloads include sexually explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances. Further, discriminatory remarks, harassment bullying, threats of violence and similar behavior that is not tolerated in the workplace are also not acceptable through communication media, whether same is performed on the Borough's equipment or on the employee's own personal communication media.
[Amended 11-13-2018 by Ord. No. 2018-33C]

- (a) All employees who have been granted access to electronically stored data must use a logon ID assigned by the Borough. Certain data, or applications that process data, may require additional security measures, as determined by the Borough. Employees must not share their passwords, and each employee is responsible for all activity that occurs in connection with their passwords. Information security is necessary to protect the Borough's information (data and software) from accidental or intentional unauthorized disclosure, modification, or loss. Information security is managed under guidelines dealing with identification, authentication, authorization, production environment, and ability to audit. All employees should be familiar with such security measures adopted by the Borough.
 - (b) All employees may access only data for which the Borough has given permission. All employees must take appropriate actions to ensure that Borough data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.
 - (c) Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the Borough's computing environment.
 - (d) Employees may not install or modify any hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough or licensed to the Borough. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized. Workstation settings and configurations and network setting must not be modified by unauthorized employees. Internet security settings (where applicable) must not be changed. The foregoing includes but is not limited to the systems network ID (or computer name), IP address, gateway and DNS addresses, etc.
- (8) Social media and its uses in government and daily life are expanding each year; however, information posted on a website is available to the public. Therefore, employees must adhere to the following guidelines for their participation in social media. Only those employees directly authorized by the Borough Administrator

may engage in social media activity during work time, through the use of the Borough's communication media, as it directly relates to their work and is in compliance with this policy.

- (9) Employees must not reveal or publicize confidential Borough information. Confidential; proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to, the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.
- (a) No Borough employee shall post internal working documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/or actual documents themselves without the prior approval of the Borough Administrator. In addition, employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incident or occurrence taken with the Borough's communication media to any person, entity, business or media or Internet outlet, whether on or off duty, without the express written permission of the Borough Administrator. Except in emergency situations, employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough.
- (b) For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances, or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes, and the employee does not have access to the Borough's communication media. If such situation occurs, the employee agrees that any images belong to the Borough and agrees to release the image to the Borough and ensure its permanent deletion from the media device upon direction from the Borough.
- (10) No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the Borough or on behalf of the Borough, whether through the use of the Borough's communication media or otherwise, may be issued unless it has first been approved by the CEO of the Borough. Specifically, employees are forbidden from using the Borough's communication media to impersonate the Borough; to make statements on behalf of the Borough without authorization; and/or to make statements that can be construed as establishing what the Borough's official position or policy is on any particular issue. In addition, employees are prohibited from placing or posting on the Internet through the Borough's communication media or the employee's own personal media, either during working or nonworking hours, or disclosing to anyone outside the Borough, any Borough-related confidential, sensitive or other Borough information of a proprietary nature, including but not limited to Borough records or documents, internal reports, any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incidents or occurrences. Such unauthorized communications may result in disciplinary action.
[Amended 11-13-2018 by Ord. No. 2018-33C]
- (11) Because (authorized) postings placed on the Internet through use of the

Borough's communication media will display on the Borough's return address, any information posted on the Internet must reflect and adhere to all of the Borough's standards and policies.

- (a) All users are personally accountable for messages that they originate or forward using the Borough's communication media. Misrepresenting, obscuring, suppressing, or replacing a user's identity on any communication media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else without a legitimate authorized purpose and authorized by the Borough Administrator) is prohibited.
 - (b) Employees must respect the laws regarding copyrights, trademarks, rights of public, Borough and other third-party rights. Any use of the Borough name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the Borough, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.
- (12) If employees choose to identify themselves as a Borough employee on their personal social media accounts and even those that do not should be aware that he or she may be viewed as acting on behalf of the Borough; as such, no employee shall knowingly represent themselves as a spokesperson of the Borough, post any comment, text, photo, audio, video or other multimedia file that negatively reflects upon the Borough, expresses views that are detrimental to the Borough's mission or undermine the public trust or is insulting or offensive to other individuals or to the public in regard to religion, sex, race or national origin. Borough employees are encouraged to exercise extreme caution posting photographs of themselves in uniform or in situations where they can be readily identified as Borough employees. To the extent that employees use social media outside of their employment while engaging in protected concerted activities as defined above, employees will not be subject to discipline or retaliation for expressing views, opinions, and/or facts surrounding the Borough's employment policies. For all other communications by employees on personal social media sites in which matters related to the Borough are discussed, employees must add a disclaimer on the front page, stating that the posting does not express the views of the Borough and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." The disclaimer shall be placed in a prominent position and repeated for each posting that is expressing an opinion related to the Borough or the Borough's business, with the exception of postings and social media communications by employees engaging in protected concerted activities. Employees must keep in mind that, if they post information on a social media site that is in violation of Borough policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action. Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Borough employees have the right to engage in or refrain from such activities.
- [Amended 11-13-2018 by Ord. No. 2018-33C]

B. Procedure:

- (1) Supervisors may have access to desks, offices, file cabinets and lockers to retrieve work-related materials or to investigate violations of workplace rules.

