

CITY OF MILLVILLE PERSONNEL POLICIES & PROCEDURES MANUAL

2025

AT-WILL STATEMENT & DISCLAIMER

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

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

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

This Manual supersedes and replaces all prior personnel policies and benefit statements, whether oral or in writing. While some of the provisions contained herein refer specifically only to federal law, employees should be aware that the City will comply with all federal, state, and local laws. Should any provision in this Manual be found to be unenforceable and/or invalid, such finding does not invalidate the entire Manual, but only the subject provision. Many of the policies in this handbook shall also apply in equal force to volunteers of the City.

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

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

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

TABLE OF CONTENTS

Section One: General Personnel Policies	1
Equal Employment Opportunity Policy.....	2
Americans With Disabilities and Pregnant Workers Fairness	2
Policy Against Harassment	4
Policy Prohibiting Workplace Violence	9
Whistleblower Policy.....	11
Section Two: Employee Benefits	13
Overtime.....	14
Workers' Compensation	14
Section Three: Leaves of Absence	16
Sick Leave.....	17
Temporary Leave of Absence	17
Vacation Leave	17
Abuse of Leave of Absence	18
Donated Leave Program	19
Family and/or Medical Leave.....	20
New Jersey Family Leave	24
Bereavement Leave	27
Military Service Leave Policy.....	27
Jury Duty Leave	28
Administrative Leave.....	29
Compensatory Leave	29
Convention Leave.....	30
Elected Office Leave	30
Gubernatorial Appointment Leave	30
Holiday Leave	31
Section Four: Personnel Rules and Regulations	32
Appearance.....	33

Alcohol and Drug-Free Workplace	35
Bulletin Board and Viewpoint Policy	53
Computer Use, Electronic Mail, Cell Phones, and Internet Policy	53
Confidentiality of Personnel Records	57
Contagious/Life-Threatening Illness Policy	59
Conflict of Interest Policy	60
Discipline and Termination Policy	62
Domestic Violence Policy	69
Education and Training Policy	75
Employment References	77
Ethical Conduct	77
Nepotism	78
Outside Employment Policy	79
Performance Evaluation	79
Political Activity Policy	80
Resignation Policy	81
Safety Policy	81
Smoking Policy	82
Temporary Modified Duty Policy	83
Transitional Duty Policy	86
Transportation Expense Policy	89
Video Surveillance Policy	89
Policy for Use of City Vehicles (Non-Law Enforcement)	90
Workforce Reduction Policy	93
Work Hours and Attendance Policy	94
Workplace Health Information Privacy Policy	95
Appendix A: CDL Drug and Alcohol Testing Policy	100
Appendix B: Protecting Minor Children	141

SECTION ONE: GENERAL PERSONNEL POLICIES

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City of Millville (the City) 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 City 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 Manual.

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

AMERICANS WITH DISABILITIES AND PREGNANT WORKERS FAIRNESS

The City complies with the New Jersey Law Against Discrimination, the Americans with Disabilities Act, and the federal Pregnant Workers Fairness Act (“PWFA”). The City 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, pregnancy-related medical condition, breastfeeding, or childbirth. The City 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 City'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 their own health and safety 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 City, 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.

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.

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 City. 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 City 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 City 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 City’s business operation.

To further the City’s nondiscrimination policy, the City 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 City 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 the work area for the employee to express breast milk for the child.

The City 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 City's equal employment opportunity policy, he or she should contact the City.

POLICY AGAINST HARASSMENT

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

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

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

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

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

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

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

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

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

- A. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct, gestures or communications, expressed or implied, of a sexual nature when:
 - (1) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment; or
 - (2) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, or

(3) That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating hostile or offensive employment environment.

B. Prohibited Conduct: No supervisory employee shall threaten or insinuate either directly or indirectly that an employee's refusal to submit to sexual advances will adversely affect the employee's continued employment, evaluation, compensation, assignment, advancement, or any other condition of employment. Similarly, no supervisory employee shall promise or suggest either directly or indirectly that an employee's submission to sexual advances will result in any improvement in any term or condition of employment for the employee.

