



City of Burlington

Employee Handbook

For all Employees of the City of Burlington

The City of Burlington is an Equal Opportunity Employer

ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

I acknowledge that I have received a copy of Burlington City's Employee Handbook. I agree to read it thoroughly. I agree that if there is any policy or provision in the handbook that I do not understand, I will seek clarification from my supervisor or the Business Administrator. I understand, that Burlington City is an "at will" employer and consistent with applicable Federal and State law, including the New Jersey Civil Service Act, as well as applicable bargaining unit agreements. Employment with the City is not for a fixed term or definite period and may be terminated at the will of either party, with or without cause, and without prior notice. No supervisor or other representative of the City has the authority to enter into any agreement for employment for a specified period of time, or to make any agreement to the contrary to the above. In addition, I understand that this handbook states Burlington City's policies in effect of the date of publication. I understand that nothing contained in the handbook may be construed as creating a promise of future benefits or a binding contract with the Burlington City for benefits or for any other purpose. I also understand that these policies and procedures are continually evaluated and may be amended, modified or terminated at any time.

Please sign and date this receipt and return it to the Business Administrator.

Date: _____

Signature: _____

Print Name: _____

Department: _____

Introductory Letter

The City of Burlington is committed to providing an excellent level of service to its residents while maintaining a high level of morale amongst its employees.

This Employee Handbook is designed to ensure that the policies of the City of Burlington are clear and consistent. The contents cover many issues and personnel policies. As an employee of the City of Burlington, you are expected to read and become familiar with the contents of this book. This Employee Handbook, by its nature, cannot be comprehensive or address all possible situations. If you have any questions concerning any policy or procedure contained herein, you should contact your supervisor, or if you prefer, the Department Director, the Business Administrator or the Mayor.

The policies and procedures set forth in this Handbook are not intended to void, replace, or conflict with any collectively negotiated agreement, statute or regulation. In the event of any such conflict, the collectively negotiated agreement, statute or regulation shall control.

Neither this Employee Handbook nor other personnel policies and procedures adopted by the City of Burlington confer any contractual right, either express or implied, to remain in the City's employ or to guarantee any specific terms and conditions of employment. The provisions of this Employee Handbook may be amended and/or supplemented from time to time without notice and at the sole discretion of the City of Burlington.

All employees are required to read this Employee Handbook and sign an acknowledgment of receipt of the Handbook. A copy of this acknowledgment will be maintained in your personnel file.

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Addendum

1

CDL Drug and Alcohol Testing Policy

(This Addendum is not included in the employee handbook. It can be found in the Personnel Policies and Procedures Manual)

Addendum

2

Addendum

3

Protection and Safe Treatment of Minors Policy

Addendum

2

Domestic Violence Policy

Addendum

3

I. GENERAL

A. Distribution of Official Policies and Procedures Manual

The City of Burlington's Personnel Policies and Procedures Manual shall serve as the official personnel policies and procedures manual for the City of Burlington. While all employees of the City are provided with this Employee Handbook to familiarize themselves with the personnel policies and procedures of the City of Burlington, the official Personnel Policies and Procedures Manual may contain updated policies and procedures that have not yet been incorporated into the latest version of the Employee Handbook distributed to employees. The Personnel Policies and Procedures Manual shall accordingly be issued to all Department Directors and Division Heads as well as made available to all other employees of the City in accordance with the procedures set forth in this policy. All employees wishing to review the Personnel Policies and Procedures Manual may do so by making such request to the Business Administrator. For convenience, Department Directors and Division Heads are to also to make the Manual available to employees within their department and/or divisions.

All Division Directors and Department Head's should, however advise such employees that a review of the Personnel Policies and Procedures Manual through the Business Administrator is also recommended.

B. Review and Update of Official Manual

The Personnel Policies and Procedures Manual will be revised whenever any changes in personnel policy or operations necessitate such action.

In addition, the Administration shall review the Personnel Policies and Procedures Manual as required to keep the City current with all applicable laws and as necessary to affect changes desired by the City and/or required by contracts with employees.

Approved revisions will be distributed to all current Personnel Policies and Procedures Manual holders, who are responsible for ensuring their Manual is up-to-date at all times. The Business Administrator will distribute revisions to each Personnel Policies and Procedures Manual holder, who will sign a form acknowledging receipt of the revisions as well ensure that all revisions are placed in any Personnel Policies and Procedures Manual maintained in the office of the Administrator for review by employees.

Users of the Personnel Policies and Procedures Manual who encounter difficulty in administering or interpreting any policy or procedure in the Personnel Policies and Procedures Manual should submit to the Business Administrator, in writing, the nature of the difficulty and a proposed solution or revision.

C. Purpose of Handbook and General Personnel Policy

The purpose of this Handbook is to familiarize you with the personnel policies and procedures of the City of Burlington (hereinafter referred to at times as the "City"). The Handbook presents the policies

and procedures of the City of Burlington as they currently exist in the City's official Personnel Policies and Procedures Manual in a manner intended for easy reference by employees.

The definition of policies and the use of standardized procedures will result in the uniform operations throughout all departments, the consistent handling of personnel matters, improved efficiency and morale, and the best possible level of service to the public.

It is the policy of the City to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations. The personnel policies and procedures of the City shall apply to all employees, volunteers, elected or appointed officials and independent contractors. In the event of a conflict between this Employee Handbook and official policies and procedures adopted by the City of Burlington or any collective bargaining agreement, personnel services contract, or Federal or State law, the terms and conditions of the official policies and procedures, contract or law shall prevail.

Department Directors and Division Heads may, with the approval of the Business Administrator and Mayor, establish Standard Operating Procedures (SOPs) to govern the specific day to day operations of their respective Departments and/or Divisions which shall become effective upon approval by the Business Administrator and Mayor. Such SOPs shall be in addition to and supplement the policies and procedures set forth in this Manual provided, however, that in the case of a conflict between the policies and procedures set forth herein and such SOPs, the policies and procedures set forth herein shall control.

In the case of the Police Department, the City may establish Policies, Procedures, Rules and Regulations to govern the operations and management of the Police Department consistent with state law. Any such Policies, Procedures, Rules and Regulations shall take precedent over the policies and procedures set forth in this Manual such that the policies and procedures set forth herein shall be applicable to the Police Department and Police personnel only to the extent consistent with state law and any Policies, Procedures, Rules and Regulations established by the City in relation to the Police Department in accordance with such law.

The Mayor shall appoint all Department Directors subject with the advice and consent of the Common Council. Department Directors shall, under and subject to the direction of the Mayor and City Administrator, be responsible for the appointment and promotion of all employees, and subordinate officers within their respective departments. No person shall be employed or promoted unless there exists a position, or if otherwise authorized by applicable law as well as the necessary budget appropriation and salary ordinance.

The Mayor, Business Administrator and all managerial/supervisory personnel are authorized and responsible for personnel policies and procedures. The City has appointed the Business Administrator to assist the Mayor in implementing the policies and procedures contained herein.

As a general principle, the City has a "no tolerance" policy toward workplace wrongdoing. City officials, employees and independent contractors are to report anything perceived to be improper. The City believes strongly in an Open Door Policy and encourages employees to talk with their supervisor, Department Head, Business Administrator, the Mayor, or the City's Employment Attorney concerning any problem.

This Employee Handbook is intended to provide guidelines covering public service by City employees and is not a contract. This Handbook contains many, but not necessarily all of the rules, regulations, and

conditions of employment for City personnel. The provisions of this handbook may be amended and supplemented from time to time without notice and at the sole discretion of the City.

Neither this Employee Handbook, nor any other policy or procedure of the City of Burlington confer any contractual right, either express or implied, to remain in the City's employ or to guarantee any specific terms and conditions of employment. To the maximum extent permitted by law, the employment practices of the City shall operate under the legal doctrine known as "employment at will." Within federal and state law and any applicable bargaining unit agreement, the City shall have the right to terminate an employee at any time and for any reason, with or without notice, except under the recognized bargaining units, which shall comply with all federal and state legal requirements requiring notice and an opportunity to be heard in the event of discipline or dismissal.

D. Code of Ethics/Conflict of Interest Policy

All employees including supervisory and managerial personnel need to be aware of the importance of conducting themselves in an ethical manner and in accordance with the highest ethical standards of public service. Therefore, employees shall not take part in, or attempt to influence in any way, any activity in which their own best interests may conflict with the best interests of the City.

The public judges its government by the way its employee's conduct themselves in the posts to which they are appointed. The public has a right to expect that every employee will conduct himself/herself in a manner that will tend to preserve public confidence in, and respect for, the government (s)he represents.

While the City recognizes the right of employees to engage in outside activities that are private in nature and unrelated to City business, any activities which appear to create a conflict between the employee and the City'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 City Clerk a state mandated disclosure form. The City Clerk will notify employees and City officials that are subject to the filing requirements.

Employees are required to disclose any actual or potential conflicts of interest to the Business Administrator so that a proper course of conduct may be followed. If there are any questions regarding whether an action or proposed course of conduct would create a conflict of interest, you should contact the Business Administrator or the City Solicitor for clarification.

All employees are required to familiarize themselves and comply with all applicable ethics provisions set forth in this Manual, all Codes of Ethics and Ordinances concerning employee and public official ethics and/or conflicts of interest adopted by the City, and all applicable State and Federal Law concerning conflicts of interests and ethics including, but not limited to the New Jersey Local Government Ethics Act. A potential or actual conflict of interest occurs whenever an employee including a City official is in a position to influence a City decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the City 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 Business Administrator or the City Solicitor to obtain clarification. The following list of activities, while not all inclusive, is offered as examples of those activities, which may compromise an employee's ability to act in an ethical manner.

- Accepting gifts or entertainment with a value in excess of \$400.00 from an outside organization, including people who do, or wish to do, business with the City.
- Borrowing money from individuals or firms, except recognized lending institutions, with which the City does business.
- Engaging in practices or procedures, which violate any laws or regulations to which the City is subject.
- Holding an interest comprising of 10% or more of the profits of a firm or managing a firm with which the City regularly conducts business.
- Misusing, or revealing to unauthorized parties, any confidential information.
- Participating in civic or professional organizational activities in such a way that confidential information is disclosed.
- Simultaneous employment with a firm, which is a City supplier.
- Speculating or dealing in materials, equipment, supplies or services purchased by the City.

No employee shall grant or make available to any person a consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

No employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the personal convenience or the private advantage of himself/herself or any other person. This rule shall not be deemed to prohibit an employee from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which are provided as a matter of stated public policy for the use of employees in the conduct of official business.

Employees are allowed to hold outside employment as long as it does not interfere with their City responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using City time, supplies or equipment in the outside employment activities. The Business Administrator may request employees to restrict outside employment if the quality of municipal work diminishes. Any employees who holds an interest in, or is employed by, any business doing business with the City must submit a written notice of these outside interests to the Business Administrator.

Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their municipal duties. Under no circumstances accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the City or any person or firm seeking to influence municipal decisions. Meals and other entertainment are also prohibited. Employees are required to report to the City Administrator any offer of a donation, gratuity, contribution or gift including meals and entertainment that is in violation of this policy. Violations of this policy will result in appropriate discipline including termination. Employees who believe a conflict of interest or other violation has occurred are to report the incident to the Business Administrator. If the conflict of interest or other violation involves the Business Administrator, employees will report the incident to the City Attorney.

The Business Administrator, or his/her designee, upon receipt of any report of suspected violations, will initiate an investigation.

All records, including employee identity, shall be kept confidential, except as necessary during an investigation. The accused shall have a fair opportunity to respond to allegations. No retaliation may be taken against an employee who in good faith reports suspected violations even if a subsequent investigation reveals no wrongdoing.

Employees who are found to be in violation of any provisions of this policy, the City's Code of Ethics, any ordinance adopted by the City concerning ethics or conflicts of interests or any applicable state or federal law relating to ethics and/or conflicts of interest may be subject to appropriate penalty, up to and including termination.

E. Bargaining Units

The City recognizes the below listed bargaining units as the bargaining agent(s) for the establishment of salaries, wages, hours, and other conditions of employment for employees represented by these bargaining units.

This recognition, however, shall not be interpreted as affecting the rights of employees who elect not to participate in a bargaining unit, or in any way voiding the rights of employees established under the New Jersey Public Employer - Employee Relations Act.

The City of Burlington recognizes the following bargaining units:

1. Fraternal Order of Police (FOP) Officers Unit
2. Fraternal Order of Police (FOP) Supervisors Unit
3. CWA 1040 Clerical and Public Works Employees
4. CWA 1040 Supervisors' Association
5. CWA 1036 School Traffic Guards

F. Management Rights

The City retains all rights not expressly granted to employees in this manual.

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

1. To manage and control the affairs of the City and its properties and facilities, its operation, and the work activities and scheduling of its employees;
2. To hire all employees and, subject to the provisions of New Jersey Department of Personnel regulations, and/or collective bargaining agreements, determine their qualifications, standards of performance, and conditions for continued employment or assignment, promotion, and transfer;
3. To layoff, suspend, demote, discharge, or take other disciplinary action;
4. To establish rules, regulations, policies, and procedures to effect the orderly and efficient administration of the City's personnel management system.
5. **The failure of the City to exercise any of the foregoing rights, or any other management rights, shall not be construed as a waiver of these rights.**

G. Organizational Chart

The City of Burlington has chosen, through its citizens, to have a Mayor Council form of government. The Business Administrator shall maintain the official organizational chart and a copy shall be maintained in the City Clerk's office.

H. Employee Handbook

An Employee Handbook shall be maintained by the City which sets forth the personnel policies of the City of Burlington in a form designed to make employees aware of the personnel policies of the City that are set forth in the Personnel Policies and Procedures Manual. The latest version of the Employee Handbook shall be provided to all new hires at the time of their orientation who will, at that time, be required to sign an acknowledgement of receipt that will be placed in the official personnel file of the employee. The Business Administrator with the assistance of the City Attorney shall revise the Employee Handbook whenever there is a significant change in personnel policies, procedures or practices or, at a minimum, every two years for the approval of the Mayor. Upon approval, revised Employee Handbooks shall be distributed to all employees who will be required to sign an acknowledgement of receipt that will be placed in the official personnel file. A separate version of the Handbook may be drafted for part-time and seasonal employees as well as for major bargaining groups if the City determines it appropriate to do so.

I. Open Public Meetings Act Regarding Personnel

The City shall comply with all provisions of the New Jersey Open Public Meetings Act as it may exist from time to time with respect to all applicable matters concerning personnel.

J. Equal Employment Opportunity Policy

The Employer is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD) and all other applicable state or federal laws. Under no circumstances will the Employer discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), **pregnancy, breastfeeding, childbirth** liability for service in the United States Armed Forces, gender identity or expression, and/or any other characteristic protected by state or federal law. Accordingly, decisions regarding hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer, their Department Head, Director of Personnel, the Chief Administrative Officer, or any other supervisor with whom they feel comfortable, using the complaint procedure set forth in the Policy Against Harassment set forth in this handbook.

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

K. Americans with Disabilities and Pregnant Workers Fairness

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

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

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

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

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

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

New Jersey Pregnant Worker's Fairness Act

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

The Pregnancy Workers Fairness Act (“PWFA”) defines “pregnancy and childbirth” as meaning the pregnancy or childbirth of the specific employee in question and includes, but is not limited to, current pregnancy; past pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment, and the use of contraception); labor; and childbirth.

It is the policy of the City of Burlington to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act, and the New Jersey Law Against

Discrimination. The City will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known disability. The City will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the City.

Requesting Accommodation. Qualified employees or prospective employees with disabilities, **or who need accommodations due to pregnancy, childbirth, or related medical conditions** may request accommodations to perform the essential functions of their job or gain access to the hiring process. Employees or prospective employees should direct their written request to the Employer. In the written request, the employee or prospective employee should identify themselves as a person with a disability, eligible for protection, **or include an explanation of the pregnancy-related limitation** and identify the nature of the accommodation or consideration desired.

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

The Business Administrator shall engage in the interactive dialogue with the disabled employees and prospective employees to identify reasonable accommodations. All decisions with regard to reasonable accommodations shall be made by the Business Administrator. Employees who are assigned to a new position as a reasonable accommodation will receive the salary for their new position. The American Disabilities Act does not require the City to offer permanent "light duty", relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

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

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

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

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

In the case of an employee needing accommodations for pregnancy or childbirth, a reasonable accommodation may include the temporary suspension of essential functions and/or modifications or adjustments that permit the temporary suspension of essential functions.

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 work area for the employee to express breast milk for the child.

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

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

II. DEFINITIONS

AFFECTUAL OR SEXUAL ORIENTATION: Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived presumed or identified by others as having such an orientation.

AFFIRMATIVE ACTION: Any measure undertaken by the State beyond simple termination of a discriminatory practice, to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future.

AMERICANS WITH DISABILITIES ACT (ADA): A federal law which states that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied benefits of or be subjected to discrimination in programs or activities sponsored by a public entity."

APPLICANT: An individual who has completed and submitted an application for a position.

APPOINTING AUTHORITY: Any local Merit System jurisdiction persons having power of appointment and removal. The City of Burlington appointing authority for the Business Administrator, Department Directors, Municipal Court Judge, Prosecutor and Public Defender is the Mayor with advice and consent from the Common Council. For all other positions, the Business Administrator shall serve as the appointing authority. The Business Administrator shall be permitted to delegate that responsibility to Department Directors. The Business Administrator may, with approval of the Mayor, remove City officers and employees pursuant to the provisions of Title 11 of the New Jersey Statutes.

BARGAINING UNIT: A collection of titles represented by a majority representative (union).

CAREER SERVICE: Those positions and job titles subject to the provisions of NJSA 11A, New Jersey Statutes and the New Jersey Administrative Code 4A:, Civil Service Commission.

CERTIFICATION: A list of names qualified through the examination process presented to an appointing authority for regular, (permanent), appointment from open competitive, promotional, special and regular reemployment lists.

COMPETITIVE DIVISION: Competitive permanent titles are those allocated to the competitive division of the career service and are subject to an examination process and successful completion of a working test period. NJAC 4A:4-1.1

DEMOTION: In Local Government, this is the reduction in title, or from full-time to part-time. Action can be the result of a major or minor disciplinary action, layoff action, or an individual's voluntary request

DISABLED VETERAN: Any veteran who is eligible to be compensated for a service-connected disability from war service by the US Veterans Administration or who receives or is entitled to receive equivalent compensation for a service-connected disability which arises out of military or naval service and who has submitted sufficient evidence of the record of disability incurred in the line of duty before the closing date for filing an application for an examination.

ELIGIBLE: A person who is qualified for employment or reemployment

ELIGIBLE LIST: A roster compiled or approved by the Civil Service Commission of persons who are qualified for employment or reemployment.

EQUAL EMPLOYMENT OPPORTUNITY: Includes, but is not limited to, the right of all individuals to expect fair and equal treatment by an employer in hiring, promotion, discharge, compensation, and other terms, conditions and privileges of employment.

FULL TIME POSITION (Employee): One in which the incumbent is required to work the regular full time work week established by the City of Burlington for the specific position. Typical full time work weeks include, but are not limited to, the following: 35, 37 1/2 or 40 hours per week.

GRIEVANCE: An employee complaint regarding any term or condition that is beyond the employee's control and is remediated by management.

HOSTILE WORK ENVIRONMENT: A work environment consisting of discriminatory intimidation, ridicule and/or insult to the extent that it interferes with an individual's work performance or creates a direct or indirect offensive work environment.

INTERGOVERNMENTAL TRANSFER PROGRAM (ITP): A voluntary program which provides an opportunity for New Jersey State and local government employees with permanent merit system status to transfer between State and local government jurisdictions while maintaining their permanent status (this program is not open to state employees transferring to other state departments).

INTERIM APPOINTMENT (IA): An appointment made to a position encumbered by a permanent employee who: (1) is on a leave of absence; (2) is on indefinite suspension; or (3) has been removed or demoted for disciplinary reasons and is awaiting final administrative action by the Merit System Board on appeal.

LATERAL TITLE CHANGE: The movement of a permanent employee from his or her permanent title to an equivalent (level) title or comparable title in local government within the same organization unit. In State Service titles having the same class code

LAYOFF: The separation or demotion of an employee from his/her permanent title or an employee in his/her Working Test Period for reasons of economy or efficiency or other related reasons but not for disciplinary reasons.

LIST/ELIGIBILITY ROSTER: A list of candidates resulting from an examination.

LOCAL GOVERNMENT SERVICE: Employment in any political subdivision: county, municipality, or other local entity under Title 11A, New Jersey Statutes.

MANAGEMENT EMPLOYEES: There are three levels of management: Directors of Departments; Division Heads; and Supervisors. Department Directors and the Business Administrator serve at the will of the Mayor, subject to the consent of the Common Council.

MERIT SYSTEM JURISDICTION: Any county or municipal government agency that adopted NJSA 11A (also known as civil service).

NEW JERSEY LAW AGAINST DISCRIMINATION (NJLAD): An act to protect all persons of their civil rights, to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin, ancestry, age, sex, marital status, familial status, religion, affectional or sexual orientation, atypical hereditary cellular blood test, genetic information liability, for services in the armed forces of the U.S., or disability, and to create a Division in the Department of Law and Public Safety to effect such prevention and elimination.

NJAC 4A: New Jersey Administrative Code regulating the activities relating to employment, tenure and discharge of certain State employees and certain employees of local government political subdivisions under the authority of the Civil Service.

NJSA 11A: A New Jersey law governing the employment, tenure and discharge of certain State employees and certain employees of political subdivisions; and to establish a Department of Personnel as a principal department in the Executive Branch of State government.

NON-COMPETITIVE: Permanent titles in the career service for which competitive testing is not required due to the nature of the knowledge, skills, and abilities associated with the job or difficulties associated with recruiting.

OPEN COMPETITIVE EXAMINATION (OC): A test open to members of the general public, announced on the internet, who meet the prescribed requirements for admission.

PART TIME EMPLOYEE: An employee whose regular hours of work are less than the regular and normal work week for that job title or agency. Employees may be career service, permanent or provisional, or unclassified.

PERMANENT EMPLOYEE: An employee in the career service who has received a regular appointment and has successfully completed a Working Test Period.

PRELIMINARY NOTICE OF DISCIPLINARY ACTION (DPF 31A): An official notice which must be served on a permanent employee or an employee serving in their Working Test Period, in the classified service, against whom major disciplinary action is contemplated which allows the employee to request an internal hearing.

PROMOTION: advancement in job title.

PROMOTIONAL EXAMINATION: A test open only to permanent employees in an organizational unit, who meet the prescribed requirements for admission.

PROVISIONAL APPOINTMENT: Employment in the competitive division of the Career Service pending the appointment of a person from an eligible list.

REASSIGNMENT: The in-title movement of an employee to a new job function, shift, location or supervisor within the same organizational unit.

REGULAR APPOINTMENT (RA): The permanent appointment of a person from a certification list, or to a position or title in the non-competitive (not tested) division of the career service.

REMOVAL: Termination of a permanent employee from employment for disciplinary reasons.

RESIDENCY: The applicant's place of domicile at the time of announcement for open competitive examinations and the area to which the announcement is open (municipality, county, State or U.S.).

RESIGNATION IN GOOD STANDING: The giving up of one's office or position upon providing the Appointing Authority with 14 days written or verbal notice, unless AA consents to a shorter notice.

RESIGNATION NOT IN GOOD STANDING: The giving up of one's office or position without giving the required notice or for disciplinary reasons.

SENIORITY: In most instances, seniority for layoff purposes is the amount of continuous permanent service in State or local government, regardless of title. However, in the case of police and fire titles in both State and local service, seniority for layoff purposes is the amount of continuous permanent service in an employee's current permanent title and other titles that have (or would have had) lateral or demotional rights to the current permanent title.

SICK DAY (OR SICK LEAVE): A type of paid leave which a civil service employee may use due to personal illness or injury, because of exposure to contagious disease, to care for a sick member of the immediate family, or due to the death of a member of the immediate family.