Lockers and desks provided by the Borough are not considered personal space of employees and are subject to inspection from time to time.

- (2) Any employee who believes that privacy has been violated should bring the matter to the attention of the supervisor.

§ 27-45. Bulletin Board Policy.

[Added 4-11-2005 by Ord. No. 2005-1]

Statement of policy: The bulletin boards in the Borough administrative building and other facilities are intended for official notices regarding legal notices, policies, procedures, meetings, and special events. Except as required by N.J.S.A. 34:13A-1 et seq., only personnel authorized by the Borough Clerk may post, remove, or alter any notice. In accordance with the New Jersey Employer-Employee Relations Act, N.J.S.A., 34:13A-1 et seq., the Borough shall permit the posting of notices for labor-related issues on the required and designated bulletin board.

§ 27-46. Safety policy.

[Added 4-11-2005 by Ord. No. 2005-1]

Statement of policy:

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

§ 27-47. Workplace Violence Policy.

[Added 4-11-2005 by Ord. No. 2005-1]

Statement of policy:

- A. The Borough will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Borough property, at Borough events or under other circumstances that may negatively affect the Borough's ability to conduct business.
- B. Prohibited conduct includes:
 - (1) Causing physical injury to another person;
 - (2) Making threatening remarks;
 - (3) Aggressive, hostile or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;

[Amended 1-9-2006 by Ord. No. 2005-32]

- (4) Intentionally damaging employer property or property of another employee;
 - (5) Possession of a weapon while on Borough property or while on Borough business except with the authority of the Police Chief;
 - (6) Committing acts motivated by or related to sexual harassment or domestic violence.
- C. Any potentially dangerous situations must be immediately reported. The Borough will actively intervene in any potentially hostile or violent situation.

§ 27-48. Employee Complaint Policy.

[Added 4-11-2005 by Ord. No. 2005-1]
Statement of policy:

- A. Employees who wish to complain of harassment or any other workplace wrongdoing are requested to immediately report the matter to their supervisor, or, if they prefer, to their department head, the Borough Manager, or the Council. If the employee has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, he or she may ask his or her supervisor or one of the individuals listed below. All reports of harassment, sexual harassment, or other wrongdoing will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing.
[Amended 9-13-2010 by Ord. No. 2010-20; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
- B. No employee will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files a good-faith harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven. There will be no discrimination or retaliation against any other individual who participates in the investigation of a complaint.
[Amended 1-9-2006 by Ord. No. 2005-32]
- C. If the investigation substantiates the complaint, appropriate corrective and/or disciplinary action will be swiftly pursued. Disciplinary action up to and including discharge will also be taken against individuals who make false or frivolous accusations, such as those made maliciously or recklessly.
[Amended 1-9-2006 by Ord. No. 2005-32]
- D. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons involved. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. The employee will be notified of a decision or of the status of the investigation within a reasonable time from the date of the report or incident.
[Added 1-9-2006 by Ord. No. 2005-32]
- E. Employee complaint investigation procedure.
[Added 12-9-2013 by Ord. No. 2013-11C]