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

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

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

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

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

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

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

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

Investigation Procedure: The City shall conduct an investigation into the harassment complaint to determine the merits of the allegations. The designated Human Resources Officer shall designate an objective investigator to determine the validity of any complaint. The objective investigator may include any third party deemed appropriate.

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

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

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

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

Responsibility of Supervisory Personnel: Supervisors are to monitor the work environment to ensure that all subordinates comply with this Policy Against Harassment. When a supervisor learns of a violation of this policy, the supervisor shall assist the victim in reporting the alleged incident(s) of harassment. Alternatively, the supervisor shall report the matter to the designated Human Resources Officer for resolution. Any supervisor who receives a harassment complaint from any employee must bring it to the attention of the designated Human Resources Officer for resolution. Supervisors shall closely monitor the work environment for any forms of retaliation once an allegation has been made. This will include but not be limited to verbal remarks, irregular assignments or any other activity that may contribute to a hostile work environment.

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

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

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

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

Contact Information – The Office of Human Resources.

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 City, its employees or which occur on the City'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 City, 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 City property, regardless of the relationship between the City and the parties involved in the incident.
- All threats or acts of violence not occurring on City property but involving someone who is acting in the capacity of a representative of the City.
- All threats and acts of violence not occurring on City property involving an employee of the City if the threats or acts of violence affect the legitimate interest of the City.
- Any threats or acts resulting in the conviction of an employee or agent of the City, or of an individual performing services on the City'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 City.

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 City;
- 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 City;
- 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 City property.

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

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

WHISTLEBLOWER POLICY

As a matter of policy, the City abides by all federal, state, and local laws, rules, and regulations applicable to it and has all its employees do the same. Every employee is responsible for assisting the City in implementing this policy.

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

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

Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the City or another City, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

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

Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree, or pensioner of the City or any government entity; Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the City or any governmental entity.

Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes: (1) is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care; (2) is fraudulent or criminal; or (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. See N.J.S.A. 34:19-3.

Disclosure to the City first, however, is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergent in nature. The employee must give the City a reasonable opportunity to correct the activity, policy, or practice. It is the City's responsibility to correct or prevent such violations. This is a legal obligation and a practical necessity. A violation can taint the credibility of the City and cause the City and its employees to be subjected to adverse publicity leading to public distrust. This policy is important to the City. Each employee should seek to resolve any problem within City channels before reporting it to any outside person or entity.

SECTION TWO: EMPLOYEE BENEFITS

OVERTIME

The City complies with all applicable federal and state laws with regard to payment of overtime work, including the New Jersey Wage and Hour Law and the federal Fair Labor Standards Act.

Under the Fair Labor Standards Act, certain employees in managerial, supervisory, administrative, computer or professional positions are exempt from the provisions of the Act. There are also employees who may be exempt because their compensation exceeds \$107,432 per year, depending upon their job duties. The Chief Administrative Officer shall notify all Exempt employees of their status under the Act. Exempt employees are not eligible to receive overtime compensation and are required to work the normal workweek and any additional hours needed to fulfill their responsibilities. Time off consideration for large amounts of additional hours may be provided with the Chief Administrative Officer's prior approval and at the sole discretion of the Chief Administrative Officer.

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

Non-exempt employees are paid overtime at the rate of one and one-half times the regular rate of pay for all hours worked over forty (40) in a workweek. Employees may choose overtime compensation in the form of overtime pay or compensatory time off. The maximum number of hours that an employee may accrue for future compensating time off is (insert number of hours). Once this maximum has been accumulated, all additional hours will be compensated by overtime pay. Employees engaged in police and fire protection work may accrue up to 480 hours of compensatory time.

Overtime shall be kept to a minimum, and except in cases of emergency, must be authorized in advance by the department head. Department heads shall rotate overtime assignments on an equitable basis among those qualified to perform the necessary work. It is the policy of the City to approve compensatory time off rather than to pay cash overtime compensation whenever possible, unless the collective bargaining agreement provides otherwise.