SPECIAL REEMPLOYMENT LIST (SRL): A list of laid off employees who have rights back to their permanent title when a position becomes available.

SUSPENSION: Temporary separation from employment for disciplinary reasons.

TEMPORARY APPOINTMENT (TA): A non-permanent appointment, not to exceed six (6) months in a 12 month period. However, appointment can be approved for 12 months as a result of a grant.

TITLE 40A (New Jersey Statutes Annotated, Municipalities and Counties): The statute which governs the ways in which local governments must operate.

TRAINING: Preplanned instruction with specific outcomes designed to develop or improve employee performance through the acquisition or enhancement of knowledge, skills, and attitudes.

TRANSFER: The movement, in State service, of a permanent employee between organizational units within the same governmental jurisdiction; in Local Service - the movement of a permanent employee from one department to another.

UNCLASSIFIED SERVICE: Positions and job titles outside of the Senior Executive Service, not subject to the tenure provisions of Title 11A, New Jersey Statutes, (not permanent), unless otherwise specified.

VETERAN: An honorably discharged soldier, sailor, marine or nurse who served in any military or naval services of the U.S. during specified times of conflict.

VETERANS PREFERENCE: Preferential treatment on examination lists for those veterans who meet the established criteria under State law and who have presented sufficient evidence of their record of service on or before the closing date for filing an application for an examination.

WORKING TEST PERIOD (WTP): The working test period is part of the examination process designed to permit an appointing authority to determine whether an employee can satisfactorily perform the duties of the title.

III. RECRUITMENT, HIRING AND PLACEMENT

A. Recruitment

All recruiting activities will be conducted and coordinated by the Business Administrator to ensure compliance with contractual, legal, Civil Service and Equal Employment Opportunity Commission (“EEOC”) requirements. The Business Administrator will undertake to recruit qualified applicants in accordance with the Equal Employment policies of the City and all applicable Federal and State laws including those associated with the Americans with Disabilities Act (ADA), and for positions under the jurisdiction of the Merit System, in accordance with New Jersey Civil Service Commission Rules and Regulations. If applicable, the Business Administrator may post notices on the bulletin board in the City Hall lobby, and/or may post same on the City’s website, and/or in appropriate area newspapers that have as wide a circulation as possible to encourage applications from candidates from diverse backgrounds. Any such notice must prominently state that the City is an equal opportunity employer.

B. Job Description Policy

The City of Burlington will utilize job titles and accompanying job specifications and qualifications that are provided by the NJ Civil Service Commission for local government positions, if available. Other job descriptions must be approved by the Business Administrator. The Business Administrator or his designee will make copies available upon request.

C. Applications and Interviews

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

D. Physical Examinations

Pursuant to the Americans with Disabilities Act, after an offer of employment is made and prior to commencing employment, the Business Administrator may require applicants to pass a physical examination in order to insure that they can perform the duties of their position without injury to themselves or others. The same post-offer physical examination must be performed on all applicants for a particular position. The Business Administrator 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 City at the expense of the City. All medical records of employees and prospective employees are confidential and are to be maintained by the Business Administrator separate from the employee’s official personnel file. Medical exams may include tests for drug and alcohol use.

E. Criminal Background Checks

Criminal background checks are required of all candidates, 18 years old and older, whether paid or volunteer, unless the person meets one of the exceptions provided for in the City’s Ordinance relating to Criminal History Background Checks. Notwithstanding anything stated herein, the

City shall be permitted to perform criminal history record background checks on employees and/or prospective employees not covered by this chapter in accordance with applicable law.

F. Job Offers

The final decision will be made by the Business Administrator after all references and other information has been verified, when applicable. Every effort shall be made to offer reasonable accommodations to known physical and mental limitations of all applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an unreasonable hardship on the City. The employment offer must be made in a letter to the candidate outlining the terms and conditions of the offer. The letter may also establish a deadline for acceptance.

G. Acceptances and Rejections

If the first offer is rejected, the Business Administrator may decide to hire another candidate or re-announce the position. Once a candidate accepts the employment offer, all other candidates will be notified that they were not accepted for the position.

H. Employability Proof

After acceptance, but before starting employment, all new employees shall be required to fill out an employment verification form (I9) and to provide acceptable proof of right to employment in the United States.

I. Record Retention

All applications, official memoranda, job offers and other official documents created during hiring process must be returned to the Business Administrator. All applications, official memoranda, job offers and other official documents created during the hiring process may be retained for at least one year. Documents related to the successful candidate will be placed in the employee's official personnel file except medical records including physical examinations must be maintained in a separate file. Medical records and official employee personnel files are confidential and will be retained in a locked cabinet.

J. Appointment Preferences

A resident shall be given preference over a non-resident when employment is not based upon N.J. Civil Service Test procedures, or other objective criteria. When employment is based upon Civil Service Testing or other objective criteria, a resident shall be given preference over a non-resident in any instance when all other measurable criteria are equal. The preference granted herein shall in no way diminish, reduce, or affect the preference granted pursuant to any other provision of law.

All qualified applicants for the position of City of Burlington Police Officer shall be classified by class, as follows:

Class I Residents of the City of Burlington

Class II	Other residents of Burlington County
Class III	Other residents of the State of New Jersey
Class IV	All other qualified applicants

Order of appointment - qualified Class I applicants shall be appointed first and then those in each succeeding class shall be appointed to any vacancy or vacancies remaining after all qualified applicants in the preceding class or classes have been appointed or have declined an offer of appointment.

Residency determination. Residency shall be determined as of the announced closing date of the civil service examination and must be maintained continuously up to and including the date of appointment to the position of police officer.

K. Nepotism and Personal Relationships

An employee will not be permitted to work in a position where his/her supervisor is a relative, where a personal relationship may interfere with job performance or morale, where a relative would be responsible for auditing the work of the employee or where other circumstances exist that place the relatives in a situation of actual or reasonably foreseeable conflict of interest.

For the purpose of this policy:

"Relative" means an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

A personal relationship will include any relationship which does not involve a relative (as defined in this policy) but which may have a similar impact on the work environment.

L. Orientation of New Employees

The City of Burlington desires to develop a positive attitude in new employees that will enhance their work performance and ease their transition into the workforce.

All new regular full-time and regular part-time employees will be scheduled to meet with either the Business Administrator (or designee), Department Director and/or Division Head on their first day for a general orientation. Copies of all forms and acknowledgments must be returned to the Business Administrator for inclusion in the employee's official personnel file. The orientation will include:

- A tour of the appropriate facilities to acquaint the new employee with overall operations as they relate to the specific position;
- The completion of all pertinent personnel, payroll, insurance and pension forms;
- A review of the Employee Manual/Personnel Policies and Procedures Manual and acknowledgement of receipt;
- The Employee Complaint Policy letter and acknowledgment;
- A safety orientation and acknowledgment; and
- Arrangements for the new employee to complete required PEOSHA safety training.

M. Reemployment

Permanent employees, who resign in good standing, retire, or are voluntarily demoted may, within three years, request that the City consider them for reemployment.

The City may consider with favor any application for reemployment by a former employee who has resigned in good standing and who has a satisfactory work record during employment with the City.

Reemployment will be made solely at the discretion of the Business Administrator who shall comply with any applicable Civil Service Commission rules or collective bargaining agreement provisions.

IV. WORK PERFORMANCE AND CONDUCT

A. Working Test Period (Probation)

Except where State requirements direct otherwise, or require a different probationary period, new employees (or present employees transferring to new positions) must satisfactorily complete a working test period of three months before acquiring regular status. The working test period for law enforcement titles is twelve months. The working test period does not include any time served as a provisional, temporary or interim appointment.

The working test period is used to provide a period of training and to determine if an employee is able to successfully perform the duties of this position and is an extension of the examination/selection process.

At the end of the working test period, the employee will be evaluated. New employees may be discharged at any time during this period if the employee is not progressing or performing satisfactorily. Upon the completion of the working test period, the employee will either be granted regular status or terminated. The working test period may be extended beyond three months except where State requirements direct otherwise.

Nothing in the procedure set forth in this section shall alter the City's employment at will policy. Subject to any applicable law or contract to the contrary, including applicable Civil Service requirements and regulations, Employment with the City is at will and may be terminated at any time with or without cause or notice by the City or the employee.

B. Performance Evaluation

The City of Burlington recognizes that an employee job performance evaluation system is the basis for assisting in employee growth and development and 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 is to be conducted for all employees at least annually. The completed performance evaluation shall become part of an employee's official personnel record. This is a legal document that is discoverable in lawsuits.

C. Appearance

Employees of the City shall maintain their dress and appearance in accordance with generally accepted contemporary standards and the nature of their specific duties. Typically, dress is expected to be in normal business attire relative to the position. General Standards are as follows:

1. Business attire for all office employees is required unless exceptions approved by their Division Head or Department Director for a specific and short term project
2. Clothes shall be clean and orderly without rips or tears

Each Department Director or Division Head with the approval of the relevant Department Director may set specific standards or their respective Departments and/or Divisions based upon such factors as:

1. The nature of work
2. The nature of employee contact with the public and the normal expectations of outside parties toward employees
3. Considerations relating to the image the City of Burlington wishes to project
4. Uniformed employees must comply with established uniform direction provided by the Division Head
5. An employee is subject to disciplinary action if he/she fails to comply with established standards

D. Absenteeism, Tardiness and Lateness

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

All employees are expected to come to work regularly and on time, and to notify their supervisors when they are unable to do so. Attendance and punctuality will be considered, among other factors, in the employee's performance review.

To ensure that the City enforces its attendance and tardiness policy with uniform consistency, and that the City provides its employees with progressive discipline and an opportunity for improvement, the City implements the following attendance and tardiness policy:

Definitions:

1. Unexcused Absence: Employee fails to report for work for the duration of the employee's shift without an excuse approved by the employee's Department Director or the Business Administrator.
2. Excused Absence: Employee fails to report for work for the duration of the employee's shift with an excuse approved by the employee's Department Director or the Business Administrator.
3. Unexcused Incident of Tardiness: Employee reports for work after the authorized reporting time without an excuse approved by the employee's Department Director or the Business Administrator.
4. Excused Incident of Tardiness: Employee reports for work after the authorized reporting time with an excuse approved by the employee's Department Director or the Business Administrator.
5. Tardy: Reporting to or back to work less than seven (7) minutes late
6. Late: Reporting to or back to work more than seven (7) minutes late

Department Director will keep attendance and tardiness records for each employee. The Department Director will note the following details on each employee's attendance and tardiness records: report time, if tardy; dates absent; reason for absence or tardiness; whether the absence or tardiness constitutes an excused or unexcused absence or incident of tardiness; whether the employee provided notice; time of notification, if any, whether the employee left work prior to the end of the scheduled work day; and reason for leaving early.

Any employee who cannot report to work on time shall call his or her Department Director's designated representative not later than one hour prior to the scheduled starting time of the work shift from which he or she is tardy.

If an employee reports for duty after the employee's scheduled starting time, the Department Director shall indicate the employee's tardiness in the employee's attendance and tardiness records.

Any employee requesting absence for one (1) or more days shall call his/her Department Director's designated representative on a daily basis to report the nature of the illness. The City may waive this daily requirement upon the certification of a physician in cases of convalescence or hospitalization. In the event the Department Director or his or her representative is temporarily unavailable, employees must leave a message with the Business Administrator's Office. The message shall include a telephone number where the employee may be reached so that the Department Director's designated representative may verify the reason for the absence.

If an employee will be absent, the employee shall telephone his or her Department Director's designated representative or the Business Administrator's Office if the Department Director's

representative is temporarily unavailable, as early as possible, but not later than one hour prior to the scheduled starting time of the work shift from which he or she is absent.

If an employee fails to notify his or her Department Director's designated representative, or the Business Administrator's Office, the City may deny the use of sick leave for the absence and may take disciplinary action.

An employee who is absent for five (5) or more consecutive work days who does not notify the Department Director's designated representative, or the Business Administrator's Office *on* any of the first five days, will be subject to disciplinary action up to and including discharge.

Whenever any employee accumulates absences on five (5) consecutive workdays, or when absences total five workdays in thirty calendar days, the employee shall provide a physician's certification of health to his or her Department Director's designated representative upon return from illness.

Whenever any employee accumulates one unexcused absence or two (2) unexcused incidents of tardiness, the Department Director's designated representative will conduct a formal meeting with the employee. The Department Director's designated representative will provide the employee with advance written notice of the time, date and place of the meeting. If applicable, the advance written notice will also inform the employee that the employee has the right to union representation at the meeting. The Department Director's designated representative will place a copy of the written notice in the employee's personnel file.

After the meeting, the Department Director's designated representative will place written documentation of an oral reprimand in the employee's personnel file and will provide a copy to the employee. The Department Director's designated representative will give the employee the opportunity to place a written rebuttal to the written documentation of the oral reprimand in his or her personnel file. The employee who chooses to attach a written rebuttal shall respond within seven (7) calendar days after receiving the employee's copy of, the written documentation of the oral reprimand.

Whenever any employee accumulates two (2) unexcused absences or four unexcused incidents of tardiness, the Department Director's designated representative will conduct a formal meeting with the employee. The Department Director's designated representative will provide the employee with advance written notice of the time, date and place of the meeting. If applicable, the advance written notice will also inform the employee that the employee has the right to union representation at the meeting. The Department Director's designated representative will place a copy of the written notice in the employee's personnel file.

After the meeting, the Department Director's designated representative will place a written reprimand in the employee's personnel file and will provide a copy to the employee. The Department Director's designated representative will give the employee the opportunity to place a written rebuttal to the written reprimand in his or her personnel file. The employee who chooses to attach a written rebuttal shall respond within seven (7) calendar days after receiving the employee's copy of the written reprimand.

Whenever any employee accumulates three (3) unexcused absences or six (6) unexcused incidents of tardiness, the Business Administrator or the Business Administrator's

.representative, and the Department Director's designated representative will conduct a formal meeting with the employee. The Department Director's designated representative will provide the employee with advance written notice the time, date and place of the meeting. If applicable, the advance written notice will also inform the employee that the employee has the right to union representation at the meeting. The Department Director's designated representative will retain a copy of the written notice in the employee's personnel file.

The Business Administrator or the Business Administrator's designated representative shall determine appropriate disciplinary action, which may include suspension without pay up to and including termination. After the formal meeting, the Department Director's designated representative will place written documentation of the disciplinary action taken in the employee's personnel file and will provide a copy to the employee. The Department Director's designated representative will provide the employee with the opportunity to place a written rebuttal to the written documentation of disciplinary action in his or her personnel file. The employee who chooses to attach a written rebuttal shall respond within seven (7) calendar days after receiving the employee's copy of the written documentation of the disciplinary action taken.

In the event the employee accrues any additional unexcused absences or unexcused incidents of tardiness, the Business Administrator or the Business Administrator's designated representative may take additional disciplinary action against the employee, up to and including discharge.

If an employee has questions about this attendance and tardiness policy, the employee should contact the Business Administrator.

E. Employee Conduct

Employees shall conduct themselves in a manner, which exhibits respect for themselves, fellow employees, residents and the rights and property of the City. While many of these behaviors are addressed under specific policies, the following list, while not all inclusive, further identifies examples of inappropriate behavior that will subject an employee to disciplinary action, up to and including termination:

- Falsification of public records, including attendance and other personnel records.
- Failure to report/unauthorized absence.
- Harassment of co-workers and/or volunteers and/or visitors.
- Failure to maintain the employee's work area in a clean and orderly manner.
- Failure to treat all residents, visitors and fellow employees in a courteous manner.
- Improper attire or inappropriate personal appearance.
- Behavior or conduct, which is offensive, undesirable or otherwise inappropriate for the work place.
- Use of foul or inappropriate language in the workplace or on the job including that which reflects a lack of respect, cursing, derogatory remarks or other demeaning language.

- Theft or attempted theft of property belonging to the City, fellow employees, volunteers or visitors.
- Failure to report to work on a day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence.
- Fighting or use of threatening language on the job or on City property at any time.
- Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on City property and at any time during work hours.
- Possession, sale, transfer or use of intoxicants or illegal drugs on City property and at any time during work hours.
- Insubordination.
- Entering the building without permission during non-scheduled work hours.
- Soliciting on City premises or 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 Avon, Amway, etc.
- Careless waste of materials or abuse of tools, equipment or supplies.
- Deliberate destruction or damage to City or suppliers' property.
- Sleeping on the job.
- Carrying weapons of any kind on City premises and/or during work hours, unless carrying a weapon is a function of your job duties.
- Violation of established safety and fire regulations.
- Unscheduled absence and chronic or excessive absence.
- Chronic tardiness.
- Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
- Defacing walls, bulletin boards or any other City or supplier property.
- Failure to perform duties, inefficiency or substandard performance.
- Unauthorized disclosure of confidential City information.
- Gambling on City premises.
- Horseplay, disorderly conduct and use of abusive and/or obscene language on City premises or while otherwise on the job.
- Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort.

- Conviction of a crime.
- Violating any City rules or disorderly persons offense.
- Conduct unbecoming a public employee.
- Violation of City policies, procedures, rules and regulations.
- Violation of Federal, State or City laws, rules or regulations concerning drug and alcohol use and possession.
- Misuse of public property, including motor vehicles.
- Unauthorized use of computers, Internet or e-mail.
- Other sufficient cause.

F. Discipline and Termination Policy

Corrective disciplinary action, up to and including termination, will be taken against any employee who violates established policies and rules of conduct or other misconduct.

In cases of employee misconduct, the City 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 and based upon such considerations as the gravity of the situation, the number and kind of previous infractions, the facts related to the infraction, the impact of the employee's action on the operations of the City, his/her fellow workers, the employee's relationship with his/her supervisor and other relevant circumstances. In every case, employees will be given an opportunity to state the situation from their point of view. Disciplinary action is intended to correct and prevent inappropriate and undesirable behavior and shall not be used in an abusive or vindictive manner. A record of all disciplinary actions shall be placed in the employee's personnel file.

In order to correct undesirable behavior, Divisions Heads and Department Directors, along with the Business Administrator may utilize the following corrective tools: counseling; verbal reprimand; Business Administrator review; written reprimand; suspension with or without pay; and/or termination as more fully set forth in the procedure below. At the discretion of City action may begin at any step, and/or certain steps may be repeated or by-passed, depending on the severity and nature of the infraction and the employee's work/disciplinary record.

Neither this manual nor any other City guidelines, policies or practices create an employment contract. Except as limited by an applicable collective bargaining agreement or applicable law, including State Civil Service laws and regulations, employment with the City may be terminated at any time with or without reason by the employee or the City.

The Disciplinary Action Policy set forth herein is intended to all employees to the extent not inconsistent with any applicable collective bargaining agreement or state law or regulation. Where a collective bargaining agreement or New Jersey Civil Service requirements or New Jersey Department of Personnel regulations promulgated there under apply, any and all procedures and rules required thereby shall be followed and shall control in the event of any inconsistency herewith. Where police personnel are concerned, the provisions of this Disciplinary Action policy shall apply only to the extent not inconsistent with State law applicable to the disciplinary action of such police personnel and/or any policies and procedures adopted by the City in accordance with such law. In the case of such police personnel, State law and regulations and/or policies and procedures adopted by the City in accordance therewith shall be followed and shall control in the event of any inconsistency with this Disciplinary Action Policy.

Discipline is considered to be major or minor. Major disciplinary action includes suspension exceeding five (5) days with or without pay, disciplinary demotion, or termination. Minor disciplinary action includes a formal, written reprimand or a suspension of five (5) or less working days.

The Business Administrator, who may consult with the appropriate Department Director, shall determine if the disciplinary action to be taken will be major or minor based on the severity of the infraction. Only the Business Administrator, with the approval of the Mayor, can terminate an employee. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the appropriate Civil Service procedures or grievance procedure set forth in a collective bargaining agreement (if applicable). In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing.

The City of Burlington shall consider termination wherever the conduct or the circumstances are such that warrant immediate termination. As previously noted, however, and except as otherwise provided by a collective bargaining agreement or by law, employment may be terminated at will by the employee or the City at any time with or without cause, and without following any system of discipline or warnings. Nevertheless, the City may choose to exercise its discretion to use disciplinary measures that are less severe than termination in certain cases. Examples of such less severe forms of discipline include verbal warnings, written warnings, probationary action, and demotion.

A Department Director may make a written recommendation to terminate an employee for cause when he/she feels such action is in the best interest of the City of Burlington. Such recommendation, including reasons and documentation of any prior disciplinary actions, shall be submitted to the Business Administrator.

If the termination is approved, the Department Director and the Business Administrator shall meet with the employee and Union Shop Steward, if applicable to give termination notice and appropriate documents. The Business Administrator shall notify the Mayor, Common Council and the Finance Director of such action.

V. CHANGES IN EMPLOYMENT, SEPARATION FROM SERVICE, AND LAYOFFS

A. Exit Interview

Wherever an employee is separating from service with the City by reason of termination, resignation, layoff or otherwise, the Business Administrator or his/her designee shall conduct an exit interview to ensure all appropriate documentation and information is disseminated to the employee.

B. Layoffs and Work Force Reduction

With respect to the layoff of any employees to whom layoff procedures established by the Civil Service Act or the regulations promulgated there under are applicable, the City of Burlington may institute layoff actions pursuant to N.J.A.C. 4A:8-1.1 for economy, efficiency or other related reasons, but will first consider voluntary alternatives. Seniority and lateral transfers, demotion or special reemployment rights for employees in Career Service titles will be determined by the New Jersey Civil Service Commission. The procedures set forth in the applicable provisions of the New Jersey Civil Service Act and regulations promulgated there under shall be followed in the case of any employee covered by such procedures.

With respect to any employees to whom the layoff provisions established by the Civil Service Act or the regulations promulgated there under are not applicable, the City may institute layoff actions for economy, efficiency or other related reasons, but, in its discretion, may first consider voluntary alternatives. (Seniority, lateral or other re-employment rights for employees will be determined by the Mayor and Business Administrator provided, however, that any procedures required by any applicable collective bargaining agreement shall be followed.

C. Promotions

The City endeavors to advance employees in job titles according to individual merit and/or job performance and where applicable in accordance with New Jersey Civil Service examinations and procedures and/or applicable collective bargaining agreement.

Promotional examinations are competitive and only open to qualified employees within the department where the promotional opportunity exists. To compete in a promotional examination and to be eligible for promotion, you must have permanent employment status and meet the specific qualifications established by the CSC, as described in the individual Promotional Announcement.

D. Resignation

Employees shall resign as follows:

1. Written notice delivered to the employee's immediate supervisor at least ten (10) working days in advance of the effective date of the resignation, unless waived by the Business Administrator.
2. Absence from duty for five (5) or more consecutive working days without notification and approval by the Business Administrator as required will be deemed a resignation of employment.

The City of Burlington recognizes two types of resignations.

Resignation in good standing

Any permanent employee in the career service may resign in good standing by giving their immediate supervisor at least ten (10) working days written notice, unless the Business Administrator consents to a shorter notice. His/her immediate supervisor must forward written notification of an employee resignation to the Business Administrator and Department Director by the next working day. The resignation shall be considered accepted by the Business Administrator and Department Director upon receipt of the notice of resignation. An employee may not resign orally; any supervisor to whom an employee attempts to resign orally must inform the employee that he/she must submit a written resignation.

The Business Administrator may permit employees to rescind their resignations prior to the effective date, however, a decision to rescind an already accepted resignation is entirely and solely at the discretion of the Business Administrator.

Resignation not in good standing

RESIGNATION NOT IN GOOD STANDING: The giving up of one's office or position without giving the required notice, or for disciplinary reasons.

If an employee resigns without complying with the required notice, he or she shall be held as having resigned not in good standing. Employees are considered to have abandoned their positions and thus resigned not in good standing when:

- They are absent from duty for five (5) or more consecutive working days without approval.
- They have not returned to duty for five (5) or more consecutive business days following an approved leave of absence.

When an employee has abandoned his/her position, the immediate supervisor shall submit written notice to the Business Administrator and Department Director by the end of the next business day.