- (1) Reporting: Employees should be asked to report complaints, in writing, utilizing the Employee Complaint form, but are not compelled to do so.
- (2) Identification/screening: The supervisor, department head, Personnel Officer or Employment Attorney must report all written or verbal complaints to the Borough Manager unless the complaint is against the Borough Manager. Upon receipt, the Borough Manager will determine if the complaint was made pursuant to the General Anti-Harassment Policy, the Anti-Sexual Harassment Policy, the Whistleblower Policy, a grievance procedure or is another form of complaint. A file will be established including the written complaint, the investigation procedure followed and the response action plan. As soon as possible, but no later than 10 days after receiving the complaint, the Borough Manager or investigator appointed by the Borough Manager will interview the employee. If the employee is reluctant to sign a written complaint, the Borough Manager or investigator will prepare written notes of the date, time and place of the complaint and the specific allegations. These notes will be read back to the employee who will be asked to affirm, preferably in writing, the information's accuracy.
- (3) Investigation: The Borough Manager will seek the advice of the Employment Attorney when planning the investigation. The investigation should be conducted by the Employment Attorney or county prosecutor if it involves potential criminal charges. The investigation should establish the frequency and nature of the alleged conduct and whether the complaint coincides with other employment events such as a poor performance evaluation. The investigation should also determine if other employees were subjected to similar misconduct. It is important to protect the rights of both the person making the complaint and the alleged wrongdoer.
- (4) Response plan – no corrective action required: The Borough Manager will discuss the conclusions with the Employment Attorney and render a decision within 14 days after the investigation is complete. If the validity of a complaint cannot be determined or the complaint is groundless, the complaining employee should be notified in writing. Care should be taken to avoid being too specific, confrontational or accusatory and to avoid any language that might be construed as defamatory. A general statement is usually more appropriate that the claim was thoroughly investigated, but could not be sufficiently documented or confirmed to justify taking formal action. The employee should be assured that future complaints will be investigated and that the Borough is committed to eliminating wrongful employment practices when they are found to exist. If the investigation reveals that the complainant intentionally and maliciously levied false charges against the alleged wrongdoer, the complainant must be notified of the seriousness of filing a false complaint, and the appropriate disciplinary penalty under the circumstances, up to and including termination.
- (5) Response plan – corrective action required: If the investigation reveals that the complaint is justified and substantiated, the Borough Manager will formulate, with the advice of the Employment Attorney, a corrective action plan as well as possible disciplinary action. The complaining employee will be notified, in writing, that it appears that the complaint was justified and an appropriate response plan has been formulated. A copy of the response plan should be attached to the letter. The response plan should provide for appropriate remedial action to prevent a recurrence of the wrongful act or behavior.

§ 27-49. Personnel records.

[Added 4-11-2005 by Ord. No. 2005-1]

- A. Statement of policy: The official personnel file for each employee shall be maintained by the Payroll Clerk. These records are considered to be of a confidential nature and are available only to the employee or supervising personnel on a need-to-know basis. Employees are entitled to review the contents of their own personnel folder but not those of other employees.
- B. Procedure:
- (1) Employees wishing to see their personnel folders will arrange with the Borough Manager through their department heads to review the folder.
[Amended 12-13-2010 by Ord. No. 2010-26]
 - (2) An employee may submit a written response to any document contained in the personnel file for permanent inclusion in the file.
 - (3) There are limited circumstances in which the Borough will release information from personnel or medical records to preserve confidentiality and privacy. The limited circumstances in which the Borough would release such information are as follows:
[Added 12-9-2013 by Ord. No. 2013-11C]
 - (a) In response to a valid subpoena, court order or order of an authorized administrative agency;
 - (b) To an authorized governmental agency as part of an investigation of the Borough's compliance with applicable law;
 - (c) To the Borough's agents and attorneys, when necessary;
 - (d) In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the Borough are parties;
 - (e) In a workers' compensation proceeding;
 - (f) To administer benefit plans;
 - (g) To an authorized health care provider;
 - (h) To first aid or safety personnel, when necessary; and
 - (i) To a potential future employer or other person requesting verification of your employment as described in § 27-60, Requests for Employment Verification and Reference Procedure.

§ 27-50. Conflict of Interest Policy.

[Added 4-11-2005 by Ord. No. 2005-1]
Statement of policy:

- A. Employees, including Borough officials, must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Borough. Violations of this policy will result in appropriate discipline including termination.
- B.

The Borough recognizes the right of employees to engage in outside activities that are private in nature and unrelated to Borough business. However, business dealings that appear to create a conflict between the employee and the Borough's interests are unlawful under the New Jersey Local Government Ethics Act. Under the Act, certain employees and officials are required to annually file with the Borough Clerk a state-mandated disclosure form. The Borough Clerk will notify employees and Borough officials subject to the filing requirements of the Act.

- C. A potential or actual conflict of interest occurs whenever an employee, including a Borough official, is in a position to influence a Borough decision that may result in a personal gain for the employee or an immediate relative. Employees are required to disclose possible conflicts so that the Borough may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the Borough Manager or Borough Solicitor to obtain clarification.
[Amended 12-13-2010 by Ord. No. 2010-26]
- D. Employees are allowed to hold outside employment as long as it does not interfere with their Borough responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using Borough supplies or equipment in the outside employment activities. The Borough Manager may request employees to restrict outside employment if the quality of Borough work diminishes. Any employee who holds an interest in, or is employed by, any business doing business with the Borough must submit a written notice of these outside interests to the Borough Manager.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]
- E. Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their Borough duties. Under no circumstances accept donations, gratuities, contributions or gifts from a vendor doing business or seeking to do business with the Borough or any person or firm seeking to influence Borough decisions. Meals and other entertainment valued in excess of \$25 are also prohibited. Employees are required to report to the Borough Manager any offer of a donation, gratuity, contribution or gift, including meals and entertainment, that is in violation of this policy.
[Amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

§ 27-51. Political Activity.