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

Accrued and taken overtime compensating hours must be noted on the employee's time sheet.

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 or workers' compensation carrier. Workers' Compensation is not a leave entitlement but only a wage replacement arrangement.

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

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

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

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

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

The employee and/or the Third Party Administrator ("TPA") are obligated to inform the City of the employee's medical progress, and the City shall have the right to review the same periodically. Light-duty assignments may be in any department and not just the employee's normal department. Employees on light duty will receive their regular salaries. If light duty is approved, the employee or TPA must keep the Chief Administrative Officer and/or designated human resources official informed of the medical progress. If, at the end of the light-duty period, the employee is not able to return to work without restrictions, the employee should contact the Chief Administrative Officer and/or designated human resources official to discuss his or her options under state or federal law.

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

SECTION THREE: LEAVES OF ABSENCE

SICK LEAVE POLICY

Employees are entitled to sick leave in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Requests for sick leave must be reported to the department head, or his or her designee, on a daily basis. If not already specified in a collective bargaining agreement or other rule or regulation, pursuant to New Jersey's Sick Leave Law, effective October 29, 2018, or on employee's date of hire, whichever is later, the City shall provide an employee with one (1) hour of sick time for every thirty (30) hours worked to be used in accordance to the law.

TEMPORARY LEAVE OF ABSENCE WITHOUT PAY

The commissioner in charge of the department may grant a permanent employee a leave of absence without pay for a period not to exceed one year. Requests for such leave must be submitted at least 30 days in advance of the time set for taking it and shall not be approved for a period longer than six months at one time. The Commissioner may extend the leave for an additional six months or any portion thereof. The Commissioner may permit an employee to return from a leave of absence without pay prior to its conclusion. Such leave will be granted only after the employee has used all of his or her accumulated administrative leave, compensatory leave, sick leave and vacation leave in the case of illness, or all of his or her accumulated administrative leave, compensatory leave and vacation leave if the requested leave is for other than illness. If such leave is related to an illness, medical verification is required to request such leave and any extensions thereto.

Administrative leave, holiday leave, sick leave, vacation leave, annual clothing allowance, and annual maintenance allowance shall not accrue during any leave of absence without pay from the City of Millville. This includes during a Temporary Leave of Absences, Family Medical Leave (FMLA) Absence, and New Jersey Family Leave (NJFLA).

VACATION LEAVE

Employees are entitled to vacation leave in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Requests for vacation leave must be approved by the Commissioner or his or her designee.

- A. Annual paid vacation leave is credited at the beginning of each calendar year in anticipation of continued employment based on the employee's years of continuous service. Continued employment shall mean employment without actual interruption due to death, resignation, retirement, or removal. Paid vacation leave shall not accrue after the last day of employment with the City, nor shall it accrue during a leave of absence without pay or a suspension without pay.
- B. Vacations shall be scheduled for the period requested by the employee, provided such arrangements are consistent with work requirements. Preference and assignment of vacations shall be on the basis of seniority, insofar as it is practicable. Vacation leave may be approved for 1/2 of a workday or a full workday, but not for an hour or other fractional time periods.

- C. 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 City. 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 City until, pursuant to a plan established by the City, 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.
- D. Vacation schedules shall be arranged to maintain essential City services. This shall be the responsibility of the department head or his or her designee. Factors such as staff size and workload must be considered when scheduling vacations.
- E. Every effort shall be made to ensure that manpower requirements are met and that the two senior supervisors of the department are not scheduled for vacation leave at the same time in order to maintain the continuity of leadership and the operational efficiency of the department.