Where an employee has resigned not in good standing as per the above provisions, the employee shall be provided with notice and an opportunity for a departmental hearing, and Final Notice

and a right to appeal to the Merit System Board. An employee shall be in unpaid status pending the departmental decision. Should an employee seek to return to employment pending the departmental decision, a review shall be conducted prior to continuation of the unpaid status. Where the resignation is reversed, the employee shall be entitled to all statutory remedies.

The Mayor, in his/her discretion, may modify a resignation not in good standing to an appropriate penalty or to a resignation in good standing.

E. Transfers

The Business Administrator may transfer employees temporarily or permanently to another work unit within the City.

VI. CLASSIFICATION AND COMPENSATION

A. Classification/Reclassification

All job titles shall be allocated to the career service, except for those job titles allocated by the Civil Service Commission (CSC) to the unclassified service. The CSC undertook a title consolidation initiative in 2010 with the goal of streamlining public hiring and promotion by reducing the number of titles administered by the system. As an employee of the City of Burlington, you are subject to the rules and regulations of the CSC.

Classification

1. Career Service

- Most employees of the City of Burlington will have job titles that are classified as career service.
- Career service titles are either competitive or non-competitive.
- A career service job title in the competitive division is subject to the competitive examination procedures administered by the Civil Service Commission.
- Career service titles in the non-competitive division are not subject to the CSC examination procedures, but employees shall meet the minimum requirements set forth in the job specification and satisfactorily complete a working test period.

2. Unclassified

- Unclassified titles are allocated by the Civil Service Commission and include those titles designated by N.J.S.A. 11A:3-5.

- Unclassified titles include elected officials, appointed officials, Department Heads, those employees for whom the statutes of the State of New Jersey prescribe fixed terms, or other titles so designated by the CSC.

Reclassification

If the duties and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the job specification and the title is no longer appropriate, a classification review can be requested to the Civil Service Commission. After reviewing, the CSC may: 1. Reclassify the position to a more appropriate title if there is one; or 2. Establish a new title to which the position shall be reclassified; or 3. Take other appropriate action based on the organizational structure of the appointing authority.

An appointing authority may request a classification review by the Chairperson of the CSC.

An employee or union representative may request a classification review in accordance with N.J.A.C. 4A:3-3.9.

Should an employee in the career or unclassified service in State or local service, or an appointing authority in local service, disagree with a reclassification determination, an appeal to the Civil Service Commission may be filed in accordance with N.J.A.C. 4A:3-3.9.

B. Compensation

Employees shall be paid on a bi-weekly basis, or if different, in accordance with their current collectively bargained agreements or applicable ordinance, unless otherwise indicated herein.

Pay periods for all employees are two weeks in length starting on a Monday at 12:01 a.m. and ending on a Sunday at 12:00 midnight. Paychecks are distributed on the following Thursday. If the distribution day falls on an official holiday, paychecks may be issued the preceding workday. No paychecks may be issued in advance of the normal distribution day. Employees must cash their paychecks on personal time, not during official municipal working hours.

All phases of the compensation plan will be administered according to the terms of the appropriate negotiated agreement and will be in compliance with all applicable State Statutes and the Administrative Code. The City of Burlington establishes a pay plan that provides for a pay schedule for each position of the City with pay grades that are amended from time to time by Ordinance of the Council. The pay plan shall be in accordance with the current Salary Ordinance of the City of Burlington and consistent with the respective bargaining unit contract where applicable.

When an employee is promoted, an employee shall, at a minimum, move to the step within the new position that is the nearest higher step to the current salary, and then move to the next step on the anniversary date of hire.

Mandatory deductions from paychecks will include the following:

- Federal Income Tax
- State Withholding Tax

- Medicare (if applicable)
- Unemployment Compensation Insurance
- Temporary Disability Insurance
- Social Security
- Pension Deductions
- Pension Loan Repayments
- Court ordered Wage Garnishments

Employee authorized deductions may include:

- PERS Contributory Insurance (mandatory for the first year of enrollment in the Pension system)
- Union Dues and Representation Fees
- Charitable Campaign Contributions
- Credit Union
- Deferred Compensation from the US Conference of Mayors program through Nationwide.

C. Overtime

When the demands of the job exceed the normal hours of work, employees may be scheduled and authorized to work beyond the hours of their normal workweek.

Employees working such overtime hours will be compensated in accordance with the appropriate negotiated collective bargaining agreement and/or the Fair Labor Standards Act, 29 U.S.C. §201 et seq.

Immediate supervisors will request authorization from their Department Directors forty eight (48) hours before scheduling overtime, except in compelling circumstances. No overtime shall be worked until authorization has been approved by the Department Director and is recorded in writing. Department Directors' must obtain approval for overtime from the Business Administrator. Department Directors shall be notified of the use of emergency overtime by the beginning of the next workday following the emergency. In the absence of the Department Director, the overtime request shall be made to the Business Administrator and/or his/her designee. The Business Administrator shall approve all overtime for all management employees.

Overtime will be distributed among employees in the same job classification and department in accordance with the terms of the appropriate negotiated agreement.

Department Directors and other forty-hour salaried employees not covered by a collective bargaining agreement shall be compensated for documented overtime on the following basis:

- For hours worked up to four (4) hours during a one day period, or six (6) hours accumulated during a week shall flex those hours earned. Flex hours in this time basis are hour for hour. Directors shall use all accumulated flex time within a thirty (30) day period or lose the hours.

- For hours worked over four (4) hours during a one day period, or six (6) hours accumulated during a week, shall be compensated by receiving Compensatory Time at a rate of one and one half (1 and 1/2) times.

Division Heads: as Administrative and/or Executive employees as defined by the Fair Labor Standards Act are exempt from the FLSA provisions, shall be compensated for documented overtime on the following basis:

- For hours worked up to two (2) hours during a one day period, or four (4) hours accumulated during a week shall flex those hours earned. Flex hours in this time basis are hour for hour. Directors shall use all accumulated flex time within a thirty (30) calendar day period.
- For hours worked over two (2) hours during a one day period, or four (4) hours accumulated during a week, shall be compensated by receiving Compensatory Time at a rate of one and one half (1 and 1/2) times.

Supervisors shall be compensated for all overtime hours at a rate of one and one half (1 and 1/2) times by compensatory time.

When a Supervisor has worked a full forty (40) hour week and works at least four (4) hours on the sixth day, and then must work a seventh day for at least four (4) hours, those seventh day hours are at double time. Supervisors, at their option, may choose to flex time for hours earned during a week that amount to no more than two (2) hours. However, these hours are at an hour for hour basis. This is allowed by mutual agreement with the Department Director.

All compensatory time shall be taken within six (6) months of when it was earned, except that hours accumulated during the third month of any quarter may be carried over into the next quarter.

The Business Administrator reserves the option to approve in writing additional hours to be carried and not lost only for unforeseen and compelling circumstances.

Flex time is provided in accordance with the above and must be used within thirty (30) calendar days of the time in which they are earned. Failure to use the hours will result in a loss of the hours.

Management employees shall not establish a pattern of approving flex or overtime for employees which results in a pattern of changing work hours.

D. Longevity Bonus

Where applicable, full-time employees covered by a collective bargaining agreement shall be entitled to any such longevity bonus as provided for by their respective collective bargaining agreement. Full-time employees not covered by a collective bargaining agreement shall receive a longevity bonus of 2.5% of base salary for every five years of consecutive service.

VII. EMPLOYEE BENEFITS

A. Group Life Insurance

Group Life Insurance - P.E.R.S.

Most employees who are members of the Public Employees' Retirement System of New Jersey are automatically enrolled in the Group Life Insurance provided under the Public Employees' Retirement System of New Jersey, which is paid for by the City of Burlington (noncontributory). The Department of Administration will provide employees with the necessary enrollment forms, which must be completed and returned soon as possible.

The amount of life insurance benefits depends on the employee's earnings, as well as his/her age and membership status at the time of death as follows.

Coverage for ACTIVE Members

<u>Age at Death</u>	<u>Member has non-contributory insurance only</u>	<u>Member has both non-contributory and contributory insurance</u>
Any Age	1 1/2 times salary	3 times salary

Coverage for RETIRED Members

<u>Type of Retirement</u>	<u>Death before age 60</u>	<u>Death at age 60 or older</u>
Disability	1 1/2 times salary	3/16 times salary
Early	3/16 times salary	3/16 times salary
Deferred	None	3/16 times salary
Service	Not applicable	3/16 times salary

Additional Contributory Life Insurance

Members who are enrolled in PERS must also carry additional contributory life insurance for the first 12 months of employment. The employee contribution rate for this policy is currently .55 of 1% of the base salary, with deductions beginning on the date of enrollment.

After 12 months, employees may discontinue the contributory life insurance by completing a "Notice of Withdrawal From Contributory Life Insurance" form and filing it with PERS before the desired termination date. Once an employee withdraws from contributory life, he/she cannot be reinstated. By law, there shall be no return of contributions made to the contributory life insurance program for any reason.

Termination of Coverage

If an employee terminates employment before retirement, or if the insured period expires during a leave of absence, coverage will continue for thirty-one (31) calendar days. During this time, employees may convert all or part of the coverage to an individual policy without a medical exam.

The following procedure shall be followed:

1. The Business Administrator will provide eligible employees with the necessary enrollment forms, which must be completed and returned to the Business Administrator as soon as possible.
2. Most members of the Public Employees' Retirement System (PERS) are insured for non contributory life insurance, which is paid for by the City.
3. Members who are enrolled in PERS must also carry additional contributory life insurance for the first 12 months of employment.
 - a. After 12 months, employees may discontinue the contributory life insurance by completing a "Notice of Withdrawal From Contributory Life Insurance" form and filing it with PERS before the desired termination date.
 - b. Once an employee withdraws from contributory life, he/she cannot be reinstated. By law, there shall be no return of contributions made to the contributory life insurance program for any reason.
4. If an employee terminates employment before retirement, or if the insured period expires during a leave of absence, coverage will continue for thirty one (31) calendar days. During this time, employees may convert all or part of the coverage to an individual policy without a medical exam.
5. A leave of absence without pay may affect this benefit. Additional information and any forms are available from the Business Administrator.
6. The amount of life insurance benefits depends on the employee's earnings, as well as his/her age and membership status at the time of death.

B. Medical/Dental/Prescription/Vision Benefits

Part-time employees, full-time temporary employees or seasonal employees are not entitled to medical, prescription, or dental benefits.

The City reserves the right to change provider networks, claims agents, and insurance mechanisms. Failure to complete all necessary enrollment paperwork in accordance with the time frames advised by the Employer will result in a delay of coverage. Additionally, failure to enroll dependents or to make other changes or corrections in coverage may jeopardize available benefits.

All employees must notify the Employer of any change in status (i.e., marriage, divorce, birth, adoption, death) within the time frame designed by the health benefit plan that would affect any employer-provided health insurance. The Employer reserves the right to conduct a coverage audit to verify proper coverage for employees and eligible dependents.

Medical & Prescription

Administration will provide enrollment forms and information about the employee costs, and features of the available programs for all eligible full time employees. New full time employees will be enrolled in their selected plan with coverage and costs as per the plan agreement. Coverage begins after 60 days and on the first of the month. See the Business Administrator, or designee, for details.

New full time employees must complete the enrollment form and return it to the Business Administrator's Office as soon as possible after beginning employment to ensure earliest coverage. Errors in either enrollment or claims forms are the responsibility of the employee. Any eligible employee who fails to enroll his/her dependents or wishes to change plans may only make such changes or corrections in accordance with the plan requirements.

After retirement, termination of coverage, or while on an approved leave of absence, health benefit coverage may or may not be continued, depending on the individual's eligibility. If eligible, to ensure uninterrupted group coverage, employees should see the Business Administrator as early as possible for complete details.

Dental

Administration will provide new full-time employees with the necessary forms to enroll in the plan. Employees should complete these forms as soon as possible and return them to the Business Administrator, or designee. Employees will be enrolled with coverage to begin after 90 days.

Vision

Vision benefits are only as provided as per each employee's selected medical plan. Employees should refer to their respective medical plan descriptions for details.

C. Pension Plan

Eligible employees will be enrolled in the appropriate pension program in accordance with State of New Jersey regulations.

The Finance Office will enroll eligible employees in the appropriate pension program via the State of New Jersey Division of Pensions online enrollment process. Once processing is complete, the City of Burlington will receive a certification of payroll deductions for the eligible employee.

Employee salary deductions, based on a percentage of the employee's salary, will begin once the Division of Pensions completes its processing. The amount of the deduction will appear on the employee's paycheck stub.

If employment terminates before retirement, the employee's contributions to the pension system, plus any applicable interest, shall be handled by the Division of Pensions pursuant to the New Jersey Division of Pensions applicable rules. All rights and privileges then end.

RETIREMENT. Employees who are planning to retire should contact the Business Administrator twelve (12) months prior to the anticipated retirement date unless otherwise approved. Employees must file a retirement application with the Division of Pensions, using the Division of Pension's online MBOS SYSTEM, at least three (3) months before they wish to retire to allow time for their application to be processed.

Retirement begins on the first of a month. Retirement allowances are paid after the end of a month. No benefits are paid unless it is for an entire month.

Additional information is available from the Finance Office.

D. Unemployment Compensation

Both the City of Burlington and its employees make contributions toward the financing of the New Jersey Unemployment Compensation Insurance Program and are administered according to New Jersey State Statutes and Administrative Code.

E. Flexible Spending Account

City of Burlington, (the Employer) sponsors the City of Burlington Flexible Benefits Plan (with Premium Payment, and Health FSA Components) (the "Cafeteria Plan") that allows Eligible Employees to choose from a menu of different benefits to suit their needs and pay for those benefits with pre-tax dollars. Alternately, Eligible Employees may choose to pay for any of the benefits with after-tax contributions on the payroll-reduction basis.

F. Workers Compensation

Employees who suffer job-related injuries and illnesses may be entitled to medical expenses, lost income and other compensation under the New Jersey Workers' Compensation Act. Any occupational injury or illness must be immediately reported to the supervisor or Department Head. All required medical treatment must be performed by a workers' compensation physician appointed by the City of Burlington or workers' compensation carrier. (*for reporting an employee incident, see Section "X. General Rules and Regulations - T. Reporting of Incidents and Post Incident Testing"*)

G. HIPAA Compliance

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

VIII. LEAVES OF ABSENCE

A. Bereavement Leave

In the event of death in the employee's immediate family, the employee should refer to their collective bargaining agreement. A full-time employee not covered by a collective bargaining agreement shall be granted time off, if requested, not to exceed four (4) work days, without loss of pay commencing from the date of death up to and including the date of the funeral. Employees governed by a collective bargaining agreement shall be granted bereavement leave to the extent provided for by such employee's applicable collective bargaining agreement.

Immediate family shall be defined to include mother, father, sister, brother, spouse, civil union partner, child, stepparent, stepchild, and parent of spouse.

In the event of the death of a grandmother, grandfather, or grandchild, a full-time employee, upon request, shall be entitled to the day of the funeral only without loss of pay.

B. Educational Leave

Regular employees may be granted educational leave, at the discretion of the Business Administrator, with or without pay to pursue special job related work or training that will improve their work skills or performance.

Such training should be of direct value to the City of Burlington and should not include knowledge or skills that may be acquired through available in service training.

C. Family and Medical Leave Act Policy – F.M.L.A.

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

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

- The birth, adoption or placement for foster care of the son or daughter of an employee, and to care for such child;
- A serious health condition of a spouse, son, daughter or parent of an employee if the employee is needed to care for such family member; or

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

In addition, eligible employees who are either spouse, son, daughter, parent or next of kin of a Covered Servicemember shall be entitled to a total of twenty-six (26) workweeks of unpaid leave during a single twelve (12) month period to care for the Covered Servicemember. During this single twelve (12) month period, an eligible employee who qualifies for leave to provide care for the Covered Servicemember shall be entitled to no more than a combined total of twenty-six (26) workweeks of leave.

Definitions.

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

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

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

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

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

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

Eligibility. Any employee who has been employed by the Employer for twelve (12) months or more and worked 1,250 hours or more in the twelve (12) month period preceding the first day of

the requested leave may be eligible for an unpaid leave of absence of up to twelve (12) weeks during any twelve (12) month period.

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

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

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

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

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

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

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

For military caregiver leave, the employee may be required to provide information from the health care provider and employee and/or Covered Servicemember to support such leave.

Failure to provide requested documentation may result in denial of leave. The Employer may attempt to clarify or authenticate the certification or may require additional certifications to support the need for leave. When leave is taken to care for a family member, the Employer may

require the employee to provide documentation or a statement of family relationship (e.g., birth certificate or court document) and proof of the need to care for the family member.

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

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

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

Employment and Benefits Protection. During the leave, health benefits will continue for up to twelve (12) weeks in each rolling twelve (12) month period under the same conditions as if the employee continued to work. Employees must, however, pay the same amount for any benefits continued as they do prior to the leave. Other benefits, if any, will continue during the leave under the same conditions as if the employee continued to work. If paid leave is substituted for unpaid FMLA leave, the Employer will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's FMLA leave is unpaid, the employee must pay his/her portion of the premium in accordance with a payment method that is devised and mutually agreed upon between the employee and the Employer.

Employees should consult with their Department Head prior to taking an approved leave.

If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums. With regard to the employee's contribution portion of his/her health benefits pursuant to Chapter 78, P.L 2011 and any voluntary supplemental benefits that the employee may have, the employee is solely responsible for making payment arrangements with the Employer or for any voluntary benefits, to the respective insurance company. Your healthcare coverage may cease if your premium payment is more than thirty (30) days late.

With regard to any pension contribution that you may have, you must contact the finance office to make payment arrangements concerning contributions or credits paid toward your pension

benefits. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums.

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

Subject to some exceptions, most employees will be returned to the position they left or to a position equivalent in pay, benefits and other terms of employment.

Individuals identified as "key employees" (the highest paid 10% of salaried employees at the work site or within a seventy-five (75) mile radius of that work site) at the beginning of their leave may not be returned to their former or equivalent position if restoration will cause substantial economic injury to the Employer. Employees will be informed of their key employee status at the beginning of the leave period.

A failure to return from FMLA leave for reasons other than the employee's own serious health condition may result in termination of employment. In the event that an employee cannot return to work at the end of FMLA leave due to a continuation of his/her own serious health condition, they must contact the Employer before the expiration of the leave to discuss their options under state and federal law.

State leave laws may provide additional leave similar to that provided under the FMLA. The Employer will comply with these state law provisions to the extent they provide for more generous benefits. State leave law benefits will run concurrently with FMLA benefits to the extent permitted by law.

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

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

D. New Jersey Family Leave (N.J.F.L.A.)

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

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

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

- A newly born or adopted child or a child placed into foster care with the employee, but the leave must start within twelve (12) months of the birth of the child or the placement of the child.

❖ Leave taken to care for a newly born or adopted child or a child placed into foster care with the employee may be consecutive or intermittent.

- A family member (sibling, grandparent, grandchild, child, spouse, domestic partner, civil union partner, parent-in-law, or parent of a covered individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship) with a serious health condition.

- **In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:**

(i) requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;

(ii) prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or

(iii) results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

Leave taken for the reasons above must be consecutive, except for a newly born or adopted child or a child placed into foster care with the employee.

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

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

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

- Intermittently when medically necessary.

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

Intermittent leaves taken in connection with more than one serious health condition episode must be taken within a consecutive twenty-four (24) month period, or until such time as the employee's twelve (12) week family leave entitlement is exhausted, whichever is shorter.

An employee taking a family leave on a reduced leave schedule shall not be entitled to such leave for more than a consecutive twenty-four (24) week period. An eligible employee shall be entitled to only one leave on a reduced leave schedule during any consecutive twenty-four (24) month period. Any remaining family leave to which the employee is entitled subsequent to the expiration of a leave taken on a reduced leave schedule may be taken on a consecutive or intermittent basis.

Depending on the purpose of the employee's leave, the employee may choose to use accrued paid leave, concurrently with some or all of his/her NJFLA leave. The employee will not be eligible to accrue seniority or benefits, including vacation and holidays, during any period of NJFLA leave.

The Employer will notify employees of their options to continue to participate in group health plans during NJFLA leave.

Required Notice and Certifications.

When requesting NJFLA leave, employees must provide the Employer with advance notice of need for leave, as follows:

- At least thirty (30) days before leave to bond with a newborn or newly adopted child, unless the time of the leave is unforeseeable or the time of the leave changes for unforeseeable reasons.
- In a reasonable and practicable manner for leave to care for a seriously ill family member on a continuous, non-intermittent basis, unless an emergency or other unforeseen circumstance precludes advance notice.
- At least fifteen (15) days before leave to care for a seriously ill family member or leave to bond with a newborn or newly adopted child on an intermittent basis unless an emergency or other unforeseen circumstance precludes advance notice.

If advance written notice is not possible because of an emergency, the employee must provide the Employer with reasonable oral notice and then follow up with written notice.

The employee also must give the Employer a medical **certification** supporting the need for leave. The Employer reserves the right to require second or third medical opinions and periodic re-certifications. The employee must also provide periodic reports during his/her leave regarding the employee's status and intent to return to work as deemed appropriate by the Employer.

If an employee fails to provide the required documentation, the Employer may delay the start of the employee's NJFLA leave, withdraw any designation of NJFLA leave or deny the leave, in which case the employee's absences will be treated in accordance with the Employer's standard leave of absence and attendance policies and the employee may be subject to discipline up to and including termination of employment.

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

Benefits Protection. During a family leave of absence, the employee's health benefits will be maintained under the same conditions as if the employee continued to work. If the employee decides to return to work when his/her family leave of absence ends, the employee may be reinstated to the same or equivalent job with the same pay, benefits, and terms and conditions of employment.

If the employee decides not to return to work when the family leave of absence ends, the employee may be required to reimburse the Employer for the health insurance premiums paid on his/her behalf during the leave of absence (except if the failure to return to work was caused by the continuation, recurrence, or onset of serious health condition which would entitle the employee to a leave of absence under the law or other circumstances beyond the employee's control).

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

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

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

Family Temporary Disability/N.J. Family Leave Insurance: During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to twelve (12) weeks, effective July 2020, of Family Leave Insurance ("FLI") payments through the State

in a twelve (12) month period. FLI is a monetary benefit paid by the State and not a separate leave entitlement, and will thus run concurrently with FMLA and/or NJFLA leaves.

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

E. Holiday Policy

Employees covered by a collective bargaining agreement shall be entitled to such paid holidays provided for by their respective collective bargaining agreements.

Full time employees not subject to a collective bargaining agreement who have completed the working test period are entitled to the paid holidays as listed below:

- New Year's Day
- Birthday of Martin Luther King, Jr.
- President's Day
- Good Friday
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Columbus Day
- General Election Day
- Veterans' Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- Christmas Day
- 1/2 day Christmas Eve and New Year's Eve
- 1 day as a Floating Holiday, taken within the calendar year

Part-time permanent hourly employees, not subject to a collective bargaining agreement, who have completed the working test period, may receive holiday pay for the Federal holidays listed below if an allowable holiday falls on their regularly scheduled day to work. Request for compensation may be submitted for those hours that would have otherwise been worked. Part-time permanent hourly employees may not request compensation for any Federal holiday if the holiday falls on their regularly scheduled day off.

- New Year's Day
- Birthday of Martin Luther King, Jr.
- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Columbus Day
- Veterans' Day

- Thanksgiving Day
- Christmas Day

Compensation for the holidays shall be given an employee provided that he/she shall have served their probationary period and was on the job and available for work his/her last full scheduled work day before and his/her first full scheduled work day after the holiday, even though in different work weeks, except in case of proven illness or injury and approved by his/her immediate supervisor.

If one (1) of the above holidays falls within an employee's vacation period, said day shall count as a holiday and not as a vacation day.

When it is necessary for an employee to work on a paid holiday to maintain operations, the employee will be compensated in accordance with the provisions in the appropriate negotiated agreement.