[Added 4-11-2005 by Ord. No. 2005-1]
Statement of policy:

- A. Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using Borough time, supplies or equipment in any political activity.
- B. Any violation of this policy must be reported to the department head, the Borough Manager, or the Borough Solicitor.
[Amended 12-13-2010 by Ord. No. 2010-26]

§ 27-52. Employee Termination.

[Added 4-11-2005 by Ord. No. 2005-1]

Statement of policy:

- A. An employee may be terminated depending upon circumstances for any of the following:
 - (1) Incompetence, inefficiency or failure to perform duties;
 - (2) Conviction of a crime;
 - (3) Conduct unbecoming a public employee;
 - (4) Violation of Borough policies, procedures and regulations;
 - (5) Falsification of public records including personnel records;
 - (6) Violation of federal, state or Borough regulations concerning drug and alcohol use and possession;
 - (7) Chronic or excessive absenteeism or lateness;
 - (8) Misuse of public property, including motor vehicles; and
 - (9) Other sufficient cause.
- B. All discharges will be in accordance with federal and state laws (including the New Jersey Civil Service Act) as well as applicable collective bargaining agreements.

§ 27-53. Employee Resignation.

[Added 4-11-2005 by Ord. No. 2005-1]

Statement of policy:

- A. An employee who intends to resign must notify the Borough in writing at least two weeks in advance. After giving notice of resignation, employees are expected to assist their supervisor and coemployees by providing information concerning their current projects and help in the training of a replacement.
- B. The Payroll Clerk will prepare an employee action form showing any pay or other money owed the employee. The Borough Manager will conduct a confidential exit interview to discuss benefits, including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee.
[Amended 12-13-2010 by Ord. No. 2010-26]
- C. On the last day of work, and prior to receiving the final paycheck, the employee must return all keys and equipment. At this time, the employee will sign the termination memo designating all money owed, and this memo will be retained in the personnel file.

§ 27-54. Work Force Reduction.

[Added 4-11-2005 by Ord. No. 2005-1]
Statement of policy:

- A. Pursuant to N.J.A.C. 4A:8-1.1, the Borough of Beach Haven may institute layoff actions for economy, efficiency or other related reasons, but will first consider voluntary alternatives.
- B. Seniority, lateral or other re-employment rights for employees will be determined by the New Jersey Department of Personnel.

§ 27-55. Leave of Absence.

[Added 4-11-2005 by Ord. No. 2005-1]
Statement of policy:

- A. Employees may be granted a personal leave of absence for up to six months at the discretion of the Council if the leave does not cause undue operational disruption. The leave must include the use of any accrued vacation and sick time, regardless of the length of leave requested. The portion of the leave that runs beyond the exhaustion of vacation and sick leave will be without pay or longevity credit. In exceptional circumstances, the leave of absence may be extended for an additional six months, if such extension is considered in the best interests of the Borough.
[Amended 9-13-2010 by Ord. No. 2010-20]
- B. Personal leaves are not granted for the purpose of seeking or accepting employment with another employer or for extended vacation time. Employees on personal leave of absence for more than two weeks in any month will not receive holiday pay and will not accrue personal leave, sick leave or vacation time for that month. Health benefits may also be impacted. Refer to the Borough's Health Benefits Policy. A personal leave is granted with the understanding that the employee intends to return to work for the Borough. If the employee fails to return within five business days after the expiration of the leave, the employee shall be considered to have resigned.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- C. To the extent that an employee's leave of absence will be used for a purpose covered by the federal Family and Medical Leave Act and/or New Jersey Family Leave Act, any leave that is granted shall also be counted toward that employee's leave entitlement pursuant to the federal Family and Medical Leave Act and/or the New Jersey Family Leave Act and/or the New Jersey Family Leave Act.
[Amended 12-9-2013 by Ord. No. 2013-11C]

§ 27-56. Military Leave.