The observance of religious holidays other than those listed as official paid holidays will be granted and charged as personal or vacation days.

F. Jury Duty/Witness Subpoena Leave

Full-time employees summoned to serve jury duty shall be granted time off without loss of their regular pay by the City of Burlington. No additional pay (comp time or overtime etc.) shall be paid. An employee is required to return to work immediately from jury duty if the employee is excused from serving on the jury for either the morning or afternoon session. Employees subpoenaed as witnesses in civil or criminal cases involving them in their capacity as City of Burlington employees will be granted a paid leave of absence for the time in which they are officially involved with the court in that capacity.

G. Leaves of Absence

Permanent employees may be granted leaves of absence without pay for a period not to exceed six months if the leave does not cause operational disruption to the City. For exceptional circumstances, such leave may be extended for an additional six months. During a leave of absence without pay, sick and vacation days shall not accrue. An employee who leaves service or goes on a leave of absence without pay before the end of the calendar year shall have his or her leave prorated based on time earned. Said leave of absence may be granted or denied in the discretion of the Business Administrator.

Questions concerning the effect of a leave upon benefits should be directed to the Business Administrator.

H. Military Leave

When a full-time employee (either permanent or temporary) who is a member of the reserve component of any United States armed force 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 thirty (30) workdays of the leave shall be with full pay except that a member of the New Jersey National Guard shall receive full pay for the first ninety (90) days. Thereafter, the leave shall be without pay but without loss of time. 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 non-paid military leave without loss of time.

Employees on military service will also continue to receive paid health insurance coverage during the period of the paid leave plus an additional thirty days calendar days after the paid leave is exhausted. After this period has expired, employees may continue coverage for themselves or their dependents under the City 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.

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 thirty-one (31) calendar days, the employee must return to work on the beginning of the first regularly scheduled workday or eight (8) hours after the end of military duty, with reasonable allowances for commuting; for service of thirty-one (31) to one hundred eighty (180) calendar days, the employee must submit an application for reinstatement within fourteen (14) calendar days after completing military duty; for service greater than one hundred and eighty (180) calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

I. Personal Days

Employees shall be entitled to personal days in accordance with their respective collective bargaining agreements. Full time employees not represented by a bargaining unit shall be granted three (3) personal days at the beginning of each calendar year in anticipation of continued employment. Personal leave must be taken in full or half days only. Personal days shall be non-cumulative.

During the initial year of employment, personal days will be prorated and accrued on a monthly basis. An employee will earn 1/2 day for each month of work up to a maximum of three (3) days. No credit will be earned during the initial month of employment if an employee starts work on or after the 16th of the month.

The employee's Department Director, or Division Head, must approve personal day leave in advance. Emergency personal days may be granted at the sole discretion of the immediate supervisor for an unforeseen occurrence which necessitates the presence of the employee and for which the employee has no prior knowledge and is unable to resolve the situation outside the workday.

If an employee terminates employment prior to the end of the calendar year, an adjustment will be made in the final paycheck for leave used but not earned.

A personal day may be taken for any activity of the employee's choice as long as the time away from work is approved.

Application in duplicate for a personal day must be submitted at least twenty four (24) hours in advance to the employee's Department Director. Emergency personal days may be granted at the sole discretion of the immediate supervisor for an unforeseen occurrence which necessitates the presence of the employee and for which the employee has no prior knowledge and is unable to resolve the situation outside the workday.

Personal days shall not be cumulative.

Approval of personal leave time requests will be contingent upon adequate staff coverage in the employee's unit during normal work hours of operation.

J. Sick Leave

All full time employees shall be entitled to annual paid sick leave credited at the beginning of each calendar year in anticipation of continued employment based on years of full time service in the career, senior executive or unclassified service. Part-time permanent employees are entitled to sick days proportionate to the number of hours worked, as determined by the Finance Department.

Up to the end of the first calendar year, full time employees earn one (1) working day for each month of service. At the beginning of each calendar year thereafter, full time employees shall have fifteen (15) working days of sick leave credited in anticipation of continued employment.

Paid sick days shall not accrue during a leave of absence without pay or suspension. Sick leave credits shall not accrue after an employee has resigned or retired although his or her name is being retained on the payroll until exhaustion of vacation or other compensatory leave.

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

Unused sick leave shall accumulate from year to year without limit. In the case of employees governed by a collective bargaining agreement, the appropriate collective bargaining agreement shall govern the "cash in" value of accrued sick leave upon retirement, resignation or termination, unless otherwise governed by State Statute. Part-time permanent employees are not entitled to cash-in unused sick hours upon leaving employment.

If an employee terminates employment prior to the end of the calendar year, an adjustment will be made in the final paycheck for any sick leave which has been used but not yet earned.

Failure to follow the procedure for notification of absence due to sick leave could result in denial of sick leave for that absence and/or disciplinary action.

Sick leave is hereby defined to mean absence from post or duty of an employee. Sick leave may be utilized by employees when they are unable to perform the tasks of their job description satisfactorily by reason of personal illness, accidents, exposure to contagious disease, or

attendance upon a member of the employee's immediate family who is seriously ill requiring the care and attendance of such employee. Immediate family, for the purposes of use of sick leave, shall mean mother, father, sister, brother, spouse, domestic partner, civil union partner, child, step parent, step child and parent of spouse.

The following is the procedure for accounting and use of sick time.

In order to receive compensation while absent on sick leave, an employee shall report his/her absence prior to the start of his/her shift, except where compelling circumstances prevent the employee from doing so. In those instances, the employee shall report his/her absence to his/her immediate superior by telephone or personal message. Failure to so notify his/her immediate superior may be cause for denial of the use of sick leave for that absence and constitute a cause for disciplinary action.

The Department Director may require earlier notice due to the nature of the work. In each such instance, the Director shall establish minimum notification times, in writing, which shall be provided to all employees in the department.

Department Directors will report the use of sick leave to the Administrator via daily reports and note it on payroll time sheets.

For recording of sick usage, upon return to work, an employee shall complete the Request for Leave Form indicating date Division Head/Department Director for signature. Copies shall be forwarded to the Business Administrator to be included in the employee's personnel file.

Failure to follow the procedure for notification of absence due to sick leave may result in disciplinary action.

An employee may be required to submit a doctor's certification or a note in a form as directed by the Business Administrator or his/her designee as proof of use of sick leave when:

- The employee has been absent using sick leave for five (5) or more consecutive working days;
- The Business Administrator determines such a requirement appears reasonable.

If sick leave is not approved, the time involved during which the employee was absent shall be charged to his/her vacation leave. If vacation leave has been exhausted, flex time, compensatory time, or personal leave, may be approved upon request by the employee.

The Business Administrator may require a medical certificate/release from the attending physician stating that the employee is able to return to perform regular or "light duties" and in doing so would not jeopardize the health of the employee or other employees.

If an illness is of a chronic or recurring nature, the employee may be required to provide one proof of illness every six months. Such proof must specify the nature of the illness and that it is likely to cause periodic absences.

If an employee is sick while on vacation leave, he/she may submit a written request to the Division Head to change vacation leave to sick leave. Proper medical verification must be attached to the request. Such requests must be made no later than the end of the first day the employee returns to work.

Abuse of sick time, or a pattern of abuse, as determined by the Business Administrator, shall subject the employee to disciplinary action.

During a state of emergency declared by the Governor, or upon the recommendation, direction, or order of a healthcare provider or the Commissioner of Health or other authorized public official, the employee undergoes isolation or quarantine, or cares for a family member in quarantine, as a result of suspected exposure to a communicable disease and a finding by the provider or authority that the presence in the community of the employee or family member would jeopardize the health of others.

The total years of service after regular employment of such employee shall be considered in computing accumulated sick leave due and available.

Absence without notification for five (5) consecutive working days shall constitute a resignation of the employee.

For illness of employees, sick leave may be charged on an hourly basis with approval of the immediate supervisor, except as otherwise provided by a collective bargaining agreement, employee who reports for work and then leaves claiming to be ill sometime during the day must notify his/her supervisor, acting supervisor or Department Director before leaving work.

K. Vacation Leave

Full time employees shall be entitled to annual paid vacation leave credited at the beginning of each calendar year in anticipation of continued employment based on years of full time service with the City in accordance with the employee's collective bargaining agreement.

Part-time permanent employees with regularly scheduled hours will be eligible for proportionate vacation leave based on average number of hours worked, as determined by the Finance Department.

Provisional employees who have no underlying permanent status shall be entitled to one (1) working days' vacation for each month of service during such provisional time employment.

Full-time employees, who do not have an employment agreement, earn vacation leave as per the following schedule:

- Up to one (1) year service: one (1) working days' vacation for each month of service
- On the 1st year anniversary date: twelve (12) working days' vacation
- On the 5th year anniversary date: fifteen (15) working days' vacation
- On the 10th year anniversary date: twenty (20) working days' vacation
- On the 15th anniversary date: twenty five (25) working days' vacation

- On the 20th anniversary date and onward: thirty (30) working days' vacation.

Note - the additional vacation days are granted starting on the 5th, 10th, 15th and 20th anniversary of the date of employment. (For example, if July 31st is the anniversary date of employment, then in the year when the employee will have completed 5 years with the City, the employee gets twelve (12) days up until July 31st and then would receive an additional three (3) days starting July 31st of that calendar year.

Requests for vacation leave shall be submitted as far in advance of the requested vacation as possible to the Department Director. Requests will be honored on a first-come-first-served basis if possible; however, proper staffing of divisions must take precedence over all other considerations in scheduling leave. Should conflicts arise because more than one employee desires the same time off, length of service according to seniority will prevail.

At the direction of the Department Director, vacation leave requests shall be scheduled as to not have an adverse impact on the work unit.

Vacation time for all employees must be taken in full or half-day increments rather than on an hourly basis.

Vacation leave must be taken in the year that it is earned, except that employees who do not take vacation leave that accrues in a given year because of business demands shall be granted that accrued leave only during the next succeeding year, with written approval of the Employer. However, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the Employer until, pursuant to a plan established by the Employer and approved by the Commission, the leave is used or the employee or officer is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining.

Employees shall be entitled to vacation time compensation at retirement for their current year allocation on a pro-rated monthly basis at the base rate of pay in the year the retirement occurs, plus up to one year's allotment of earned vacation time which was unused and carried forward from the prior year. Requests to carry over vacation time in the year preceding retirement must be made in writing to the Business Administrator, with a copy to the immediate supervisor, no later than November 1st of the year before retirement with all other annual vacation carryover approval being automatic at the conclusion of each fiscal year.

Any employee who exhausts all of his/her vacation leave in any one year shall not be credited with any additional paid vacation leave until the beginning of the next calendar year.

Unused vacation leave shall be paid to the estate of a deceased employee.

If employment terminates prior to the end of the calendar year, an adjustment will be made in the employee's final paycheck for any vacation leave, which has been used, but not yet earned.

If an employee is sick or injured while on vacation leave, he/she must submit a written request to the Administrator via the Division Head to change vacation leave to sick leave. Proper medical verification must be attached to the request. Approval is subject to the Administrator's discretion. Such requests must be made no later than the end of the first day the employee returns to work.

L. **Domestic Violence Policy**

The Domestic Violence Policy has been moved to Addendum #3

IX. EMPLOYEE RIGHTS AND OBLIGATIONS

A. Policy Against Harassment

General Prohibition of Harassment:

The City will not tolerate and prohibits harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), liability for service in the United States armed forces, gender identity or expression and/or any other characteristic protected by law. Harassment of non-employees by our employees is also prohibited. While it is not easy to define precisely what harassment is, it includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, caricatures or representations of persons using electronically or physically altered photos, drawings, or images and other similar verbal, written, printed or physical conduct.

A hostile work environment can arise not only from conduct at the workplace, but can also arise from conduct occurring in a work-related context outside of the workplace (i.e., virtually or off-site) and conduct occurring in a non-work-related context (i.e., through private phones, computers, or social media accounts) when that conduct impacts the workplace.

Any employee who feels he/she has witnessed or been subject to harassment must immediately report the harassment to his/her supervisor or other appropriate personnel. If he or she feels uncomfortable addressing the situation with his/her supervisor or the supervisor is the subject of the complaint, the employee may report the harassment to the Department Director, the Business Administrator or the City Attorney. See the Employee Complaint Policy for details.

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

Notification of appropriate personnel of any harassment problem is essential to the success of this policy and the City generally. The City 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 attention of the appropriate officials so that steps are taken to correct them.

Violation of this harassment policy will subject employees to disciplinary action, up to and including immediate discharge. Any employee with questions regarding the City's Policy Against Harassment may contact the Business Administrator.

Prohibition of Sexual Harassment:

The City of Burlington will not tolerate and prohibits sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee. The City prohibits sexual harassment from occurring in the workplace or at any other location at which City sponsored activity takes place. Sexual harassment of non-employees by our 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.

Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

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

Regarding unwelcome sexual advances toward non-employees, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly in exchange for a benefit;
- Submission to or rejection of such conduct by an individual is used as the basis for a decision affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's activities or creating an intimidating, hostile, or offensive environment.

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, caricatures or representations of persons using electronically or physically altered photos, drawings, or images, notes or invitations; and/or, physical conduct (touching, assault, impeding or blocking movements).

Sexual harassment also occurs when one person harasses another solely because of the victim's gender. This type of sexual harassment may involve unwelcome sexual demands or overtures, but it may also take the form of other harassing conduct not necessarily sexual in nature. For example, this would include comments about the lesser abilities, capacities, or the "proper role"

of females. It also includes subjecting a woman or a man to non sexual harassment solely because of her or his gender. Sexual harassment is prohibited whether the harasser is male or female, and whether the harassment is opposite sex or same sex harassment.

Any employee who believes he/she has witnessed or been subject to sexual harassment must immediately report the harassment to his/her supervisor or other appropriate personnel. If he or she feels uncomfortable addressing the situation with his/her supervisor or the supervisor is the subject of the complaint, the employee may report the harassment to the Department Director, the Business Administrator or the City Attorney. See the Employee Complaint Policy for details.

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

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

To the extent possible, all persons involved in a harassment complaint will be given the utmost protection of privacy.

Since the City of Burlington prohibits harassment of its employees in any form, any individual charged with and found guilty of harassment in a civil action or by way of an administrative complaint shall be solely responsible for paying all costs of defense and/or any damages resulting therefrom which may be awarded by a proper court of law or by an administrative agency.

Violation of this sexual harassment policy will subject employees to disciplinary action, up to and including immediate discharge. Any employee with questions regarding the City's Policy Against Sexual Harassment may contact the Business Administrator.

B. Policy Prohibiting Workplace Violence

The City has adopted this Zero Tolerance Policy for workplace violence because it recognizes that workplace violence is a growing problem nationally that needs to be addressed by all employers. Consistent with this policy, acts or threats of physical violence, including intimidation, harassment, and/or coercion which involve or affect the Employer, its employees or which occur on the Employer's property will not be tolerated.

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

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

All threats or acts of violence occurring on Employer property, regardless of the relationship between the Employer and the parties involved in the incident.

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

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

Any threats or acts resulting in the conviction of an employee or agent of the Employer, or of an individual performing services on the Employer's behalf on a contract or temporary basis, under any criminal code provision relating to threats or acts of violence that adversely affect the legitimate interests and goals of the Employer.

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

Hitting, fighting, pushing, or shoving an individual or throwing objects;

Threatening to harm an individual or his/her family, friends, associates, or their property;

The intentional destruction or threat of destruction of property owned, operated, or controlled by the Employer;

Making harassing or threatening telephone calls, letters or other forms of written or electronic communications;

Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the Employer;

Harassing surveillance, also known as "stalking," the willful, malicious and repeated following of another person and making a credible threat with intent to place the other person in reasonable fear of his or her safety;

Making a suggestion or otherwise intimating that an act to injure persons or property is "appropriate," without regard to the location where such suggestion or intimation occurs;

Unauthorized possession or inappropriate use of firearms, weapons, or any other dangerous devices on Employer property.

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

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

Employer's business interests will be followed by legal action, as appropriate. Violation by an employee of any provision of this policy may lead to disciplinary action up to and including termination.

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

Dropping hints about a knowledge of firearms;

Making intimidating statements like: "You know what happened at the Post Office," "I'll get even," or "You haven't heard the last from me";

Possessing reading material with themes of violence, revenge and harassment;

Physical signs of hard breathing, reddening of complexion, menacing stare, loudness, fast profane speech;

Acting out either verbally or physically;

Disgruntled employee or ex-employee who is excessively bitter;

Being a loner;

Having a romantic obsession with a co-worker who does not share that interest;

History of interpersonal conflict;

Intense anger, lack of empathy;

Domestic problems, unstable/dysfunctional family;

Brooding, depressed strange behavior, "time bomb ready to go off."

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

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

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

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

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

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

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

C. Employee with a Contagious or Life Threatening Illnesses

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

If an employee has learned that he or she has a contagious or life threatening illness, including but not limited to HIV/AIDS, the employee should take all steps to protect further spread of the disease or illness. When appropriate, the employee's Department Head should be notified of any illnesses that may affect the health, safety, and welfare of any co-employee or member of the general public. Employees with such conditions, who are able to meet appropriate standards and whose continued employment does not pose a threat to their own health and safety or that of others, are assured equal employment opportunities and reasonable accommodations in their employment. If an employee is able to work, he or she is expected to be productive. If the individual cannot work, then he or she may be eligible for disability benefits.

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

- 1) Employee education and information on terminal illnesses and specific life-threatening illnesses.
- 2) Referral to agencies and organizations which offer supportive services for life-threatening illnesses.
- 3) Consultation in assisting employees in efficiently managing health, leave and other benefits. The Employer encourages employees who need these resources to contact the Business Administrator.

D. “Whistle Blower” Policy

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

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

1. Disclosing or threatening to disclose to a supervisor, Department Director, the Business Administrator, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.), an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law;
2. Providing information to, or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or
3. Objecting to, or refusing to participate in any activity, policy or practice that 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 public policy mandate concerning the public health, safety or welfare.

In accordance with the statute, the employee must bring the violation to the attention of the Business Administrator. However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergency in nature. Employees are encouraged to complain in writing using the Employee Complaint procedure, but may make a verbal complaint at their discretion. Under the law, the employee must give the City a

reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations of the Grievance Policy.

E. Employee Complaint Policy

Employees are encouraged to resolve minor work place disputes. If an employee feels that he/she has been treated unfairly, he/she should first attempt to resolve the matter informally by discussing the matter with his/her supervisor. If such informal procedures are not effective in resolving the dispute; the dispute is more serious in nature or involves any form of discrimination or harassment; or if the dispute involves the employee's supervisor, a formal complaint may be filed.

Employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing should immediately report the matter to their supervisor, or, if they prefer, or do not think that the matter can be discussed with their supervisor, they should contact the Business Administrator. Reporting of such incidents is encouraged either when an employee feels that he or she is subject to such incidents, or observes such incidents in reference to other employees. Employees should report incidents in writing using the Employee Complaint form, but may make a verbal complaint at their discretion. If the employee has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, they may ask their supervisor or one of the individuals listed above. 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.

If the employee has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, they may ask their supervisor or one of the individuals listed above.

The Business Administrator, or his designee, shall conduct an investigation of the incident and determine the meritorious character of the complaint. The City Attorney shall investigate the facts of the incident and determine the meritorious character of the complaint if the Business Administrator is involved or is the subject of the complaint. If the complaint is determined to have merit, a hearing shall be scheduled, where required. 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.

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

Where an employee is determined to have engaged in workplace wrongdoing, the employee shall face immediate and appropriate disciplinary action based upon the severity of the complaint and any prior history of past charges against the individual. Disciplinary action may include a verbal warning, a

written warning, suspension, demotion and/or termination of employment. At the discretion of the Business Administrator, the accused may be suspended with or without pay pending a hearing. In the event that the charges or complaint is dismissed at the hearing and a suspension had been issued, the accused shall be reinstated with back pay if appropriate.

In the event that the Business Administrator, or the City Attorney, determines the complaint to be without any merit and in fact a fabrication, or at the conclusion of a hearing it is determined that the complaint to be without any merit and in fact a fabrication, appropriate disciplinary action may be taken against the employee who initiated the procedure.

F. Employment Verification and Reference Policy

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

Inquiries and written requests for references or employment verification regarding a current or former employee must be referred to the Business Administrator. No employee may issue a reference letter without the permission of the Business Administrator. Under no circumstances should any information be released over the phone.

In response to a request for information, the Business Administrator will only verify an employee's name, dates of employment, job title, department and final salary. No other date or information will be furnished unless (1) the City is required to release the information by law or (2) the employee or former employee authorizes the City in writing to furnish this information and releases the City from liability.

G. Continuing Education and Training

The City, in conjunction with the Employment Attorney will arrange for employment practices seminars at least annually to train all managerial/supervisory personnel. The City will also offer non-mandatory training to all other employees with special emphasis on employee rights and protections under various federal and state laws as well as City employment practices. Records will be maintained in the Administration offices for all employees trained under this procedure.

Managerial and supervisory personnel may also update employees periodically via department meetings and memos that should address specific problems and concerns that may arise. Every effort will be made to encourage employee suggestions about ways to avoid employer-employee disputes and violations of employment rights.

X. GENERAL RULES AND REGULATIONS

A. Political Activity

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

No employee in the career service shall directly or indirectly use or seek to use his or her position to control or affect the political action of another person or engage in political activity during working hours.

No employee in the career or unclassified services whose principal employment is in connection with a program financed in whole or in part by Federal funds or loans, shall engage in any of the following prohibited activities under the Hatch Act:

- Be a candidate for public office in a partisan election. This provision does not apply to the mayor of a city, the elected head of an executive department or an individual holding elective office, where that office is the sole employment connection to federally funded programs;
- Use official authority or influence that interferes with or affects the results of an election or a nomination for office; or
- Directly or indirectly coerce contributions from subordinates in support of a political party or candidate. See Hatch Act, 5 U.S.C. § 1501 et seq.

Violations of either State or Federal laws are serious matters and such violations should not be taken lightly. Any employee engaging in such political activities during working hours will be subject to disciplinary action up to and including termination of employment. Employees who engage in political activities during their non-working hours must not represent themselves as spokespersons for the Employer. Employees should report any violation of this policy to their supervisor or Department Head. The office of the Special Counsel of the United States Merit System Protection Board has responsibility for the investigation of Hatch Act matters.

B. Communication Media/Computer Use, Electronic Mail and Internet Policy

The City's Communication Media are the property of the City and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the City, such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, and fax.

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

City's Communication Media for personal purposes during company time on company equipment without prior authorization from the Administration to do so.

The City respects the individual privacy of its employees. However, employee communications transmitted by the City 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 City. The City reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the City's Communication Media.

By using the City's equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by City personnel. The existence of passwords does not restrict or eliminate the City's ability or right to access electronic communications. However, pursuant to New Jersey Law, the City cannot require the employee to provide its password to his/her personal account(s).

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJS 47:1A-1). Employees of the City are required to use the assigned municipal email account for ALL City business and correspondence. The use of private email accounts for ANY City business or during business hours is strictly prohibited. Employees are hereby advised that if they conduct work-related business on their personal emails, cell phones, or other personal Communication Media, it is also subject to the provisions of the Open Public Records Act. However, nothing in this social media policy prevents employees from using his/her own personal Communication Media during the employee's non-working hours to engage or participate in protected concerted activities pursuant to the National Labor 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 Administration, 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.

Employees can only use the City's Communication Media for legitimate business purposes. Employees may not use the City's Communication Media in any way that is defamatory, obscene, or harassing or in violation of any City 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 City's equipment or on the employee's own personal Communication Media.

All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by the City. Certain data, or applications that process data, may require additional

security measures as determined by the City. 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 City'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 City.

All employees may access only data for which the City has given permission. All employees must take appropriate actions to ensure that City 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. All City data must be stored centrally as required by City. This provides greater security, and ensures backup of all City data is performed.

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 City's computing environment.

Employees may not install or modify or remove ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the City. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the City, or licensed to the City. 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 settings 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.

The City encourages employees to share information with co-workers and with those outside the City for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the City. Social media provide inexpensive, informal and timely ways to participate in an exchange of ideas and information. 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. Employees may engage in social media activity during work time through the use of the City's Communication Media, provided that it is directly related to their work and it is in compliance with this policy.

Employees must not reveal or publicize confidential City 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.

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

No employees 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 City's Business 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 City'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 Business Administrator. Except in "emergency situations," employees are prohibited from taking digital images or photographs with media equipment not owned by the City. 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 City's Communication Media. If such situation occurs, employee agrees that any images belong to the City and agrees to release the image to the City and ensure its permanent deletion from media device upon direction from the City.

No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the City or on behalf of the City, through the use of the City's Communication Media may be issued unless it has first been approved by City Administration. Specifically, employees are forbidden from using the City's Communication Media to impersonate the employer; to make statements on behalf of the employer without authorization; and/or to make statements that can be construed as establishing what the employer's official position or policy is on any particular issue. In addition, employees are prohibited from placing or posting on the Internet through the employer's Communication Media or the employee's own personal media, either during working or non-working hours, any employer-related confidential, sensitive or other employer information of a proprietary nature, including but not limited to employer records or documents, trade secrets, internal reports, tips based on inside information that may be considered insider trading, screenshots of computer stations, pictures of monitors and/or actual documents of the employer, any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incidents or occurrences.

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

All users are personally accountable for messages that they originate or forward using the City'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) is prohibited.

Employees must respect the laws regarding copyrights, trademarks, rights of the City and other third-party rights. Any use of the City's name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the City, 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.

If employees choose to identify themselves as a City 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 City as such no employee shall knowingly represent themselves as a spokesperson of the City, post any comment, text, photo, audio, video or other multimedia file that negatively reflects upon the City expresses views that are detrimental to the City'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. All City employees are encouraged to exercise extreme caution posting photographs of themselves in uniform or in situations where they can be readily identified as City employees.

To the extent that employees use social media outside 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 City's employment policies. For all other communications by employees on personal social media sites in which matters related to the City are discussed, employees must add a disclaimer on the front page stating that the posting does not express the views of the City, and that the employees are expressing their own 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 must be placed in a prominent position and repeated for each posting that is expressing an opinion related to the City or the City's business, with the exception of postings and social media communications by employees engaging in protected concerted activities. Employees are advised that if they post information on social media that is in violation of either the terms and conditions of the within social media policy, or in violation of federal, state, or local laws, the disclaimer will not shield them from disciplinary action. However, no retaliation or discipline will result if and when employees are engaging in protected concerted activity, and/or choose to report inappropriate social media activities to City Administration.

To the extent that employees use social media outside of their employment and in so doing employees identify themselves as City employees, appear reasonably identifiable as City employees, or if they discuss matters related to the City on a social media site, employees shall not knowingly represent themselves as a spokesperson of the City, post any comment, text, photograph, audio, video or other multimedia file that negatively reflects upon the City, expresses views that are detrimental to the City'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, national origin or other discriminatory positions. City employees are encouraged to exercise extreme caution posting photographs of themselves un uniform or in situations where they can be easily and readily identifiable as City Employees. Employees must add a disclaimer on the front page, stating that it does not express the views of the City, and the employee is expressing only their personal views as a way to avoid representation as a spokesperson for the City. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the City or the City's business. Employees must keep in mind that, if they post information on a social media site that is in violation of City 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 social media communications by employees engaging in protected concerted activities regarding wages, hours, or other terms and conditions of employment pursuant to the National Labor Relations Act. All City employees have the right to engage in or refrain from such activities.

Use of Internet:

The City provides Internet access to its employees in order to make available a vast array of information resources and to allow participation in and access to increasing county and state resources.

Employees must comply with all policies adopted by the (local unit), including but not limited to policies regarding prohibition of discrimination and harassment and all applicable federal, state and local laws, including laws governing the transmission and dissemination of information while accessing the Internet.

Employees who are using Internet may not:

- Use the network to make unauthorized entry into other computational, informational or communication services or resources;
- Distribute unsolicited advertising;
- Invade the privacy of others;
- Make any attempt to damage computer equipment or software;
- Engage in any activity that is harassing or defamatory;
- Use the Internet for any illegal activity, including violation of copyright or other rights of third parties, or in a manner inconsistent with the Township's tax-exempt status or its proper operation; and/or
- Download unauthorized software, fonts, templates or scripts.

As stated in the Communications Policy above the City reserves the right to monitor the employee's Internet usage. In addition the City has the right to restrict access to specific types of prohibited content through the use of a content filtering system.

Video Surveillance

The City may install video surveillance camera systems within public buildings and throughout public areas within the City, primarily as visual deterrents of criminal behavior and for the protection of employees and municipal assets. In implementing these video camera systems, the City will ensure compliance with federal, state and local laws governing such usage.

The City's video surveillance camera systems are a significant tool to which the employees of the City will avail themselves in order to complete the goals and objectives of the City. Employees are only permitted to use the video surveillance camera systems for a legitimate purpose and with proper authorization. The City's designee will be responsible for authorization of users. The improper use of these systems can result in discipline up to and including termination.

No employee is permitted to view, continually watch, search, copy or otherwise use one of the City's video surveillance camera systems or tamper with access, archive, alter, add to, or make copies of any data that has been recorded and stored within any of these systems without (1) a specific legitimate purpose and (2) permission for the designee of the City.

The City shall designate a person to be responsible for the maintenance and administration of the video surveillance camera system. Such designee will be responsible for maintaining a user access log detailing the date and name of individuals who view/access a stored recording.

Any employee who becomes aware of any unauthorized disclosure of a video record in a contravention of this policy and/or a potential privacy breach has the responsibility to ensure that the Business Administrator is immediately informed of such breach.

No employee is permitted to view, continually watch, search, copy or otherwise use one of the City's video surveillance camera systems or tamper with access, archive, alter, add to, or make copies of any data that has been recorded and stored within any of these systems without (1) a specific legitimate purpose and (2) permission for the designee of the City.

The City shall designate a person to be responsible for the maintenance and administration of the video surveillance camera system. Such designee will be responsible for maintaining a user access log detailing the date and name of individuals who view/access a stored recording.

Any employee who becomes aware of any unauthorized disclosure of a video record in a contravention of this policy and/or a potential privacy breach has the responsibility to ensure that the Business Administrator is immediately informed of such breach.

C. Bonding of Employees

All employees are covered by a blanket fidelity bond to insure proper accountability for all moneys and property received by virtue of their position or employment.

A separate Fidelity and Fiduciary Bond is provided for those employees as specified by State statute.

D. Bulletin Boards

Certain bulletin boards are reserved for specific purposes and are maintained in several locations for the information of all employees, the location to be identified by the Business Administrator. Such bulletin boards may include:

- Union business Maintained by each respective union
- Job postings/vacancies Maintained by the Business Administrator

In addition, two bulletin boards are provided for general information sharing. Employees may only post material on these two general purpose bulletin boards. All materials are subject to removal by the Business Administrator if deemed inappropriate or dated information. All removed material shall be returned to the Department Director for return to the appropriate persons.

E. Vital Information

Annually, each employee is responsible to accurately complete a current vital information form to be retained in the employee personnel file. In addition, each employee is responsible for notifying the Business Administrator's Office of any changes in the following list of vital information within two (2) working days of the change:

1. NAME
2. ADDRESS
3. TELEPHONE NUMBER
4. DEPENDENT CHILDREN
5. W-4 FORM DEDUCTIONS
6. CHANGES IN HEALTH CARE PROGRAM STATUS
7. CHANGES IN BENEFICIARIES IN LIFE INSURANCE OR PENSION PROGRAM
8. FAMILY MARITAL STATUS

F. Access to Personnel Files Policy

Personnel records are maintained for all employees by the Business Administrator in accordance with Civil Service Commission regulations. Such records are considered confidential in nature. Information contained in these records is available in accordance with the Administrative Code. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access.

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

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

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

- In response to a valid subpoena, court order or order authorized administrative agency;
- To an authorized governmental agency as part of an investigation of the City's compliance with applicable law;
- To the City agents attorneys, when necessary;

- In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the City are parties;
- In a workman's compensation proceeding;
- To administer benefit plans;
- To an authorized health care provider;
- To first aid or safety personnel, when necessary; and
- To potential future employer or other person requesting a verification of your employment as described in the following section titled, "Requests for Employment Verification and Reference Procedure."

The Official file shall include at least the following:

1. The original application signed by the employee;
2. The original letter detailing an offer of employment and any additional correspondence concerning the employee's hiring;
3. A signed acknowledgment that the employee has received the Employee Manual;
4. A signed acknowledgment that the employee received the safety orientation;
5. Annual written performance evaluations including documentation that the evaluation was reviewed with the employee;
6. Counseling Action Plans;
7. Disciplinary actions including an acknowledgment that the employee was notified of the proposed disciplinary action and was given an opportunity to respond;
8. Records relating to any other employment actions including promotions, demotions, transfers, resignations, leaves of absence, etc.
9. Educational transcripts; and
10. Any other pertinent information.

Employees who wish to have copies of any documents in their personnel folders will be charged a per page fee based on state guidelines, unless waived by the Business Administrator.

Employees whose duties require access to personnel documents and information must maintain the confidentiality of such. Violators of this confidentiality may be subject to disciplinary action.

G. Credit Information

References, salary, and related information will be furnished to authorized persons or lending institutions upon written request to the Business Administrator if authorized by the employee. In response to telephone requests, the Business Administrator will follow the procedure established by the City's Employment Verification and Reference Policy.

H. Drug and Alcohol Policy

It is the policy of the City to create a drug-free workplace in keeping with the spirit and intent of the Drug Free Workplace Act of 1988. The City further recognizes that the possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is observed by a supervisor, Division Head or Department Director to be intoxicated or under the influence of alcohol or drugs during working hours or is under reasonable suspicion of same shall be immediately tested and subject to discipline up to and including termination. The supervisor, Division Head or Department Director will immediately report any reasonable suspicion to the Business Administrator.

An employee will be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that the employee is impaired due to current intoxication, drug or controlled substance use, or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled dangerous substance free, following treatment. Employees shall also be subject to alcohol, drug and/or controlled substance testing in the event of an on duty injury or motor vehicle, machinery or equipment accident resulting in injury or property damage, (*see page 139 of this manual*). New employees will be screened for drugs as part of the pre-employment physical.

CDL license holders are also subject to the CDL Drug and Alcohol Testing Policy (*Addendum 1*)

Refusal to submit to testing when requested may result in immediate disciplinary action, including termination. Supervisors, Division Heads and Department Directors that observe behavior constituting reasonable suspicion are required to institute testing and do not have the option of sending the employee home as an alternative.

All employees shall be fully informed of the City's policy and procedures with respect to substance abuse testing. Additionally, employees shall be fully briefed on the actual testing procedures, what the tests can determine and the consequences of a positive test result. All newly hired employees shall be provided with this same information on the date of their appointment and indoctrination to the City.

The collection and testing of samples shall be performed only by a health care provider authorized to administer and determine the meaning of the results of any test administered.

The manufacturing, distribution, dispensation, possession, and use of alcohol or unlawful drugs on City premises or during work hours by employees is strictly prohibited.

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

Employees who are required to maintain a Commercial Driver's License (CDL) are subject to random drug testing as required by the federal government and are otherwise subject to the provisions of the Commercial Driver's Licenses Drug and Alcohol Testing Policy. A copy of the CDL Drug and Alcohol Testing Policy can be found in *Addendum 1*.

Employees using prescription drugs that may affect job performance or safety must notify the Business Administrator or his designee who is required to maintain the confidentiality of any information regarding an employee's medical condition in accordance with the Health Insurance Portability and Protection Act. A program to assist employees who may have a drug/alcohol problem is provided through the City's Employee Assistance Program.

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

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

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

***NOTICE: This Drug and Alcohol Policy is subject to change if there are changes to Federal Law, N.J. State Law or NJMEL requirements.**

I. Emergency Closing of Offices

The decision to close municipal offices because of adverse weather or other conditions shall be made by the Business Administrator following consultation with the Mayor.

J. Emergency Service Volunteers

Employees who are members of the City fire department and/or the ambulance squad may be released from work with prior approval of the Department Director or, in his absence, the Business Administrator, to respond to emergency calls during working hours if they register their intent to serve in such a capacity in advance with the Department Director.

Employees who respond to emergency calls during work hours are expected to return to their workstations as soon as possible after the emergency has been cleared. Failure to return promptly to work may be cause for disciplinary action.

Employees who respond to these emergency calls should, upon return to work, notify their Department Director of the type of emergency and the length of their absence.

K. Employee Assistance Program

The City, under the direction of the Business Administrator, offers an Employee Assistance Program to help employees return to expected standards of performance at work. The purpose is to identify problem areas, offer assistance and, if necessary, makes referrals to appropriate treatment resources. The City contracts with the N.J. Civil Service Commission's Employee Advisory Service (EAS) to provide this service. All contacts under this program, whether initiated by the City through referrals or by the employee through direct contact, will be handled with the strictest confidentiality.

The program includes, but is not limited to:

- Emotional difficulty
- Substance abuse
- Compulsive gambling
- Financial concerns
- Legal concerns
- Family issues
- Grief Counseling

L. Hours of Work

Work hours for most employees are established within collective bargaining agreements. All employees should be guided by those agreements. The hours of work for all other City employees, including any temporary or alternate starting and/or stopping times, shall be made by the Business Administrator upon the recommendation of the Department Director.

Work hours that are changed are subject to the terms stated within the respective employees bargaining agreements. If not established or prohibited by a collective bargaining agreement, the hours of work, including any temporary or alternate starting and/or stopping times, shall be made by the Business Administrator upon the recommendation of the Department Director.

Seven (7) hours, generally from 9:00 am to 5:00 PM, shall constitute a normal workday and 35 hours shall constitute a normal workweek in the following departments:

- Administration
- Finance
- Public Affairs
- Housing and Community Development - Clerical
- Department of Public Safety, Police Division Clerical
- Public Works - Clerical

- Office of Municipal Court
- Office of the Assessor
- Municipal Clerk Clerical

Hours, shifts and schedule times are to be set by the Department Director after approval of the Business Administrator, consistent with any applicable collective bargaining agreement and will be posted in each affected division and notice provided to the bargaining unit and Department of Administration.

Eight hours shall constitute a normal workday and 40 hours shall constitute a normal workweek in the following departments:

- Public Works all Divisions
- Police Division of Public Safety (for calculations purposes)
- Housing and Community Development Inspections

For police personnel, the Shift Schedule as established pursuant to the collective bargaining agreement; and set by the Chief of Police, shall contain the two (2) week, eighty four (84) hour tour.

Full-time salaried employees not covered by a collective bargaining agreement or other employment contract will be paid bi-weekly calculated on 2,080 work hours per year. Part-time employees will be paid hourly for hours worked.

M. Leaving Work Stations on City of Burlington Business

All personnel who have need to leave their work station during regular work hours for appointments with clients, meetings or training must advise their supervisor of the nature of the business and estimated time of return, and receive prior approval.

N. Literature and Solicitation

Solicitations, ticket sales, requests for contributions, distributions of literature and similar activities are not normally allowed. Business Administrator may grant exceptions upon written request made by the employee as provided for in this policy.

Exceptions may occasionally be granted to collect money for presents, flowers, parties, charitable donations or relief of hardship. In these exceptional cases, permission must be obtained from the Business Administrator. All approved solicitations shall be made in non working areas such as the lunchroom or coffee area while all parties are off duty or on authorized breaks.

In considering requests for exceptions, the Business Administrator should consider these factors:

Whether the activity would interfere with work performance, official communications or other necessary agency activities.

Whether the activity is required, governed or prohibited by law. (Questions should be referred by the Administrator to legal counsel).

The importance of the activity to the work force as a whole. As examples, a recreation program for employees would normally justify an exception; an announcement by an outside organization would not.

Whether the activity would *affect the* image of the City of Burlington as seen by suppliers, residents or visitors. The Business Administrator may impose any conditions and restrictions the Administrator deems necessary to meet these standards.

O. Lunch and Breaks

Except where an applicable collective bargaining agreement provides otherwise, full-time employees are entitled to a one hour lunch break and two 10 minute breaks, one in the morning and one in the afternoon. **Department Directors and Division Heads are responsible to assure continued coverage and therefore shall approve all breaks and lunch schedules in advance**

Police Officers: Lunch and Breaks are to be arranged in accordance with the applicable collective bargaining agreement and consistent with policy established by the Chief of Police.

All employees shall return to work on time or be subject to disciplinary action.

Breaks shall not be combined with start of the day, lunch or within the last 10 minutes of the workday.

As a general standard, lunch breaks will be normally scheduled between the hours of 11:30 AM and 3:00 PM.

Exchanging lunch for early dismissal may be allowed from time to time for special circumstances at the sole approval of the Department Director. Determination of this exchange is the sole discretion of supervising manager and is NOT a right of the employee.

For any employee who works through lunch, no additional break time, other than breaks already in this policy, is provided nor may the employee eat a lunch while working.

No one shall eat lunch at his or her desk except on special circumstances. Having coffee or a small snack so long as it is not a distraction, is acceptable.

P. Office Conditions and Personal Property

The City of Burlington will make every attempt to assure a secure building. However, because the public has access to the general office area and at times the private offices, the City of Burlington assumes no responsibility for employees' personal property.

Offices having counters shall have nothing taped to those counters. Temporary information may be stacked on counters or may be placed in a display holder accordingly. Directional or other information of the type explained above may be placed only upon approval of the Division Head.

Any joke material or cartoon items are considered personal items.

Personal items, such as family pictures or cartoons, are to be kept at a minimum. Such items should only be visible to the employee as the employee sits at their desk. There shall be no obscene or offensive materials of any kind within the building. Items determined to be offensive by the Division Head shall be removed immediately.

At the end of the workday, all papers and files must be neatly stacked on the desk or placed in appropriate files.

These standards apply to all offices and desks of the City. Division Heads may make minor exceptions taking into consideration work area and space restrictions.

Q. Personal Visitors

Employees are strongly discouraged from entertaining personal visitors during work hours. This includes visits between other employees. Should such visits occur, the visit should be restricted to lunch or break.

R. Purchasing Procedures

All goods and/or services shall be purchased or contracted for in accordance with all requirements established by State Law and regulation. The Business Administrator and Chief Financial Officer are responsible for ensuring that all requirements of and procedures required by applicable law are met and followed with respect to all purchases and contracts for services and/or goods entered into by the City.

S. Reimbursement for Expenses

Employees who receive approval from the Business Administrator will be reimbursed for legitimate expenses, including the use of a personal vehicle. All requests for such reimbursement must be itemized and accompanied by receipts. The maximum daily rate for approved employee meal allowance including tips is \$55.00 per day.

Approved employee hotels, taxi fare, including tip, airfare, and parking shall be reimbursed upon receipt. At all times, the most economical arrangements should be made. First class fares will be reimbursed at a rate for economical class rate. The City will not reimburse for the following:

- "First class" fares or accommodations;
- Additional costs incurred as a result of a guest/spouse;
- Expenses incurred as a result of not attending function provided meals or accommodations. (e.g. Costs of a dinner when one is provided at a conference);
- Costs incurred when using personal vehicle (e.g. Cost of towing, or repairs if personal car breaks down);
- Telephone calls not related to City business;
- Any alcoholic beverages

T. Reporting of Incidents and Post Incident Testing

(Note – FOR CDL DRIVERS ALSO SEE Addendum 1)

For employee incidents including accidents, injuries and property damage.

Employees should perform their duties, utilize City of Burlington property and operate City vehicles and equipment in a safe and responsible manner.

Employee Reporting - Any employee who is involved in an incident involving other employees, property damage, equipment or vehicles, no matter how minor, shall report the incident to his/her supervisor immediately. If an incident occurs on the after normal business hours or on a weekend or holiday, you should contact your supervisor immediately. If the employee is unable to reach his/her supervisor, the employee should report the incident to Administration.

Use Qual-Lynx Forms to Report Incidents - The Employee and/or the Supervisor must complete an incident report by the end of the next working day. Please use the Qual-Lynx forms either fillable online or paper copy. If the employee is unable to do so, the employee's immediate supervisor must complete the report for the employee.

For Non-Emergency injuries (same day)

Supervisor is to contact Administration as soon as possible. Administration will call Worknet to inform them that the injured party is being transported. The individual is to be driven to Worknet and picked up upon completion of visit. The paperwork is to be completed upon return from treatment or at the latest first thing the next business day. The paperwork must be received by the Administration Office so that an incident file can be opened.

Worknet Medical Center Hours
Monday through Friday - 8:00 AM to 5:00PM
2103 Burlington-Mt. Holly Road, Burlington, NJ 08016
(609) 747-1891

For Emergencies

Go to Emergency Room. Supervisor contact Administration ASAP.

For After Hours Injuries

For all after hours injuries please have the individual transported to the Emergency Room ASAP.

If medical attention was not required and or waived by the employee an incident report is still to be completed and returned to Administration as a "Matter of Record". This is in the event the individual decides at a later date that they require medical attention as a result of the incident.

In all cases the Supervisor in charge must contact or leave a message with the Administration Office (x114) that the injury has occurred. All paperwork must be completed and forwarded to Administration first thing the next business day. The paperwork must be received by Administration in a timely fashion so Worker's Compensation and incident files can be opened.

POST ACCIDENT DRUG AND ALCOHOL TESTING – INSTANT TESTING

(Note – FOR CDL DRIVERS ALSO SEE Addendum 1)

During Business Hours

Contact the Administration Office as soon as City personnel are involved in an accident where personal or property damage has occurred as a result of the City employee. Transport the employee to Worknet Medical Center for instant Drug Screen (UDS) testing. If there is a suspicion of alcohol, an alcohol test should also be administered. If a serious injury has occurred then the Supervisor needs to inform the Emergency Room that a UDS test is to be administered.

After Hours

If the incident occurs after hours and the driver cannot get to Worknet Medical within six hours, the Supervisor must call the Worknet After Hours Drug Testing central pager number at (877) 298-0166. The caller will receive a call back from the after-hours coordinator to make the arrangements for the testing of the individual. Please provide a phone number and address of the testing location. The employee is to be brought back to his/her department headquarters and will be met within one hour (weather permitting) of the call back time for testing. The collector will prepare the collection facility according to DOT (Department of Transportation) regulations. A City of Burlington representative MUST be present at the time of testing. If there is a suspicion of alcohol, an alcohol test should also be administered.

If an employee injury has occurred and the employee is taken to the hospital the Supervisor should inform the hospital that a UDS test should be completed. In all after-hours cases, the City Administrator, or designee, is to be notified at the earliest possible opportunity.

Acord Property Loss Forms

If property damage has occurred, the “Acord Property Loss Notice” form must also be completed. (See “Appendix 1 – Forms”)

City of Burlington Claims Coordinator

Upon the occurrence of an incident, the claims coordinator shall ensure that all appropriate reports are filed on the incident and report all notices of claims to the appropriate Third Party Claims Administrator or insurance company, depending on the nature and extent of the incident. The claims coordinator shall report incidents to the Business Administrator on a timely basis, based upon the urgency of the incident.

U. Safety

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

public unsafe condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or accident involving City facilities, equipment or motor vehicles must also be immediately reported to the supervisor or Department Head.

The City has appointed a Safety Committee that meets on a regular basis to discuss and recommend solutions to safety problems. Employees are encouraged to discuss safety concerns with their Safety Committee Representative.

V. Smoking

City of Burlington Ordinance 08-2020 prohibits smoking as follows:

- Smoking is prohibited in all municipal buildings, school building, municipal and school grounds and their parking lots, sidewalks, and public parks.
- Smoking is prohibited on municipal grounds and school grounds up to the property lines and shall not be reduced even during inclement weather.
- Smoking is prohibited in any municipal vehicle registered to the City of Burlington.
- Smoking is not permitted in any enclosed area of municipal buildings and grounds in Burlington City including all schools and administrative offices.
- This policy shall be strictly enforced and any employee found in violation will be subject to disciplinary action.
- Any person found guilty of a violation of this ordinance by a court of competent jurisdiction may be subject to a fine and/or community service, and/or incarceration in a county jail.