[Added 4-11-2005 by Ord. No. 2005-1; amended 12-9-2013 by Ord. No. 2013-11C]
Statement of policy:

- A. When a full-time employee (either permanent or temporary) who is a member of the reserve component of any United States Armed Forces or the National Guard of any state, including the Naval Militia and Air National Guard, is required to engage in field training or is called for active duty, the employee will be granted a military leave of absence for the duration of the service. The first 30 workdays of the leave shall be with full pay except that a member of the New Jersey National Guard shall receive full pay for the first 90 days. (Thereafter, the leave shall be without pay but without loss of time.) or (Thereafter, the employee shall be paid the difference between military salary

and the employee's regular salary.) The paid leave will not be counted against any available time off, including but not limited to vacation, sick or personal time. A full-time temporary employee who has served less than one year shall not be entitled to paid leave but shall be granted nonpaid military leave without loss of time.

- B. Employees on military service will also continue to receive paid health insurance coverage during the period of the paid leave plus an additional 30 calendar days after the paid leave is exhausted. After this period has expired, employees may continue coverage for themselves or their dependents under the (local unit type) group plan by taking advantage of the COBRA provision. Members of the state-administered retirement systems (PERS and PFRS) will continue accruing service and salary credit in the system during the period of paid leave.
- C. Pursuant to the Uniformed Services Employment and Reemployment Rights Act, any employee released from active duty under honorable circumstances shall return to work without loss of privileges or seniority within the following time limits: for service less than 31 calendar days, the employee must return to work on the beginning of the first regularly scheduled workday or eight hours after the end of military duty, with reasonable allowances for commuting; for service of 31 to 180 calendar days, the employee must submit an application for reinstatement within 14 calendar days after completing military duty; for service greater than 180 calendar days, the employee must submit an application for reinstatement within 90 calendar days after completing military duty.

§ 27-57. Telephone Usage Policy.

[Added 5-9-2005 by Ord. No. 2005-8]
Statement of policy:

- A. Borough telephones are to be used primarily to conduct official business. This is applicable to standard desk telephones as well as any cellular units issued to authorized individuals.
- B. Any personal calls received during business hours must be held to a minimum time limit and must not interfere with the employee's work.
- C. It is the employee's responsibility to ensure that no cost to the Borough results from personal telephone calls.
- D. Violation of this policy will minimally result in cost reimbursement by the violating party to the Borough. Continued violations may subject the employee to further disciplinary action.

§ 27-58. General Anti-Harassment Policy.

[Added 1-9-2006 by Ord. No. 2005-32]

It is the Borough of Beach Haven's policy to prohibit harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), liability for service in the United States armed forces, and/or any other characteristic protected by law. While it is not easy to define precisely what

harassment is, it includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, and other similar verbal or physical conduct.

- A. If an employee is witness to or believes to have experienced harassment, immediate notification of the supervisor or other appropriate person should take place. Refer to the Employee Complaint Policy.
- B. Harassment of any employees in connection with their work by nonemployees may also be a violation of this policy. Any employee who experiences harassment by a nonemployee, or who observes harassment of an employee by a nonemployee, should report such harassment to the supervisor. Appropriate action will be taken against any nonemployee.
- C. Harassment of any nonemployee by a Borough employee, during working hours, is also a violation of this policy. Any nonemployee who experiences harassment by a Borough employee, or an employee who observes harassment of a nonemployee by another employee, should report such harassment to the supervisor, department head or Borough Manager.

[Added 12-9-2013 by Ord. No. 2013-11C^[1]]

[1] *Editor's Note: This ordinance also redesignated former Subsections C and D as Subsections D and E, respectively.*

- D. Notification of appropriate personnel of any harassment problem is essential to the success of this policy. The Borough of Beach Haven cannot resolve a harassment problem unless it knows about it. Therefore, it is the responsibility of all employees to bring those kinds of problems to the attention of the appropriate officials so that steps can be taken to correct them.
- E. Violation of this harassment policy will subject employees to disciplinary action, up to and including immediate discharge. The appropriate officials to address such matters, in the order of whom to approach first, are: the immediate supervisor, department head and Borough Manager.
[Amended 12-9-2013 by Ord. No. 2013-11C]
- F. Anti-retaliation: No person who reports unlawful harassment, discrimination, retaliation or other unlawful conduct, or who furnishes information or testimony with respect to the occurrences of such matters, shall be subject to retaliation in any form from the Borough, Borough officials, department heads, supervisors, employees, volunteers, or other non-employees. Retaliation can take different forms including but not limited to discouraging the making, filing, pursuit or participation in an investigation of a complaint made to the Borough or a federal or state agency, as well as written or oral statements, conduct, threats of harm or intimidation, or other behavior which negatively effects a person's work environment, pay, or other terms, conditions or privileges with the Borough of Beach Haven. The Borough forbids any form of retaliation against an employee or non-employee for making a complaint.

[Added 12-9-2013 by Ord. No. 2013-11C]

§ 27-59. Family and Medical Leave Act Policy.

[Added 1-9-2006 by Ord. No. 2005-32]

Employees may be eligible for an unpaid family and medical leave under the federal Family and Medical Leave Act (FMLA). Employees also may be eligible for family and/or medical leave pursuant to the New Jersey Family Leave Act (FLA). In order to be eligible for such leave, employees must have: one year of service with the Borough of Beach

Haven; and at least 1,000 hours of work (for New Jersey leave) and 1,250 hours of work (for federal leave) during the previous 12 months. Eligible employees may receive up to 12 weeks of leave per year (FLMA) or 12 weeks every 24 months (FLA).

- A. During the leave period, the employee's health benefits will be continued on the same conditions as coverage would have been provided had the employee been employed continuously during the entire leave. The employee will not continue to accrue vacation, sick or personal days for the period of the leave. The employee will receive seniority credit for the time that the employee has been on leave under this section. At the conclusion of the leave period, an eligible employee is entitled to reinstatement to the position the employee previously held or to an equivalent one with the same terms and benefits that existed prior to the exercise of leave.
- B. Upon written notice, eligible employees are entitled to a family or medical leave for up to 12 weeks to care for a newly born or adopted child or a seriously ill immediate family member or for the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position. Eligible employees who take leave under this policy must use all accrued available vacation and personal days during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.
- C. The period of leave must be supported by a physician's certificate. An extension past 12 weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The Borough of Beach Haven reserves the right to deny any request for extended leave.
- D. Commencing July 1, 2009, Family Temporary Disability ("FTD") payments for up to six weeks in a twelve-month period will become available for eligible employees who are caring for a seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1,000 times the minimum wage. The weekly benefit is 2/3 of weekly compensation up to a maximum of \$524 per week. (This amount is subject to change.) FTD will run concurrently with FMLA and/or FLA leaves, and there is a one-week waiting period. Employees may also be required to use accrued sick, vacation or personal leave for up to two weeks.
[Added 12-9-2013 by Ord. No. 2013-11C]
- E. Employees taking paid family leave in connection with a family member's serious health condition may take leave intermittently or consecutively. Intermittent leave is not available for the care of a newborn or adopted child. Intermittent leave may be taken in one-day increments. An employee seeking intermittent paid family leave is required to provide the Borough with 15 days' notice unless an emergency or other unforeseen circumstance precludes prior notice. The employee seeking intermittent leave shall make a reasonable attempt to schedule leave in a nondisruptive manner. Employees requesting such leave shall provide the Borough with a regular schedule of days for intermittent leave.
[Added 12-9-2013 by Ord. No. 2013-11C]
- F. Employees may also be eligible for an unpaid leave for up to 26 weeks in a year to care for a family member on active duty in the military or up to 12 weeks in a year for a qualifying exigency. A qualifying exigency occurs when a member of the National Guard or Reserves is called to active duty and a close member of his/her family must attend official ceremonies or family support or assistance meetings, there is a short-notice deployment, to attend to child care matters, attend to financial and/or legal

matters, or counseling.

[Added 12-9-2013 by Ord. No. 2013-11C]

§ 27-60. Requests for Employment Verification and Reference.

[Added 1-9-2006 by Ord. No. 2005-32; amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

- A. Inquiries and written request for references or employment verification regarding a current or former employee must be referred to the Payroll Department. No employee, other than the Chief of Police issuing a reference letter for a member of the Beach Haven Police Department, shall issue a reference letter without the permission of the Borough Manager. Under no circumstances shall any information be released verbally, in person or over the telephone.
- B. In response to a request for information, the Payroll Department will only verify an employee's name, dates of employment, job title, department and final salary. No other data or information will be furnished unless the Borough is required to release the information by law or the employee or former employee authorizes the Borough in writing to furnish this information and releases the Borough from liability.

§ 27-61. Employee Personnel File.

[Added 1-9-2006 by Ord. No. 2005-32]

- A. The official personnel file shall be maintained by the Payroll Clerk and employee medical information will be maintained in a separate file. At least annually, the Payroll Clerk will review files to make sure they are up-to-date and will follow up with the department head as necessary.
- B. The official file shall include at least the following:
 - (1) The original application signed by the employee;
 - (2) Notes from any preemployment interview and reference check;
 - (3) The original letter detailing an offer of employment and any additional correspondence concerning the employee's hiring;
 - (4) A signed acknowledgement that the employee received a copy of the Employment Complaint Policy letter;
 - (5) A signed acknowledgement that the employee received the Employee Handbook;
 - (6) A signed acknowledgement that the employee received the safety orientation;
 - (7) Annual written performance evaluations including documentation that the evaluation was reviewed with the employee;
 - (8) Counseling action plans;
 - (9) Records relating to on-the-job accidents;

- (10) Disciplinary actions including acknowledgement that the employee was notified of the proposed disciplinary action and was given an opportunity to respond;
- (11) Records relating to any other employment actions, including promotions, demotions, transfers, resignations, leaves, etc.;
- (12) Educational transcripts; and
- (13) Any other pertinent information.