W. Telephone Usage

Telephones are for the use of employees in conducting official City business. Calls shall be answered promptly and all callers treated courteously and professionally. If at their desks, employees are expected to answer the phone, not "hide" behind the voice mail system.

Employees are not authorized to accept collect telephone calls. Except for family emergencies, personal telephone calls are prohibited unless the Department Director grants advance approval.

Non business is expressly prohibited and may not be conducted on city phones, unless express permission is granted by the Business Administrator for a specific instance.

X. Uniforms

Uniforms are to be worn when issued by the City of Burlington in accordance with the appropriate negotiated agreement.

Failure to wear such uniforms may be cause for disciplinary action.

Y. Use of City Property, Equipment and Vehicles

Property and Equipment

Equipment and supplies assigned to employees are the responsibility of those employees and are to be used for City business only. Unauthorized use, removal or loss of City equipment and/or supplies shall be cause for disciplinary action and/or termination of employment.

Vehicles

The purpose of this policy is to establish uniform guidelines on the assignment and use of City vehicles. A City vehicle is any vehicle, owned or leased which must be registered with or licensed by the Motor Vehicle Commission, except watercraft. The Mayor, or Mayor's Designee, may authorize the assignment of City vehicles for the conduct of official City business. The vehicles may be assigned either to individuals or to Departments and Divisions for pool use as follows:

Individual Use

City employees may be assigned vehicles individually if required by their formal job duties. Exceptions to this policy may be considered on a case-by-case basis due to extenuating circumstances.

Departments and Divisions Pool Use

Pool vehicles shall remain at the office location when not in official use. Departments and Divisions may be assigned a City vehicle(s) for employees to use collectively for official City of Burlington business. In special cases, an alternate plan may be submitted to the Mayor, or Mayor's Designee, for approval.

General Terms

1. Appropriate vehicle use is the responsibility of the using individual, department or division as applicable.
2. The personal use of a City vehicle is prohibited. However, during normal work hours, the vehicle may be used for authorized lunch and break periods. The use of a City vehicle for personal errands, any form of shopping, or personal business activity during the authorized lunch or break period is prohibited. The need for emergency medical

treatment, or prescription medication in an urgent situation would not be considered as unauthorized use.

3. All damage to City vehicles, regardless of cause must be reported in accordance with the procedures set forth in Section X. General Rules and Regulations (T) Reporting Incidents Involving City Employees and/or Property.
4. If a City vehicle is used for travel greater than 25 miles, or beyond the borders of the State, advance notice is to be given to the Business Administrator. The Business Administrator may also defer or waive this requirement for sworn police officers, and otherwise delegate the notice requirement to the Chief of Police.
5. No physical alterations shall be made to a City vehicle without proper approval from the Department of Public Works Director.
6. An employee who is assisting another governmental entity may use a City vehicle for that purpose only if the assistance is being provided pursuant to an approved agreement between the City and the other jurisdiction.
7. Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks may be made by Department Directors or Division Heads.
8. Any employee who does not hold a valid NJ driver's license will not be allowed to operate a City vehicle until such time as a valid license is obtained.
9. All new employees who will be assigned work entailing the operating of a City vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.
10. Any employee performing work which requires the operation of a City vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee who fails to report such an instance is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report such revocation or suspension to their supervisor and continues to operate a City vehicle shall be subject to possible termination.
11. Any information obtained by the City in accordance with this section shall be used by the City only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. S 2721 et seq.).
12. New Employees
 - a. Any employee whose work requires the operation of City vehicles must hold a valid New Jersey State Driver's License.
 - b. All new employees who will be assigned work entailing the operating of a City vehicle must hold a valid New Jersey State Driver's License and 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.
 - c. Any employee hired for a position which requires a Commercial Driver's License to operate City vehicles must hold a valid New Jersey State Driver's License at all times from application to employment with the City. Any employee hired for a position which requires a Commercial Driver's License to operate City vehicles must obtain such New Jersey Commercial Driver's License within one (1) year of their employment with the City of Burlington. If an employee is

unable to do so, s/he may be reassigned, demoted or otherwise terminated by the City.

13. Any employee who performs work including the operation of City vehicles or requires operation of City vehicles with a valid New Jersey Commercial Driver's License and has his/her privileges suspended and/or revoked and/or invalidated, must re-obtain those driving privileges within six (6) months or s/he may be reassigned, demoted or otherwise terminated by the City, subject to any legal requirements including the Americans with Disabilities Act the New Jersey Law Against Discrimination, the New Jersey Pregnant Worker's Fairness Act, and other anti-discrimination statutes and regulations.

Drivers

1. Commutation is not the primary purpose of individually assigned vehicles. Drivers of City vehicles may bring vehicles to their residences and drive vehicles to and from their official work site when required by work assignment, with the approval of the Business Administrator, except a Department Director may also grant temporary approval to facilitate responses to after-hours emergency calls. When an employee takes home a City vehicle, it is to be used only for official City business; any other use is not permitted. At no time shall children be in the City vehicle when responding to an emergency. Any violation of this policy constitutes cause for disciplinary action.
2. Drivers of any City vehicle must possess a valid State of New Jersey driver's license of the appropriate class.
3. Drivers are responsible for operating safe vehicles and as such must report unsafe conditions as soon as possible to the Department of Public Works Director.
4. Drivers should inspect their vehicles each day before use for any damage that may have occurred during idle periods. Noted damage should be reported to the Director of Public Works Department immediately.
5. A driver of a City vehicle is responsible for the security of the vehicle and its contents. The vehicle must be legally parked with the engine off and doors locked when left unattended.
6. Drivers are personally responsible for all fines accrued as a result of traffic or toll violations related to the operation of the City vehicle.
7. Smoking shall not be permitted in any city vehicles; any employee violating the terms of this section shall be subject to appropriate discipline.
8. If a City vehicle is misused in any of the following ways, the driver's City vehicle driving privileges may be suspended or revoked and additional disciplinary action may be taken if deemed appropriate.
 - a. Frequent violation of traffic laws as shown on the driver's abstract as determined by the Business Administrator, or designee
 - b. Flagrant violation of the traffic laws as determined by the Business Administrator or designee
 - c. Operation of the vehicle which causes an accident
 - d. Use of a vehicle for unauthorized personal, business, or commutation use
 - e. Operation of the vehicle while impaired to any degree, or under the influence of alcohol or narcotics as defined by state statutes

- f. Allowing use of a City vehicle by an unauthorized individual
- g. The use of a City vehicle to transport any person, other than in the course of assigned duties and responsibilities is prohibited
- h. The use of a cell phone while driving a City vehicle is only permitted when conducting official City business and only when a hands-free device is used
- i. City drivers are required to operate City vehicles in an energy efficient manner. This minimizes fuel consumption and cost, reduces greenhouse gas emissions, and reduces air pollution. Energy-efficient vehicle operation includes the following practices:
 - i. Plan vehicle trips to minimize distances traveled
 - ii. Carpool with others when feasible
 - iii. Ensure regular maintenance is performed
 - iv. Do not idle vehicle longer than three minutes while parked, excluding law enforcement
 - v. Maintain recommended tire pressure
 - vi. Obey posted speed limits and avoid rapid acceleration, excluding law enforcement
 - vii. If check engine light comes on, be sure gas cap is tightened. If check engine light remains on for three days, contact Public Works Directors for vehicle maintenance

Fringe Benefit/Tax Liability Determination

Tax liability for use of City provided vehicles shall be in accordance with current State and IRS rules and regulations. The valuation of personal use of City provided vehicles is to be calculated using the valuation rule. The Director of Finance is responsible for establishing a system for tracking the use of city vehicles and for reporting the personal use information on the Payroll. In addition, the Director of Finance will notify the affected employees upon determination that this fringe benefit/tax liability applies to said employee.

Qualified Non-personal Use Vehicles:

The following types of vehicles are exempted from fringe benefit consideration. That is, their use is deemed to be exclusively for business purposes:

- Clearly marked, through painted insignia or words, police, fire, and public safety vehicles, when the employee is required to use the vehicle for commuting and is on-call at all times.
- Unmarked vehicles used by law enforcement officers if the use is officially authorized.
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- Tractors and other special-purpose farm vehicles.
- Bucket trucks, cement mixers, combines, cranes and derricks, dump trucks (including garbage trucks), flatbed trucks, forklifts, qualified moving vans, qualified specialized utility repair trucks, and refrigerated trucks.

- Certain clearly marked or specially modified pick-up trucks and vans as defined in the IRS Code

All Other Employer-Provided Vehicles:

Employees who are on-call may be authorized to take a City vehicle home, however, if your City owned vehicle is not a police, fire, public safety, or other qualified non-personal use vehicle, then you are subject to the personal use of the vehicle being a taxable fringe benefit and your use of the vehicle for commuting is a non-cash taxable fringe benefit. (See Commutation Valuation Rule)

The Commutation Valuation Rule

The commutation valuation rule will be used to determine the fringe benefit relating to City provided vehicles for applicable employees. Employees should keep a record of the commutation use of their City provided vehicle.

The value of the commutation use of a City provided vehicle is \$1.50 per one-way commutation. Commutation is defined as direct travel from an employee's residence to and from an official work station. For the days when an employee is on sick leave, vacation, or personal leave, no commutation use is incurred.

The employee will receive a taxable fringe benefit in each pay period based on the number of days they used a City assigned vehicle to commute to and from work.

Any information obtained by the City in accordance with this section shall be used by the City only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. S 2721 et seq.).

City of Burlington
Policies and Procedures Manual - Addendum 1



CDL Drug and Alcohol Testing Policy

Controlled Substances and Alcohol Use and Testing Policies for City of Burlington
CDL Drivers in accordance with U.S. Department of Transportation (USDOT)
Federal Motor Carrier Safety Administration (FMCSA) 49 CFR PART 382

CERTIFICATE OF RECEIPT

City of Burlington - CDL Drug and Alcohol Testing Policy for Employees who are CDL License Holders

I acknowledge that I have received a copy of the CDL Drug and Alcohol Testing Policy.

I agree to read it thoroughly.

I agree that if there is any provision in the CDL Drug and Alcohol Testing Policy that I do not understand, I will seek clarification from the Designated Employer Representative or the Business Administrator. (contact information listed below)

*******Please sign and date this Certificate of Receipt and return it to the
Designated Employer Representative listed below**
This form only applies to Employees who are NJ CDL License Holders*****

Print Name: _____

Signature: _____

Date: _____

Department: _____

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: DER: William Curry, Director of Public Works

OFFICE: Public Works Garage, 325 E. Federal Street PHONE: 609-386-0754

E-MAIL: wcurry@burlingtonnj.us

HOURS WHEN AVAILABLE: Monday – Friday, 7AM to 3PM

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Johanna S. Conyer

OFFICE: City Hall, 525 High Street PHONE: 609-386-0200, ext. 133

E-MAIL: jconyer@burlingtonnj.us

HOURS WHEN AVAILABLE: Monday – Friday 9 AM to 5 PM

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SECTION A - GENERAL

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

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

PURPOSE 382.101

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

APPLICABILITY 382.103

- (a) This policy applies to every person of City of Burlington who operates a commercial motor vehicle in commerce in any State, and is subject to:
 - (1) The commercial driver's license requirements of part 383;
 - (2) All Drivers Operating Commercial Motor Vehicles for City of Burlington; or
 - (3) The commercial driver's license requirements of the Canadian National Safety Code.

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

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

City of Burlington Service Agent(s) Contact Information:

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: DER: William Curry (Resolution No. adopted 11/9/23)

TITLE: Director of Public Works

ADDRESS: 525 High Street, Burlington, NJ 08016

PHONE: 609-386-0754

E-MAIL: wcurry@burlingtonnj.us

HOURS WHEN AVAILABLE: Monday – Friday, 7AM to 3PM

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Alternate DER: Johanna S. Conyer, Business Administrator (Resolution adopted 11/9/23)

MEDICAL REVIEW OFFICER (MRO)

NAME: **Concentra**

ADDRESS: 2103 Burlington-Mount Holly Road, Burlington, NJ 08016

PHONE: 609-747-1891

FAX: 609-747-8147

LABORATORY

NAME: Concentra

ADDRESS: 2103 Burlington-Mount Holly Road, Burlington, NJ 08016

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: John Blum, MS, MSEd, LCACD, LPC

ADDRESS: 74 E. Second Street, 2nd Floor, Moorestown, NJ 08057

PHONE: 856-304-2469

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: Qual-Lynx

ADDRESS: 100 Decadon Drive, Egg Harbor Township, NJ 08234

PHONE: Claudia Acosta 732-507-6729

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

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

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

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

DRIVER FITNESS FOR DUTY 391.11

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

TESTING PROCEDURES 382.105

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

DEFINITIONS 382.107

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

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

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

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

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

CFR means Code of Federal Regulations.

Commerce means:

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

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

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

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and

- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));
- (2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));
- (6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));
- (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or
- (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- (9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (11) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).

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

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

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

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

Screening test (or initial test) means:

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

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

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

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

PREEMPTION OF STATE AND LOCAL LAWS 382.109

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

OTHER REQUIREMENTS IMPOSED BY City of Burlington 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of City of Burlington, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation.

REQUIREMENT FOR NOTICE 382.113

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

STARTING DATE FOR TESTING PROGRAMS 382.115

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

PUBLIC INTEREST EXCLUSION 382.117

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

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

- (a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:

- (1) The admission is in accordance with City of Burlington's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
- (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
- (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
- (4) The driver does not perform a safety sensitive function until City of Burlington is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

(b) A qualified voluntary self-identification program or policy must contain the following elements:

- (1) It prohibits City of Burlington from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
- (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
- (3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
- (4) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
- (5) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

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

EMPLOYEE ASSISTANCE PROGRAM

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

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

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

ON-DUTY USE 382.205

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

PRE-DUTY USE 382.207

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

USE FOLLOWING AN ACCIDENT 382.209

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

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

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

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

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the City of Burlington by the DOT in 49 CFR 382.111 to imposed other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the City of Burlington to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe

behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the City of Burlington) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the City of Burlington; 3) if the Driver is still insurable at standard rates under the City of Burlington fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

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

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

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

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

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. City of Burlington, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

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

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

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B

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

SECTION C - TESTS REQUIRED

TESTS REQUIRED

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

PRE-EMPLOYMENT 382.301

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

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

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and
- (2) While participating in that program, either--
 - (i) Was tested for controlled substances within the past 6 months (from the date of application with City of Burlington), or
 - (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with City of Burlington); and
- (3) City of Burlington ensures that no prior employer of the driver of whom City of Burlington has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.

(d) (1) If City of Burlington exercises the exception in paragraph (b) of this section, City of Burlington shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

- (i) Name(s) and address(es) of the program(s).
- (ii) Verification that the driver participates or participated in the program(s).
- (iii) Verification that the program(s) conforms to part 40 of Federal regulations.
- (iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.
- (v) The date the driver was last tested for controlled substances.
- (vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.

(2) If City of Burlington who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If City of Burlington cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, City of Burlington shall conduct a pre-employment controlled substances test.

(e) City of Burlington may, but is not required to, conduct pre-employment alcohol testing under this policy. If City of Burlington chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

- (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
- (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
- (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
- (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
- (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

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

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

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

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

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

<u>Type of Accident Involving:</u>	<u>Was Citation Issued to the CMV Driver?</u>	<u>Tests to be Performed by City of Burlington?</u>
Human fatality	Yes	Yes
Human fatality	No	Yes
Bodily injury w/ immediate medical treatment away from the scene	Yes	Yes
Bodily injury w/ immediate medical treatment away from the scene	No	Yes
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
Disabling damage to any motor vehicle requiring tow away	No	Yes

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, City of Burlington shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, City of Burlington shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.
(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, City of Burlington shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

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

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

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

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

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

RANDOM 382.305

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

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

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

REASONABLE SUSPICION 382.307

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

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

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

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

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

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

- (i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
- (ii) Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

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

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

RETURN-TO-DUTY 382.309

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

FOLLOW-UP 382.311

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

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

RETENTION OF RECORDS 382.401

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

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

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

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

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

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

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

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

(1) Records related to the collection process:

- (i) Collection logbooks, if used,
- (ii) Documents relating to the random selection process,

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

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

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

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

(4) Records related to evaluations:

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

(5) Records related to education and training:

- (i) Materials on alcohol misuse and controlled substances use awareness, including a copy of City of Burlington's policy on alcohol misuse and controlled substances use,
- (ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,

- (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
- (iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and
- (v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

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

- (i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,
- (ii) Names and positions of officials and their role in City of Burlington's alcohol and controlled substances testing program(s),
- (iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and
- (iv) City of Burlington's alcohol and controlled substances testing policy and procedures.

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

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

- (a) City of Burlington shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Burlington or any of its drivers.
- (b) If City of Burlington is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report City of Burlington's annual calendar year summary information, City of Burlington shall prepare and submit the report to the FMCSA by March 15 of that year. City of Burlington shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request.

City of Burlington must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40 which a *sample form can be found on pages 28-30 of this Addendum 1*). City of Burlington may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see: <http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to part 40 which a sample form can be found on *pages 28-30 of this Addendum 1*. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

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

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

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

SAMPLE OF MIS FORM – APPENDIX H TO PART 40 (PAGES 28-30)

Current version can be found at:

<https://www.transportation.gov/odapc/MISreporting>

Appendix H to Part 40 – DOT Drug and Alcohol Testing Management Information System

(MIS) Data Collection Form

The following form is the MIS Data Collection form required for use to report calendar year MIS data. The instructions for this form are found at <https://www.transportation.gov/odapc>.

[68 FR 43952, July 25, 2003, as amended 75 FR 8528, February 25, 2010; 82 FR 52247, November 13, 2017; 84 FR 16773, April 23, 2019]

U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM

Calendar Year Covered by this Report: _____

OMB No. 2105-0529

Form DOT F 1385 (Rev. 4/2019)

I. Employer:

Company Name: _____

Doing Business As (DBA) Name (if applicable): _____

Address: _____ E-mail: _____

Name of Certifying Official: _____ Signature: _____

Telephone: (_____) _____ Date Certified: _____

Prepared by (if different): _____ Telephone: (_____) _____

C/TPA Name and Telephone (if applicable): _____ (_____) _____

Check the DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

FMCSA – Motor Carrier: DOT #: _____ Owner-operator: (circle one) YES or NO Exempt (Circle One) YES or NO

FAA – Aviation: Certificate # (if applicable): _____ Plan / Registration # (if applicable): _____

PHMSA – Pipeline: (Check) Gas Gathering _____ Gas Transmission _____ Gas Distribution _____ Transport Hazardous Liquids _____ Transport Carbon Dioxide _____

FRA – Railroad: Total Number of observed/document Part 219 "Rule G" Observations for covered employees: _____

USCG – Maritime: Vessel ID # (USCG- or State-Issued): _____ (If more than one vessel, list separately.)

FTA – Transit

II. Covered Employees: (A) Enter Total Number Safety-Sensitive Employees In All Employee Categories:

(B) Enter Total Number of Employee Categories:

(C)

Employee Category	Total Number of Employees in this Category

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

III. Drug Testing Data:

Type of Test	Total Number of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12]	1	2	3	4	5	6	7	8	9	10	11	12	13	Refusal Results						
															Verified Negative Results	Verified Positive Results ~ For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opioids	Positive For Amphetamines
Pre-Employment																					
Random																					
Post-Accident																					
Reasonable Susp./Cause																					
Return-to-Duty																					
Follow-Up																					
TOTAL																					

IV. Alcohol Testing Data:

Type of Test	Total Number of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	1	2	3	4	5	6	7	8	9	Refusal Results										
											Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Test Results	Confirmation Test With Results 0.02 Through 0.039	Confirmation Test With Results 0.04 Or Greater	"Shy Lung" ~ With No Medical Explanation	Other Refusals To Submit To Testing	Cancelled Results			
Pre-Employment																					
Random																					
Post-Accident																					
Reasonable Susp./Cause																					
Return-to-Duty																					
Follow-Up																					
TOTAL																					

PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2105-0529. Public reporting for this collection of information is estimated to be approximately 90 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE, Suite W62-300, Washington, D.C. 20590.

Title 18, USC Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements of representations in any matter within the jurisdiction of any agency of the United States.

ACCESS TO FACILITIES AND RECORDS 382.405

- (a) Except as required by law or expressly authorized or required, City of Burlington shall not release driver information that is contained in records required to be maintained under 382.401.
- (b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. City of Burlington will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.
- (c) City of Burlington shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Burlington or any of its drivers.
- (d) City of Burlington and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the City of Burlington and any other information pertaining to the City of Burlington's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over City of Burlington or any of its drivers.
- (e) When requested by the National Transportation Safety Board as a part of a crash investigation:
 - (i) City of Burlington must disclose information related to the City of Burlington's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and
 - (ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.
- (f) When requested by the National Transportation Safety Board as part of an accident investigation, City of Burlington shall disclose information related to City of Burlington's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.
- (g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
- (h) City of Burlington may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).
- (i) City of Burlington shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO City of Burlington 382.407

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

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

- (a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.
- (b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum or one (1) year for negative and canceled controlled substances test results.
- (c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

- (a) City of Burlington shall notify a driver of the results of a pre-employment controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. City of Burlington shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. City of Burlington shall also inform the driver which controlled substance or substances were verified as positive.
- (b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.
- (c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

- (a) City of Burlington must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the City of Burlington must request information

from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

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

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

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

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

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

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

REQUIRED EVALUATION AND TESTING 382.503

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

OTHER ALCOHOL-RELATED CONDUCT 382.505

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

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

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify City of Burlington's personnel when contacted. Failure to advise City of Burlington of alcohol consumption may result in

disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

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

PENALTIES 382.507

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) The consequences for drivers found to have violated *SECTION B* of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures

under 49 CFR part 40, Subpart O; (*CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E*)

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

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

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

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

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

TRAINING FOR SUPERVISORS 382.603

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

REFERRAL, EVALUATION, AND TREATMENT 382.605

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

SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE

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

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) *Pre-employment query required.*

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

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

(b) *Annual query required.*

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

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

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive

function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

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

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

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

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

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

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE
382.703

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

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

- (1) A verified positive, adulterated, or substituted controlled substances test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a test in violation of § 382.211;

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

- (i) On duty alcohol use pursuant to § 382.205;
- (ii) Pre-duty alcohol use pursuant to § 382.207;
- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use pursuant to § 382.213;

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

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

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

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

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

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

REPORTING TO THE CLEARINGHOUSE 382.705

(a) *MROs.*

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

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

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

- (i) Reason for the test;
- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
- (iii) Driver's name, date of birth, and CDL number and State of issuance;

- (iv) Employer's name, address, and USDOT number, if applicable;
- (v) Date of the test;
- (vi) Date of the verified result; and
- (vii) *Test result.* The test result must be one of the following:
 - (A) Positive (including the controlled substance(s) identified);
 - (B) Refusal to test: adulterated;
 - (C) Refusal to test: substituted; or
 - (D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

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

(b) *Employers.*

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

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

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;

(v) Date the result was reported; and

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

- (A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);
- (B) Positive; or
- (C) Refusal to take a test.

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

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
- (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
- (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and
- (iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

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

- (i) On-duty alcohol use pursuant to § 382.205;
- (ii) Pre-duty alcohol use pursuant to § 382.207;
- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use pursuant to § 382.213.

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

- (i) Driver's name, date of birth, CDL number and State of issuance;
- (ii) Employer name, address, and USDOT number, if applicable;
- (iii) Date the employer obtained actual knowledge of the violation;
- (iv) Witnesses to the violation, if any, including contact information;
- (v) Description of the violation;

- (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and
- (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs*.