§ 27-62. Procedure concerning personnel matters.

[Added 1-9-2006 by Ord. No. 2005-32; amended 11-14-2016 by Ord. No. 2016-22C; 11-13-2018 by Ord. No. 2018-33C]

Discussions by the governing body concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee may be held in closed session. Ultimately, the guidance as to notification of employees and the right to have the discussion in executive or the open session should be discussed with and be based upon the guidance and advice of the legal counsel for the public entity and recent court decisions.

§ 27-63. Initial employment period procedure.

[Added 1-9-2006 by Ord. No. 2005-32; 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

- A. Except where state requirements direct otherwise, new employees (or present employees transferring to a new position) will be hired subject to an initial employment period of not less than three months or more than 12 months, as determined by the New Jersey Department of Personnel. During this initial employment period, the new employee (or present employee transferring to a new position) will be provided with training and guidance from the supervisor. At the end of the initial employment period, the supervisor will conduct an employee evaluation.
- B. New employees may be discharged at any time during this period if the Borough Manager concludes that the employee is not progressing or performing satisfactorily. Under appropriate circumstances, the Borough Manager may extend the initial employment period. Newly hired employees are not eligible for payment of paid time off except holidays until the successful completion of their initial employment period.
- C. Nothing in this procedure set forth in this section shall alter the Borough of Beach Haven's employment-at-will policy. Employment with the Borough of Beach Haven is at will and may be terminated at any time with or without cause or notice by the Borough or the employee.

§ 27-64. Orientation of new employees.

[Added 1-9-2006 by Ord. No. 2005-32; amended 12-13-2010 by Ord. No. 2010-26; 12-9-2013 by Ord. No. 2013-11C]

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

- A.

A tour of the appropriate facilities to acquaint the new employee with overall operations as they relate to the specific position;

- B. The completion of all pertinent personnel, payroll, insurance and pension forms;
- C. A review of the Employee Handbook and acknowledgement of receipt;
- D. The Employee Complaint Policy letter and acknowledgement;
- E. A safety orientation and acknowledgement; and
- F. Arrangements for the new employee to complete required PEOSHA safety training.

§ 27-65. Donated Leave.

[Added 10-13-2009 by Ord. No. 2009-28]

- A. The Borough of Beach Haven does hereby adopt pursuant to the provisions of N.J.A.C. 4A:6-1.22(g) a donated leave program which shall not become effective until approved by the Commissioner of the State of New Jersey Department of Personnel.
- B. The donated leave program shall be administered in accordance with the provisions of N.J.A.C. 4A:6-1.22(a) through (f), which provisions shall be strictly complied with and enforced by the Donated Leave Program Administrator of the Borough of Beach Haven as follows: The following definitions are used in this section.
 - (1) An employee of the Borough of Beach Haven shall be eligible to receive donated sick or vacation leave if the employee:
 - (a) Has completed at least one year of continuous service for the Borough of Beach Haven;
 - (b) Has exhausted all accrued sick, vacation and administrative leave, all sick leave injury benefits, if any, and all compensatory time off;
 - (c) Has not, in the two-year period immediately preceding the employee's need for donated leave, been disciplined for chronic or excessive absenteeism, chronic or excessive lateness or abuse of leave; and
 - (d) Either.
 - [1] Suffers from a catastrophic health condition or injury;
 - [2] 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
 - [3] Requires absence from work due to the donation of an organ (which shall include, for example, the donation of bone marrow).
 - (2) For purposes of this section, a "catastrophic health condition or injury" shall be defined as follows:
 - (a) With respect to an employee, a "catastrophic health condition or injury" shall be defined as follows:
 - [1] A life-threatening condition or combination of conditions; or
 - [2]

A period of disability required by his or her mental or physical health or the health of the employee's fetus which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 60 or more workdays.