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

- (i) SAPs name, address, and telephone number;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Date of the initial substance-abuse-professional assessment; and
- (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately*. Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	<ul style="list-style-type: none">— An alcohol confirmation test with a concentration of 0.04 or higher— Refusal to test (alcohol) as specified in 49 CFR 40.261— Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191— Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.— Negative return-to-duty test results (drug and alcohol testing, as applicable)— Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	<ul style="list-style-type: none">— An alcohol confirmation test with a concentration of 0.04 or higher— Refusal to test (alcohol) as specified in 49 CFR 40.261— Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191— Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.— Negative return-to-duty test results (drug and alcohol testing, as applicable)— Completion of follow-up testing
MRO	<ul style="list-style-type: none">— Verified positive, adulterated, or substituted drug test result— Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	<ul style="list-style-type: none">— Identification of driver and date the initial assessment was initiated— Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION 382.707

- (a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.
- (b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.
- (c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

- (a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.
- (b) *Employers.*
 - (1) Employer Clearinghouse registration must include:
 - (i) Name, address, and telephone number;
 - (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
 - (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.
 - (2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.
 - (3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.
- (c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:
 - (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
 - (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
 - (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) C/TPAs and other service agents. Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
- (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

(a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.

(b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.

(c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

(a) *C/TPAs.* No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.

(b) *SAPs.* A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

(a) Petitions limited to inaccurately reported information.

(1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.

(2) *Exceptions.*

(i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.

(ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).

(iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).

(b) *Petition.* Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:

- (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
- (2) Detailed description of the basis for the allegation that the information is not accurate; and
- (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition.* The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision.* Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e) *Request for expedited treatment.*

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review.*

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

- (1) The SAP reports to the Clearinghouse the information required in § 382.705(d);
- (2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;
- (3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and
- (4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

- (1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.
- (2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. *Exception:* No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

- (a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.
- (b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.
- (c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.
- (d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

- (a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.
- (b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.
- (c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.
- (d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) *Exceptions.*

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

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

(ii) *[Reserved]*

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

SECTION H - Commercial Motor Vehicle Driver's

Certificate of Compliance with DOT Cell-Phone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

*Except as prohibited under City of Burlington policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.*

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. City of Burlington can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by City of Burlington to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

City of Burlington
Policies and Procedures Manual - Addendum 2



Protection and Safe Treatment of Minors Policy
(Originally adopted on 12/8/2020)

ACKNOWLEDGEMENT OF RECEIPT OF THE

**City of Burlington
Protection and Safe Treatment of Minors Policy
(from the Personnel Policies and Procedures Manual
and Employee Handbook)**

I acknowledge that I have received a copy of the Protection and Safe Treatment of Minors Policy.

I agree to read it thoroughly.

I agree that if there is any provision in the City's Protection and Safe Treatment of Minors Policy that I do not understand, I will seek clarification from my Supervisor or the Business Administrator.

Please sign and date this receipt and return it to the Business Administrator.

Print Name: _____

Signature: _____

Date: _____

Department: _____

Protection and Safe Treatment of Minors Policy

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The Protection and Safe Treatment of Minors

I. Purpose and Scope:

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

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

Child abuse can have long-term effects on victims. A lack of trust and difficulty with healthy relationships is common, as is a core feeling of worthlessness and low self-esteem. There may even be long-term trouble with regulating emotions that can lead to destructive behaviors.

There are typically four common types of abuse:

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

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

- In New Jersey, abuse reports involving 80,000 children are filed each year. 50,000 of those children receive prevention and post-response services.
- 75% of the cases involve neglect, 18% of the cases involve physical abuse, and psychological abuse accounts for 7% of the cases.
- 55% of the perpetrators are female, while males account for 45%.

- Sadly, child abuse is a vicious cycle, in that 30% of abused children will later abuse their own children.

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

- ✓ "**Peer-to-Peer**" abuse is by far the most common, where one or more children or adolescent(s) sexually abuses or inappropriately touches another. Legally, the abuser must be at least 4 years older to trigger the statute. The *American Psychological Association* reports this type of abuse is driven by power and dominance, the same factors that drive bullying within this age group. In fact, bullying can be a precursor to sexual abuse, especially when there is a lack of supervision.
- ✓ In contrast, "**adult-to-child**" abuse is typically thought out and planned in advance, demanding access and privacy and control. These three factors demand a specific type of relationship and setting, meaning that 90% of juvenile sexual abuse victims know their abuser. The scope of the problem is massive: by the age of 18, 1 in 4 girls and 1 in 6 boys have experienced sexual abuse. From those figures, 88% of those molestations are attributed to individuals with pedophilia. **Pedophilia is a psychotic disorder in which an adult or adolescent demonstrates a primary sexual attraction to prepubescent children.** It is important, however, not to confuse pedophilia with actual child molestation, as many pedophiles never act on their attractions.
- ✓ Child sexual abusers are not always easy to spot. Though 7 out of every 8 molesters are male, they match the general population in ethnicity, religion, education, and marital status. There is no stereotype, especially since abusers go to great lengths to blend in. However, only 10% of them abuse children that they don't know, and 68% look no further than their own families for victims.
- ✓ 40% of abusers first begin molesting children before they themselves reach the age of 15, and the vast majority before the age of 20.
- ✓ Adolescent abusers generally begin their acts of abuse on younger siblings.
- ✓ Most sexual abuse occurs within the family. However, molesters can gain access to children outside of their own families through employment or volunteer work with an organization that works primarily with children. This allows them both time alone with potential victims and the ability to build trust and credibility. In fact, child abusers are

often known and respected in their communities for dedication to children.

- ✓ In terms of a victim profile, it is important to remember that, although there are characteristics that make some children more vulnerable, every child is in danger. Passive, lonely or troubled children, especially those who live with step-parents or single parents may be targeted. Children between the ages of 7 and 13 years old are most at risk, and children from low socioeconomic backgrounds or rural areas are more likely to be victimized.
- ✓ Molesters have behavioral patterns that can be identified as "**grooming**" their victims. Sexual abuse is rarely violent. The molester's goal is to solicit compliance by beginning to win the victim's trust. There might be pet names, gifts to foster exclusivity and encouragement to "keep secrets." The molester might begin to spend time with the victim outside of the regular program or schedule, contacting parents to become involved in a child's life in some capacity, like babysitting. For this reason, many parents are shocked after abuse comes to light simply because the abuser seemed trustworthy. Inevitably, the favoritism is not enough to keep the victim silent any more, and the abuser resorts to threats—threats that play off of a child's guilt over the sexual contact.
- ✓ During the grooming process and abuse, victims often begin to show signs such as sexual behaviors or strong sexual language that is too adult for their age. Many children feel at fault after the abuse and begin to suffer guilt and depression, even resorting to self-harm. They may begin to display cuts and scratches or other self-inflicted injuries. However, some children are naïve and unaware of the gravity of the abusive nature of their experience. Research shows that children often delay reporting sexual abuse. They should not be disbelieved just because they waited a long time to seek help.

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

- At the State level:
 - State law is enforced through the NJ Family Division of the State court system. The court has broad powers including the ability to remove children from dangerous situations
 - The Department of Children and Families, specifically the Division of Child Protection and Permanency, combines all state operations

intended to safeguard children into a single, coordinated program working closely with the Courts, legal advocates and law enforcement.

- The Department of Corrections operates adult prisons and youth correctional centers to deal with perpetrators, while individual counties operate youth detention centers and special purpose schools.
- At the local level:
 - Educational professionals have the most contact with children, meaning they are often the first to detect issues.
 - Housing Authority employees may also frequently come into contact with children.
 - Municipalities and counties operate or sponsor a variety of programs that involve children including but not limited to:
 - Recreation programs
 - Before and After Care programs
 - Youth sports leagues
 - Youth centers
 - Youth in Government programs
 - Junior law enforcement training programs
 - The role of **Police and law enforcement agencies** is especially important. Police officers assist in resolving reported situations, often acting as first identifiers. In New Jersey, police are given broad authority to protect children, including the authority to remove them from their parents or caregivers without a court order if necessary, to prevent imminent danger to a child. Under the **Prevention of Domestic Violence Act**, a law enforcement officer must make an arrest when the officer finds "probable cause" that domestic violence has occurred. This holds even if the victim refuses to make a complaint. The Act is invoked in situations where the victim exhibits signs of injury caused by domestic violence, when a warrant is in effect, or when there is probable cause to believe that a weapon has been involved in an act of domestic violence. Abusers often use psychological tactics or coercive control over their partners, such as making threats to prevent a victim from leaving or contacting friends, family or police. But even if these conditions are not met, an officer may still make an arrest or sign a criminal complaint if there is probable cause to believe acts of domestic violence have been committed. Now if there is no visible sign of injury but the victim states that an injury did, in fact, occur, the officer must take other factors into consideration in determining probable cause.

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

The City of Burlington is fully committed to protecting the health, safety and welfare of minors who interact with officials, employees, or volunteers of the City of Burlington, for activities sponsored by the City and/or taking place on City property. These Policy and Procedures establish the guidelines for officials, employees, and volunteers who set policy for the City of Burlington or may work with or interact with individuals under 18 years of age, and those who supervise employees, and volunteers who may work with or interact with individuals under 18 years of age, with the goal of promoting the safety and wellbeing of minors.

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

II. Definitions:

- **Authorized Adult**- Individuals, age 18 and older, paid or unpaid, who interact with, supervise, chaperone, or otherwise oversee and/or interact with minors in program activities, recreational, and/or residential facilities. The Authorized Adults' roles may include positions as counselors, chaperones, coaches, instructors, etc.
- **Child or Minor** - A person under the age of eighteen (18).
- **Department Heads**- Appointed department heads of the City of Burlington, including the chief administrative officer, and any assistants.
- **Direct Contact** - Positions with the possibility of care, supervision, guidance or control of children or routine interaction with children.
- **Dual Reporting** – Reporting possible abuse to both the NJ Department of Children and Families and law enforcement at the same time by the individual designated by the City of Burlington to report all possible cases of abuse.
- **Employees, Staff, or Counselors** – persons working for the City of Burlington on a full-time or part-time basis, and compensated by the City of Burlington.
- **Facilities** - Facilities owned by, under the control of, or rented or leased to the City of Burlington.
- **Grooming** - is when someone builds a relationship, trust and emotional connection with a child or young person so they can manipulate, exploit and abuse them. Refer to Appendix B for more detailed information on grooming.
- **NJMEL JIF**-New Jersey Municipal Excess Liability Fund Joint Insurance fund
- **Officials** – Elected officials of the City of Burlington, and appointed members of City of Burlington Boards or Committees
- **One-On-One Contact** - Personal, unsupervised interaction between any Authorized Adult and a participant without at least one other Authorized Adult, parent or legal guardian being present.
- **Programs** - Programs and activities offered or sponsored by the City of Burlington.
- **Volunteers**-Individuals volunteering their time to provide services to the City of Burlington who are not on the payroll and receive no compensation.

III. Statement of Policy:

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

IV. Recruitment and Hiring of Employees and Vetting of Individuals Volunteering Their Time:

- i. All prospective employees and volunteers shall undergo a thorough and complete background check, including but not limited to a fingerprint identification check, which includes a check of the Megan's Law directory for New Jersey and any other State where the applicant previously resided within the last five years. Prospective employees may be required to also undergo a credit check, motor vehicle record check, and a check of references (personal and professional). *Written documentation of the background check shall be maintained by the City of Burlington in compliance with the City of Burlington's existing policies.*
- ii. Background checks that disclose any negative or questionable results must be reviewed and approved by the City of Burlington **prior to** the individual being hired and/or working with minors.
- iii. All prospective employees and volunteers must complete the training adopted by the City of Burlington **prior to** starting employment or volunteer service. **In addition to completing the training course adopted by the City of Burlington,** all volunteer coaches shall complete the Rutgers SAFETY Clinic course (*Sports Awareness for Educating Today's Youth™*) which is a three-hour program that meets the "Minimum Standards for Volunteer Coaches Safety Orientation and Training Skills Programs" under (N.J.A.C. 5:52) and provides partial civil immunity protection to volunteer coaches under the "Little League Law" (2A:62A-6 et. seq.)
- iv. The Employer shall **annually** re-check and document the Megan's Law directory for New Jersey to make certain that current employees are not listed.
- v. Once employed, authorized Adults who are employed are required to notify the appropriate Human Resources representative or Department Head of an arrest (charged with a misdemeanor or felony) or conviction for an offense within 72 hours of knowledge of the arrest or conviction.

V. Procedures and Responsibilities of Officials:

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

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

➤ Officials of the City of Burlington are required to:

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

VI. Program Procedures:

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

VII. Specific Program Procedures:

The following policies shall apply to **all youth programs** offered by or taking place on City of Burlington property. As an essential element of compliance with the overall objective of protecting and addressing the safe treatment of minors, the City of Burlington shall:

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

Code of Conduct

- Staff members will, at all times, respect the rights of program participants and use positive techniques of guidance including positive reinforcement and encouragement.
- Staff members will portray a positive role model for youth by maintaining an attitude of respect, loyalty, patience, courtesy, tact, and maturity.

- Staff members shall not transport children in their own vehicles, unless written authorization from the child's parent or guardian has been received.
- Members of the staff shall not be alone with children they meet in the programs outside of the camp. This includes babysitting, sleepovers, and inviting children to their home.
- Staff members shall, at all times, be visible to other staff members while supervising minors. Any exceptions require a written explanation before the fact and approval of the Program Director.
- Staff members will appear neat, clean, and appropriately attired.
- Staff members will refrain from intimate displays of affection towards others in the presence of children, parents and staff.
- Staff members are required to refrain from texting, and posting or checking any of the social media outlets while they are working or volunteering. The only exception is for texting for the purposes of communicating with another staff member or parent regarding a programmatic issue pertaining to a child.
- Staff members are prohibited from buying gifts for program participants.

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

- The possession or use of alcohol and other drugs, fireworks, guns and other weapons is prohibited.
- The City of Burlington shall set forth rules and procedures governing when and under what circumstances participants may leave the City property during the program.
- No violence, including sexual abuse or harassment, will be tolerated.
- Hazing of any kind is prohibited. Bullying including verbal, physical, and cyber bullying are prohibited and will be addressed immediately.
- No theft of property will be tolerated.
- No use of tobacco products will be tolerated.

- Misuse or damage of City of Burlington property is prohibited. Charges will be assessed against those participants who are responsible for damage or misuse of property.
- The inappropriate use of cameras, imaging, and digital devices is prohibited including use of such devices in showers, restrooms, or other areas where privacy is expected by participants.
- Under no circumstances are any images of any child taken during any of the activities conducted or sponsored by the City of Burlington to be shared on any social media platform without the expressed written consent of a parent or legal guardian.
- The City of Burlington shall assign either an employee or a program member who is at least 21 years of age to be accessible to participants. Additional Authorized Adults will be assigned to ensure that inappropriate, one-on-one contact with minors unrelated to the program or event does not occur and that appropriate levels of supervision are implemented.
- Take appropriate steps to make certain that children are not released to anyone other than the authorized parent, guardian, or other adult authorized by the parent or guardian (written authorization on file in advance.)
- Develop and make available to participants and their parents or guardians, the Code of Conduct and/or rules applicable to the program. Program participants and staff must abide by all regulations and may be removed from the program for non-compliance with the Code of Conduct and/or rules.
- Responsibilities of the adult staff or adult volunteers must include, at a minimum, informing program participants about safety and security procedures, rules established by the program, and behavioral expectations. Adult staff or adult volunteers are responsible for following and enforcing all rules and must be able to provide information included herein to program participants and be able to respond to emergencies.

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

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

VIII. Procedures for Law Enforcement Officers:

Law enforcement officers of the City of Burlington frequently interact with minors in a variety of ways. It is important to establish guidelines to assist law enforcement officers in being aware of how to act and react in these circumstances.

Transporting Minors in a Police Vehicle.

A. Whenever victims or alleged victims of sexual assault or other crimes, or minors are removed from a situation for protective purposes, the transporting Officer will notify Central Communications of the following:

1. Starting mileage.
2. Destination.
3. Ending mileage at Headquarters or destination reached.

B. In Car Mobile Vision Recorders and Body Worn Cameras (BWC) shall be utilized when applicable in accordance with established policies and procedures to record contacts with juveniles in the performance of official duties.

C. In Car Mobile Vision Recorders and BWCs shall remain activated for the entire duration of an event/encounter/episode and shall not be de-activated until it is concluded (e.g., the BWC equipped officer has left the scene; all the civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded).

Interaction with Minors

- a. Directives issued by the NJ State Attorney General pertaining to interaction with minors shall be incorporated into the policy.

b. The following provisions from the "**Code of Conduct**" shall be included in the policy for officers assigned to work in school settings (i.e. Class 3 officers):

- i. Officers will, at all times, respect the rights of students and use positive techniques of guidance including positive reinforcement and encouragement.
- ii. Officers will portray a positive role model for youth by maintaining an attitude of respect, loyalty, patience, courtesy, tact, and maturity.
- iii. Officers shall not transport children in their own vehicles. Officers shall not arrange to see students outside of school and this includes babysitting, sleepovers, and inviting children to their home. Any exceptions require a written explanation before the fact and approval of the Chief.
- iv. Officers shall make certain that they are neat, clean, and appropriately attired.
- v. Officers will refrain from intimate displays of affection towards others in the presence of children, parents and staff. Officers shall not buy gifts for students at any time.
- vi. All officers are required to complete the initial training course offered by the NJMEL JIF, and any refresher courses as well.

IX. Training Requirements:

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

a. Officials

Complete the initial training course adopted by the City of Burlington, and any updated/refresher course, in order to better understand their legal duties and responsibilities under Federal and NJ State Law. The training program will include the following concepts.

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

b. Department Heads

i. Content of course shall include:

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

c. **Volunteers and Employees of the City of Burlington**

i. Content of course shall include:

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

d. **Law Enforcement Officers**

i. Content of course shall include:

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

X. Reporting Suspected Child Abuse/Neglect:

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

The following procedures shall be utilized in reporting suspected cases of abuse. The City of Burlington shall also train officials, department heads, employees and volunteers in the concept of "**dual reporting**" as listed and defined below and shall encourage all staff and volunteers to utilize this process as much as possible in reporting suspected cases of abuse.

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

Interviewing children to investigate sexual abuse requires highly technical expertise. **Do not "investigate" an abuse situation. Do not interrogate the child.** Rather report it immediately as shown below. And finally, keep safety as the priority. If there is the possibility of violence against yourself or the child, get the appropriate professionals or agencies involved as soon as possible.

It is recommended that, whenever possible, officials, employees and volunteers report the suspected abuse to both the NJ Department of Children and Families and law enforcement at the same time, which is known as "dual reporting."

For employees or volunteers of programs conducted by the City of Burlington:

- Immediately report suspected cases to the HRO or Director in charge.
- The HRO or Director shall immediately gather available information regarding the alleged incident. The HRO or Director shall document in writing the referral of the alleged abuse incident to the appropriate

authorities, by including the following information, as recommended by the New Jersey Department of Children and Families:

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

➤ After collecting all of the available facts and information relating to the alleged event of abuse, the Program Director shall contact the City of Burlington Domestic Violence Human Resources Officer and also call the Hotline established by the NJ Department of Children and Families @ 1-877-652-2873. It is not the supervisor's role to make a decision on whether a case should be reported. All cases must be reported consistent with this policy.

For Volunteer coaches or other volunteers in charge of programs sponsored by or affiliated with the City of Burlington.

1. The Volunteer shall immediately document the alleged abuse in writing including the following information, as recommended by the New Jersey Department of Children and Families:
 - a. **Who:** The child and parent/caregiver's name, age and address and the name of the alleged perpetrator and that person's relationship to the child.
 - b. **What:** Type and frequency of alleged abuse/neglect, current or previous injuries to the child and what caused you to become concerned.
 - c. **When:** When the alleged abuse/neglect occurred and when you learned of it.
 - d. **Where:** Where the incident occurred, where the child is now and whether the alleged perpetrator has access to the child.
 - e. **How:** How urgent the need is for intervention and whether there is a likelihood of imminent danger for the child.
2. After documenting all of the facts surrounding the alleged abuse, the Volunteer shall contact the City of Burlington Domestic Violence Human

Resources Officer and also call the Hotline established by the NJ Department of Children and Families @ 1-877-652-2873.

For Officials and Department Heads who witness or become aware of alleged cases of abuse or neglect:

1. The Officials and Department Heads shall immediately document the alleged abuse in writing including the following information, as recommended by the New Jersey Department of Children and Families:
 - a. **Who:** The child and parent/caregiver's name, age and address and the name of the alleged perpetrator and that person's relationship to the child.
 - b. **What:** Type and frequency of alleged abuse/neglect, current or previous injuries to the child and what caused you to become concerned.
 - c. **When:** When the alleged abuse/neglect occurred and when you learned of it.
 - d. **Where:** Where the incident occurred, where the child is now and whether the alleged perpetrator has access to the child.
 - e. **How:** How urgent the need is for intervention and whether there is a likelihood of imminent danger for the child.
 - After documenting all of the facts surrounding the alleged abuse, the Officials or Department Heads shall contact the City of Burlington Domestic Violence Human Resources Officer and also call the Hotline established by the NJ Department of Children and Families @ 1-877-652-2873.

For Law Enforcement Officers:

1. Immediately report any suspected or alleged cases of abuse or neglect to the Supervisor for referral to the appropriate law enforcement officer, including the County Prosecutor.

XI. Important Information Regarding Reporting Suspected Abuse Under NJ Law:

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

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

XII. Acknowledgement of Receipt and Review of Policy:

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

Appendix A: Indicators of Child Abuse/Neglect

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

Indicators of Child Abuse / Neglect

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

Physical Abuse

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

Physical Neglect

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

Sexual Abuse

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

Emotional Maltreatment

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

Appendix B – Grooming Behavior

Grooming is when someone builds a relationship, trust and emotional connection with a child or young person so they can manipulate, exploit and abuse them.

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

- Molesters often refer to their intended victims by pet names and use gifts to foster exclusivity and build a relationship while starting the practice of keeping secrets.
- The molester might begin to spend time with the victim outside of the regular program or schedule, contacting parents to become involved in a child’s life in some capacity, like babysitting. For this reason, many parents are shocked after abuse comes to light simply because the abuser seemed so good – too good to be true, in fact.
- Inevitably, the favoritism is not enough to keep the victim, and the abuser resorts to threats—threats that play off of a child’s guilt over the sexual contact.
- During the grooming process and abuse itself, victims often begin to show tell-tale signs including:
 - Sexual behaviors or strong sexual language that is too adult for their age.
 - Many children feel at fault after the abuse and begin to suffer guilt and depression, even resorting to self-harm.
 - Also look for cuts and scratches or other self-inflicted injuries.

RESOLUTION NO. 287-2020 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON APPROVING THE UPDATES AND REVISIONS TO THE CITY'S CYBERSECURITY POLICY AND THE PROTECTION AND SAFE TREATMENT OF MINORS POLICY TO BE INCLUDED IN THE PERSONNEL POLICY AND PROCEDURES MANUAL

WHEREAS, the City of Burlington has a Policies and Procedures Manual setting forth certain policies and procedures for employees of the City of Burlington; and

WHEREAS, the City of Burlington is a member of the Municipal Excess Liability Joint Insurance Fund; and

WHEREAS, from time to time certain updates to these policies are necessary to effectuate updates to federal, state and other laws; and

WHEREAS, the Municipal Excess Liability Joint Insurance Fund is recommending certain updates to be included in the Personnel Policy and Procedures Manual; and

WHEREAS, the Special Projects Counsel for the City of Burlington has reviewed the recommended revisions to the policies to be updated and included in the Policy and Procedure Manual and has recommended that certain revisions and updates be made to the Policy and Procedure Manual to ensure that it is current and in compliance with all appropriate language, and this review has been performed in conjunction with the City of Burlington's Risk Managers and Senior Administrative staff; and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Burlington, in the County of Burlington, as follows:

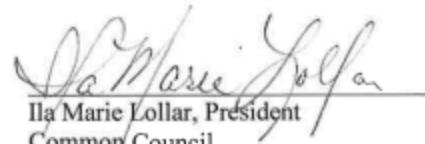
- I. The Cybersecurity Policy and the Protection and Safe Treatment of Minors Policy, attached hereto, are hereby adopted and incorporated into the City of Burlington Personnel Policies and Procedures Manual;
- II. The Table of Contents of the City's Personnel Policies and Procedures Manual shall be updated to reflect the City's adoption of the Cybersecurity Policy and the Protection and Safe Treatment of Minors Policy and the revised policies shall be included in the revised Policy and Procedures Manual at such time when issued.