- (b) With respect to an employee's immediate family member, a "catastrophic health condition or injury" is either:
 - [1] A life-threatening condition or combination of conditions; or
 - [2] A period of disability required by his or her mental or physical health which requires the care of a physician who provides a medical verification of the need for the family member's care by the employee for 60 or more workdays.
- (3) An employee of the Borough of Beach Haven may request that the Donated Leave Program Administrator for the Borough of Beach Haven approve his or her participation in the program as a leave recipient or leave donor. The employee's supervisor may make such a request on behalf of the employee for his or her participation in the program as a leave recipient
 - (a) The employee or supervisor requesting the employee's acceptance as a leave recipient shall submit to the Donated Leave Program Administrator for the Borough of Beach Haven medical verification from a physician or other licensed health care provider 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.
 - (b) When the Donated Leave Program Administrator for the Borough of Beach Haven has approved an employee as a leave recipient, the appointing authority shall, with the employee'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, and shall provide notice to all negotiations representatives in the Borough of Beach Haven.
 - [1] If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.
- (4) In the Borough of Beach Haven, a leave recipient must receive at least five sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program. A leave donor shall donate only whole sick days or whole vacation days and may not donate more than 10 such days to any one recipient without the express written consent of the Borough Manager, which consent must be received, in writing, prior to the donor making any donation as herein provided for.
[Amended 12-9-2013 by Ord. No. 2013-11C]
 - (a) A leave recipient shall receive no more than 180 sick days or vacation days, and shall not receive any such days on a retroactive basis.
 - (b) A leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.
 - (c) A leave donor shall not revoke the leave donation.

- (d) If a leave donor is not in the same department as the leave recipient, appropriate arrangements shall be made by the Donated Leave Program Administrator for the Borough of Beach Haven to verify donor eligibility and adjust leave records. However, the posting requirement set forth in Subsection **B(3)(b)** above is limited to the recipient's appointing authority.
- (5) While using donated leave time in municipal service, the leave recipient shall accrue sick leave and vacation leave and be entitled to retain such leave upon his or her return to work.
 - (a) 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 leave time shall not be returned.
 - (b) Upon retirement, the leave recipient shall not be granted supplemental compensation on retirement for any unused sick days which he or she had received through the leave donation program.
- (6) An employee of the Borough of Beach Haven shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving donating, receiving or using 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.
- C. There is hereby created a Donated Leave Program Administrator for the Borough of Beach Haven whose responsibilities shall be:
 - (1) The administration of the Borough of Beach Haven donated leave program.
 - (2) The maintenance and retention of all records concerning the implementation of the Borough of Beach Haven donated leave program, which records shall at all times be available for audit by the State of New Jersey Department of Personnel.

§ 27-66. Domestic violence leave.

[Added 11-14-2016 by Ord. No. 2016-22C]

- A. The subject of this section is "domestic violence leave policy."
- B. Statement of policy:
 - (1) The New Jersey Security and Financial Empowerment Act,^[1] also known as the "NJ SAFE Act," provides protection for employees and their family members who have been the victim of domestic violence or sexual assault. Employees are entitled to 20 days of unpaid protected leave from work to:
 - (a) Seek medical attention for physical or psychological injuries;
 - (b) Obtain services from a victim services organization, pursue psychological or other counseling;
 - (c) Participate in safety planning for temporary or permanent relocation;

- (d) Seek legal assistance to ensure health and safety of the employee or the employee's relative; or
- (e) Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

[1] *Editor's Note: See N.J.S.A. 34:11C-1 et seq.*

- (2) To be eligible for the leave, an employee must meet the following criteria:
 - (a) The employee or their child, parent, spouse or domestic partner must be a victim of domestic violence or a sexually violent offense;
 - (b) The employee must have worked for the employer for at least 12 months and for at least 1,000 hours during the twelve-month period immediately preceding the requested leave; and
 - (c) The twenty-day leave must be taken within one year of the qualifying event.
- (3) Employees may take leave on an intermittent basis, but such leave cannot be shorter than one full day. To the extent the leave is foreseeable, employees must provide advance notice. In addition, employees seeking leave must provide proof that they qualify for the leave. Such proof may include restraining order, letter from a prosecutor, proof of conviction, medical documentation or a certification from an agency or professional involved in assisting the employee.
- (4) In certain circumstances, the basis for the leave may also qualify under the federal Family and Medical Leave Act^[2] and/or the New Jersey Family Leave Act^[3]. If so, the Borough will treat the leave concurrently with the leave under those statutes. Employees may be required to use accrued paid vacation leave, personal time or sick leave concurrently.
 - [2] *Editor's Note: See 29 U.S.C. § 2601 et seq.*
 - [3] *Editor's Note: See N.J.S.A. 34:11B-1 et seq.*
- (5) The Borough shall protect the privacy of employees who seek leave by holding the request for leave, the leave itself or the failure to return to work in the strictest confidence.
- (6) The Borough shall not retaliate, harass or discriminate against any employee exercising his/her right to take the leave provided by this policy.