BE IT FURTHER RESOLVED that a copy of the City of Burlington Personnel Policies and Procedures Manual is on file with the Clerk's office to which the Cybersecurity Policy and the Protection and Safe Treatment of Minors Policy shall now be added; and

BE IT FURTHER RESOLVED that a copy of this Resolution and the Cybersecurity Policy and the Protection and Safe Treatment of Minors Policy shall be distributed to all City Employees by the Business Administrator or his designee.

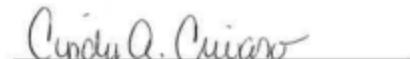
Addendum 2
Protection and Safe Treatment of Minors

RESOLUTION NO. 287-2020



Ila Marie Lollar, President
Common Council

Attest:



Cindy A. Crivaro

Cindy A. Crivaro, RMC
City Clerk

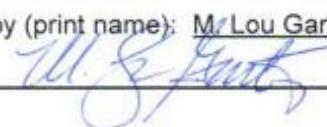
December 8, 2020

RECORD OF VOTE OF PASSAGE BY THE COMMON COUNCIL						
	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
BABULA		✓	✓			
CHACHIS		✓	✓			
HATAI'A	✓					✓
HOLLINGSWORTH			✓			
SWAN			✓			
WOODARD			✓			
LOLLAR			✓			

City of Burlington
Policies and Procedures Manual - Addendum 3



Domestic Violence Policy for Public Employers
(Originally adopted on 07/14/2020)

Reviewed by (print name): Mr. Lou Garty, Esq., City Solicitor for the City of Burlington
Signature:  Date: 6/29/2020

ACKNOWLEDGEMENT OF RECEIPT OF THE

**City of Burlington
Domestic Violence Policy**
(from the Personnel Policies and Procedures Manual
and Employee Handbook)

I acknowledge that I have received a copy of the Domestic Violence Policy.

I agree to read it thoroughly.

I agree that if there is any provision in the City's Domestic Violence Policy that I do not understand, I will seek clarification from my Supervisor or the Business Administrator.

As part of this policy, the City has designated the two individuals named below to assist employees in reporting domestic violence incidents and to assist employees who are victims of domestic violence.

Please sign and date this receipt and return it to the Business Administrator or designee.

Print Name: _____

Signature: _____

Date: _____

Department: _____

CITY OF BURLINGTON DESIGNATED CONTACTS TO REPORT DOMESTIC VIOLENCE:

• **Primary HRO:**

**Anna Czajka, Detective, Division of Police;
Office phone 609-386-0200, ext. 221**

• **Secondary HRO:**

**William (Bill) Curry, Director of Public Works;
Office phone 609-386-0754**

**DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS
CITY OF BURLINGTON**

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PURPOSE

The purpose of the State of New Jersey Domestic Violence Policy for Public Employers (herein "policy") is to set forth a uniform domestic violence policy for all public employers to adopt in accordance with N.J.S.A. 11A:2-6a. The purpose of this policy is also to encourage employees who are victims of domestic violence, and those impacted by domestic violence, to seek assistance from their human resources officers and provide a standard for human resources officers to follow when responding to employees.

DEFINITIONS

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

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

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

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

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

Temporary Restraining Order (TRO) - A civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or through any means of communication, including third parties. TROs also can prohibit offenders from a victim's home and workplace. A violation of a TRO may be a criminal offense. A TRO will last approximately 10 business days, or until a court holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

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

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

PERSONS COVERED BY THIS POLICY

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

RESPONSIBILITY OF EMPLOYERS TO DESIGNATE A HUMAN RESOURCES OFFICER

The HRO's for the Domestic Violence Policy are persons designated by the City as the primary or secondary contact to assist employees in reporting domestic violence incidents. The City of Burlington hereby designates the following employees as the Primary HRO and Secondary HRO with respect to this Domestic Violence Policy, to assist employees who are victims of domestic violence.

- **Primary HRO:**

**Anna Czajka, Detective, Division of Police;
Office phone 609-386-0200, ext. 221**

- **Secondary HRO:**

**William (Bill) Curry, Director of Public Works;
Office phone 609-386-0754**

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

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

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

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

DOMESTIC VIOLENCE REPORTING PROCEDURES

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

Each designated HRO shall:

- A. Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- B. Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- C. Provide the employee with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.
- D. Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act), referenced under Section VIII of this policy.
- E. If there is a report of sexual assault or abuse, the victim should be offered the

services of the Major Crimes Unit – Special Victims Section Response Team at the Burlington County Prosecutor's Office; main phone number: 609-265-5035; Burlington County Prosecutor's Office Victim Witness Unit phone number: 609-265-5048

- F. Maintain the confidentiality of the employee and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy. (See Section VI).
- G. Upon the employee's consent, the employee may provide the HRO with copies of any Temporary Restraining Orders, Final Restraining Orders, and/or civil restraint agreements that pertain to restraints in the work place and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TRO's and FRO's shall be maintained in a separate confidential personnel file.

CONFIDENTIALITY POLICY

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

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

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

CONFIDENTIALITY OF EMPLOYEE RECORDS

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

THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT (THE NJ SAFE ACT*)

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

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

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

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

- 1) Seeking medical attention;
- 2) Obtaining services from a victim services organization;
- 3) Obtaining psychological or other counseling;
- 4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;
- 5) Seeking legal assistance or remedies to ensure health and safety of the victim; or
- 6) Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

**The full text of the New Jersey SAFE Act is provided at the end of this policy.*

PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

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

- A. Designate an HRO with responsibilities pursuant to Sections IV and V of this policy.
- B. Recognize that an employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities.
- C. Provide reasonable accommodations to ensure the employee's safety. Reasonable accommodations may include, but are not limited to, the following: implementation of safety measures; transfer or reassignment; modified work schedule; change in work telephone number or work-station location; assistance in documenting the violence occurring in the workplace; an implemented safety procedure, or other accommodation approved by the employer.
- D. Advise the employee of information concerning the NJ SAFE Act; Family and Medical Leave Act (FMLA); or Family Leave Act (FLA); Temporary Disability Insurance (TDI); or Americans with Disabilities Act (ADA); or other reasonable flexible leave options when an employee, or his or her child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic violence.
- E. Commit to adherence to the provisions of the NJ SAFE Act, including that the employer will not retaliate against, terminate, or discipline any employee for reporting information about incidents of domestic violence, as defined in this policy, if the victim provides notice to their Human Resources Office of the status or if the Human Resources Office has reason to believe an employee is a victim of domestic violence.
- F. Advise any employee, who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy, of the civil right of action under the NJ SAFE ACT. And advise any employee to contact their designated Labor Relations Officer, Conscientious Employees Protection Act (CEPA) Officer and/or Equal Employment Opportunity Officer in the event they believe the adverse action is a violation of their collective bargaining agreement, the Conscientious Employees Protection Act or the New Jersey Law Against Discrimination and corresponding policies.
- G. Employers, their designated HRO, and employees should familiarize themselves with this policy. This policy shall be provided to all employees upon execution and to all new employees upon hiring. Information and resources about domestic violence are encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

RESOURCES

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

DISTRIBUTION OF POLICY

The Business Administrator, or designee, will be responsible for distributing this policy to employees, volunteers, and other employees identified above.

The HRO, based upon advice from the Solicitor, will be responsible for reviewing and if appropriate, updating this policy periodically to reflect circumstances or changes in the organization. The HRO will be responsible for monitoring The Civil Service Commission and the Division of Local Government Services in the Department of Community Affairs for modifications thereto, to public employers.

OTHER APPLICABLE REQUIREMENTS

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

POLICY MODIFICATION AND REVIEW

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

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

POLICY ENFORCEABILITY

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

POLICY INQUIRIES & EFFECTIVE DATE

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

New Jersey SAFE Act

The New Jersey Security and Financial Empowerment Act ("NJ SAFE Act"), P.L. 2013, c.82, provides that certain employees are eligible to receive an unpaid leave of absence, for a period not to exceed 20 days in a 12-month period, to address circumstances resulting from domestic violence or a sexually violent offense. To be eligible, the employee must have worked at least 1,000 hours during the immediately preceding 12-month period. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during each of 20 or more calendar workweeks in the then-current or immediately preceding calendar year.

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

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities as they relate to an incident of domestic violence or a sexually violent offense:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (2) Obtaining services from a victim services organization for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner
- (3) Obtaining psychological or other counseling for the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety from future domestic violence or sexual violence or to ensure the economic security of the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence or sexual violence; or
- (6) Attending, participating in or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, was a victim.

Leave under the NJ SAFE Act must be used in the 12-month period immediately following an instance of domestic violence or a sexually violent offense. The unpaid leave may be taken intermittently in intervals of no less than one day. The unpaid leave shall run concurrently with any paid vacation leave, personal leave, or medical or sick leave that the employee elects to use or which the employer requires the employee to use during any part of the 20-day period of unpaid leave. If the employee requests leave for a reason covered by both the NJ SAFE Act and the Family Leave Act, N.J.S.A. 34:11B-1 et seq., or the federal Family and Medical Leave Act, 20 U.S.C. 2601 et seq., the leave shall count simultaneously against the employee's entitlement under each respective law.

Employees eligible to take leave under the NJ SAFE Act must, if the necessity for the leave is foreseeable, provide the employer with written notice of the need for the leave. The employee must provide the employer with written notice as far in advance as reasonable and practicable under the circumstances. The employer has the right to require the employee to provide the employer with documentation of the domestic violence or sexually violent offense that is the basis for the leave. The employer must retain any documentation provided to it in this manner in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is authorized by a federal or State law, rule or regulation.

The NJ SAFE Act also prohibits an employer from discharging, harassing or otherwise discriminating or retaliating or threatening to discharge, harass or otherwise discriminate against an employee with respect to the compensation, terms, conditions or privileges of employment on the basis that the employee took or requested any leave that the employee was entitled to under the NJ SAFE Act, or on the basis that the employee refused to authorize the release of information deemed confidential under the NJ SAFE Act.

To obtain relief for a violation of the NJ SAFE Act, an aggrieved person must file a private cause of action in the Superior Court within one year of the date of the alleged violation.

This notice must be conspicuously displayed.



RESOLUTION NO. 175-2020 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON RATIFYING THE MAYOR'S DESIGNATION OF HUMAN RESOURCE OFFICERS ("HRO's") IN ACCORDANCE WITH THE REVISED STATEWIDE STANDARDS ADOPTED FOR DOMESTIC VIOLENCE POLICIES FOR PUBLIC EMPLOYEES

WHEREAS, on or about October 15, 2019, the New Jersey Civil Service Commission issued a Statewide Domestic Violence Policy for public employers; and

WHEREAS, N.J.S.A. 11A:2-6a(b)(1), provided that the New Jersey Civil Service Commission was to develop a uniform domestic violence policy, which all public employers shall adopt and distribute to their employees, regardless of whether a public employer is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes; and

WHEREAS, the City of Burlington seeks to update its Personnel Policies and Procedures Manual in conformance with N.J.S.A. 11A:2-6a(b)(1) and to ratify the Mayor's designation of certain personnel to act as Human Resource Officers ("HRO") to provide information, resources and referrals for affected City employees consistent with the new provisions of the Domestic Violence Policy; and

WHEREAS, the Mayor has indicated his intent to designate Det. Anna Czajka as the primary HRO contact and William Curry as the secondary HRO contact; and

WHEREAS, the Solicitor for the City of Burlington has reviewed the attached policy, and certified that the policy meets the requirements of the Domestic Violence Policy Act for Public Employers, as required by N.J.S.A. 11A:2-6a; and

WHEREAS, the Common Council seeks to ratify the Mayor's designation of Det. Anna Czajka as the primary HRO contact for this program and William Curry as the secondary HRO contact, consistent with the aforementioned legislation and to further the goal of providing resources and support to employees affected by Domestic Violence.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Burlington, in the County of Burlington, as follows:

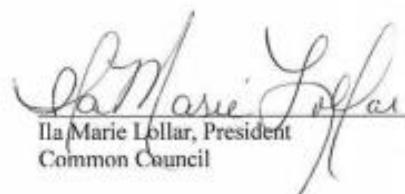
1. The Common Council hereby ratifies the Mayor's designation of Det. Anna Czajka as the primary HRO contact and William Curry as the secondary HRO contact, consistent with the aforementioned legislation and to further the goal of providing resources and support to employees affected by Domestic Violence; and
2. The Domestic Violence Policy for Public Employers, attached hereto, is hereby adopted and incorporated into the City of Burlington Personnel Policies and Procedures Manual;
3. The City of Burlington Personnel Policies and Procedures Manual shall designate Det. Anna Czajka as primary and William Curry as the secondary Human Resources Officer(s) (HRO) for purposes of the Domestic Violence Policy; and

RESOLUTION NO. 175-2020

4. The Table of Contents of the City's Personnel Policies and Procedures Manual shall be updated to reflect the City's adoption of the Domestic Violence Policy and the revised policy shall be included in the revised Policy and Procedures Manual at such time when issued.

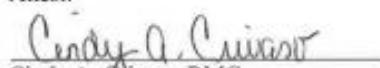
BE IT FURTHER RESOLVED that a copy of the City of Burlington Personnel Policies and Procedures Manual is on file with the Clerk's office to which the Domestic Violence Policy for Public Employers shall now be added; and

BE IT FURTHER RESOLVED that a copy of this Resolution and the Domestic Violence Policy for Public Employers shall be distributed to all City Employees by the Business Administrator or his designee.



Ila Marie Lollar, President
Common Council

Attest:



Cindy A. Chavarro, RMC
City Clerk

July 14, 2020

RECORD OF VOTE OF PASSAGE BY THE COMMON COUNCIL						
	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
BABULA			✓			
CHACHIS		✓	✓			
HATALA			✓			
HOLLINGSWORTH			✓			
SWAN			✓			
WOODARD	✓		✓			
LOLLAR			✓			

STATE OF NEW JERSEY
DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS

APPENDIX

I. RESOURCES AND ADVOCACY INFORMATION

Statewide Domestic Violence Hotline 1-800-572-SAFE (7233).

Guide to Services for Victims of Domestic Violence

NJ Division on Women
Department of Children and Families
50 East State Street
PO Box 729
Trenton, NJ 08625-0729
Phone: (609) 888-7164

Web: <https://www.nj.gov/dcf/women/>

New Jersey Coalition to End Domestic Violence

1670 Whitehorse-Hamilton Square Road • Trenton, New Jersey 08690-3541
24HR Helpline: 800-572-7233 / DV Legal Helpline: 844-403-2111 / VP: 609-434-3838
info@njcedv.org Training Institute <https://www.njcedv.org/>

The New Jersey Coalition to End Domestic Violence (NJCEDV) is a statewide coalition of domestic violence service programs and concerned individuals whose purpose and mission is to end domestic violence in New Jersey. NJCEDV performs its work through advocacy for survivors of domestic violence; collaboration with state agencies and its member programs; education and training; and technical assistance for its members and the community.

Futures Without Violence

FUTURES has been providing groundbreaking programs, policies, and campaigns that empower individuals and organizations working to end violence against women and children around the world. <https://www.futureswithoutviolence.org/>

Washington, DC Office
1320 19th St. NW
Suite 401
Washington, D.C. 20036
Phone: (202) 595-7382

Fax: (202) 499-6757

II. LAWS PROTECTING VICTIMS OF DOMESTIC VIOLENCE

The State of New Jersey Policy on Discrimination in the Workplace. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

<https://www.state.nj.us/csc/about/divisions/eeo/laws.html>

The New Jersey Law Against Discrimination (N.J.S.A. 10:5-12) (LAD) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership or civil union status, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status. The LAD prohibits unlawful discrimination in employment, housing, places of public accommodation, credit and business contracts. Not all of the foregoing prohibited bases for discrimination are protected in all of these areas of activity. For example, familial status is only protected with respect to housing. The Division has promulgated regulations that explain that a place of public accommodation must make reasonable modifications to its policies, practices or procedures to ensure that people with disabilities have access to public places. The regulations also explain that under the LAD, these reasonable accommodations may include actions such as providing auxiliary aides and making physical changes to ensure paths of travel.

The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking: Questions and Answers

https://www.eeoc.gov/eeoc/publications/qa_domestic_violence.cfm

New Jersey SAFE Act

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

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities as they relate to an incident of domestic violence or a sexually violent offense:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (2) Obtaining services from a victim services organization for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner
- (3) Obtaining psychological or other counseling for the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety from future domestic violence or sexual violence or to ensure the economic security of the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence or sexual violence; or
- (6) Attending, participating in or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, was a victim.

Leave under the NJ SAFE Act must be used in the 12-month period immediately following an instance of domestic violence or a sexually violent offense. The unpaid leave may be taken intermittently in intervals of no less than one day. The unpaid leave shall run concurrently with any paid vacation leave, personal leave, or medical or sick leave that the employee elects to use or which the employer requires the employee to use during any part of the 20-day period of unpaid leave. If the employee requests leave for a reason covered by both the NJ SAFE Act and the Family Leave Act, N.J.S.A. 34:11B-1 et seq., or the federal Family and Medical Leave Act, 20 U.S.C. 2601 et seq., the leave shall count simultaneously against the employee's entitlement under each respective law.

Employees eligible to take leave under the NJ SAFE Act must, if the necessity for the leave is foreseeable, provide the employer with written notice of the need for the leave. The employee must provide the employer with written notice as far in advance as reasonable and practicable under the circumstances. The employer has the right to require the employee to provide the employer with documentation of the domestic violence or sexually violent offense that is the basis for the leave. The employer must retain any documentation provided to it in this manner in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is authorized by a federal or State law, rule or regulation.

The NJ SAFE Act also prohibits an employer from discharging, harassing or otherwise discriminating or retaliating or threatening to discharge, harass or otherwise discriminate against an employee with respect to the compensation, terms, conditions or privileges of employment on the basis that the employee took or requested any leave that the employee was entitled to under the NJ SAFE Act, or on the basis that the employee refused to authorize the release of information deemed confidential under the NJ SAFE Act.

To obtain relief for a violation of the NJ SAFE Act, an aggrieved person must file a private cause of action in the Superior Court within one year of the date of the alleged violation.

<https://nj.gov/labor/>

AD-289 (9/13)

III. RESOURCES

The Department of Children and Families Office of Domestic Violence Services (ODVS) funds 23 domestic violence programs and the New Jersey Coalition to End Domestic Violence. There is at least one DCF-funded domestic violence program in each of New Jersey's 21 counties.

The [Office of Domestic Violence Services](#) funds domestic violence services that serve the needs of victims in every county. Services for survivors, victims, and their families include emergency shelters, 24-hour hotlines, counseling, children's services, and financial, housing and legal advocacy.

The [Office of the Prevention of Violence Against Women](#) funds services that serve the needs of sexual assault victims and sexual violence prevention programs in every county. Services include a 24-hour hotline, crisis counseling, accompaniments by a confidential sexual violence advocate, and financial, housing and legal advocacy.

Through displaced homemaker programs, the [Office of Support, Employment, and Training](#) helps individuals gain or upgrade their skills for today's work force and become economically self-sufficient. Individuals can attend short term educational or training programs.

DOW Services

- Funds, monitors, and evaluates programs for the advancement of women
- Develops new programs to serve women
- Refers women to direct service providers
- Provides information on women's issue to the public
- Provides technical assistance to agencies representing women
- Represents women on boards, commissions, councils, committees, and task forces and provides input and recommendations on issues pertaining to the Division's Mission

The Family and Community Partnerships/Division on Women

Community Program Directory
<https://www.nj.gov/dcf/families/dfcp/DFCPDirectory.pdf>

This FCP/DOW Community Program Directory represents an ongoing commitment by DCF to increase access to resources that are designed to strengthen families, prevent child abuse or neglect, and empower survivors of domestic and sexual violence. The services identified in this Directory are funded by DCF's Family and Community Partnerships, a grant-making and best practices team committed to strengthening New Jersey's families. The directory receives continuous updates online as additional resources for families become available or as changes occur.

Other Programs in New Jersey through the Division on Women Office of Domestic Violence Services :

To find domestic violence resources by county, click on the related link to view [DFCP/DOW's Community Program Directory](#).

For more information, contact DOW at DOW@def.state.nj.us or at 609-888-7164.
<http://www.nj.gov/def/women/domestic/>

Legal Services

Legal Services of New Jersey and Central Jersey Legal Services

New Jersey Legal Services assists victims who cannot afford legal advice and/or representation. Assistance includes referral, advice, brief assistance, preparation of a letter or routine legal document, extended representation, and technical assistance. The program also offers training to domestic violence legal advocates, programs, attorneys and others.

Legal Services of New Jersey Domestic Violence Representation Project:

(888) LSNJ-LAW (888) 576-5529

Central Jersey Legal Services (908) 354-4340

Website: www.LSNJLawHotline.org

Culturally Specific Services

Bolo Behen (Speak Sister)

Bolo Behen works with different faith-based leaders throughout Hudson County, collaborating with leaders of temples, mosques, Islamic centers, Gurudwaras, and more. Bolo Behen facilitates groups called Community Chai where women can come and express their problems and concerns openly, comfortably, and without fear. People listen to each other's story and offer support. Services are based on a holistic approach that addresses the large range of client needs. Using culturally and linguistically appropriate methods, Bolo Behen builds trust with clients and creates an environment where South Asian women feel safe, respected, and understood.

24/7 Bilingual Hotline: (201) 795-5757

Project S.A.R.A.H (Stop Abusive Relationships at Home)

Project S.A.R.A.H. is a program that works to overcome cultural, legal, and religious barriers confronting victims of domestic violence and sexual abuse. Project S.A.R.A.H. operates within an environment that is sensitive to a victim's cultural and religious needs, serving as a bridge between abuse victims in the Orthodox community and support systems and resources. Project S.A.R.A.H. works closely with rabbis and rebbetzins, kallah teachers and mikvah attendants, camp directors and school administrators, parents, and the general public to keep the community safe for everyone. The program provides therapeutic interventions that enable victims to process the often unspeakable trauma they experienced and restore them toward fully functional and productive lives. Project S.A.R.A.H. connects victims and survivors with a broad array of services, including pro bono legal consultations, evaluations, individual and group therapy, psychiatric services, as well as emotional, financial and vocational support.

Confidential Hotline: (973) 777-7638.

Special Initiatives

Address Confidentiality Program

The New Jersey Address Confidentiality Program (ACP) assists individuals who, as a result of domestic violence, have relocated for their safety. This program limits the access to personal information that would reveal the new location of an ACP participant. ACP provides eligible victims of domestic violence with a substitute address that has no connection to their actual location. This substitute mailing address may be used when creating a new record with state or local government agencies.

New Jersey Address Confidentiality Program (ACP) Hotline 1 (877) 218-9133 Toll Free-Non-Emergency

The New Jersey Address Confidentiality Program Hotline provides services including – but not limited to – access to domestic violence information and referral services, including application procedures, and advocacy.

State of New Jersey

Department of Law and Public Safety

Office of the Attorney General

NJ State Police Victim Services Unit:

The Victim Services Unit will coordinate with State, County, and Municipal agencies to develop and implement domestic violence and sexual violence training programs, and continue to effectively work with road troopers to enhance training on the proper handling of these types of crimes.

<https://www.njsp.org/division/operations/domestic-violence-info.shtml>