ABUSE OF LEAVES OF ABSENCE

- A. An employee shall not abuse paid leaves of absence. A department head, or his or her designee, shall not knowingly approve a paid leave of absence that will result in its abuse.
- B. An employee shall not utilize a paid leave of absence and then perform duties for the City during the same time period for which the employee receives monetary compensation.
- C. Except in the case of a personal emergency, a department head, or his or her designee, shall not knowingly approve a paid leave of absence such as administrative leave, compensatory leave or vacation leave for an employee when business necessity requires those job responsibilities to be performed by another employee who will receive overtime compensation.
- D. This section does not restrict the right of a department head, or his or her designee, from requiring an employee who is on a paid leave of absence to report for work to perform essential services which are required because of an emergency or business necessity. However, the paid leave of absence stops at the time when the employee reports for work and does not resume until the essential services are completed.

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

DONATED LEAVE

Purpose. The purpose of this policy is to establish uniform standards throughout the City government for a donated leave program.

Definitions. As used in this article, the following terms shall have the following meanings unless the context clearly indicates otherwise:

CATASTROPHIC HEALTH CONDITION OR INJURY WITH RESPECT TO AN EMPLOYEE: A life-threatening condition or combination of conditions; or a period of disability required by his or her mental or physical health or the health of the employee's fetus which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 60 or more workdays.

CATASTROPHIC HEALTH CONDITION OR INJURY WITH RESPECT TO AN IMMEDIATE FAMILY MEMBER OF AN EMPLOYEE: A life-threatening condition or combination of conditions; or a period of disability required by his or her mental or physical health which requires the care of a physician who provides a medical verification of the need for the family member's care by the employee for 60 or more workdays.

IMMEDIATE FAMILY MEMBER: An employee's spouse, domestic partner, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.

Eligibility. An employee shall be eligible to receive donated sick or vacation leave if the employee meets the following requirements:

- A. The employee has completed at least one year of continuous service with the City;
- B. The employee has exhausted all accrued sick, vacation, and administrative leave, all sick leave injury benefits including the New Jersey Disability Compensation, if any, and all compensatory time off;
- C. If after three months of collecting New Jersey Disability Compensation and the employee has exhausted his Family Medical Leave, the city will continue to pay the employer share of health benefits until the New Jersey Disability Compensation has been exhausted. The Employee will be responsible for the employee contribution and payment must be current.
- D. The employee has not been disciplined for chronic or excessive absenteeism, chronic or excessive lateness, or abuse of leave in the two-year period immediately preceding the employee's need for donated leave; and
- E. The employee has any of the following qualifying conditions:
 - (1) Suffers from a catastrophic health condition or injury;
 - (2) Is needed to provide care to a member of the employee's immediate family who is suffering from a catastrophic health condition or injury; or
 - (3) Requires absence from work due to the donation of an organ which shall include, for example, the donation of bone marrow.

Participation in the program.

- A. An employee may request the City Administrator to approve his or her participation in the program as a leave donor or leave recipient. The employee's department head may make such a request on behalf of the employee for his or her participation in the program as a leave recipient.

B. The employee or department head requesting the employee's acceptance as a leave recipient shall submit to the City Administrator medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from either the catastrophic health condition or injury, or the donation of an organ, as the case may be.

C. When the City Administrator has approved an employee as a leave recipient, the City Administrator shall, with the employee's consent, post or circulate the employee's name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time and shall provide notice to all negotiation representatives in that appointing authority.

D. If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.

Program requirements. A leave recipient must receive at least 40 sick hours or vacation hours or a combination thereof from one or more leave donors to participate in the donated leave program. A leave donor shall donate only whole sick days (seven hours for 35 hours/week employees; all others eight hours) or whole vacation days (seven hours for 35 hours/week employees; all others eight hours) and may not donate more than 30 such days to any one recipient. A leave recipient shall receive no more than 2,080 sick hours or vacation hours and shall not receive any such time on a retroactive basis.

B. A leave donor shall have remaining at least 160 hours of accrued sick leave if donating sick leave and at least 96 hours of accrued vacation leave if donating vacation leave. Any person who has given notice of resignation or retirement will not be able to donate sick leave.

Use of donated leave time. No vacation, sick, or personal time will accrue while an employee is on donated leave, unless otherwise stated in their respective collective bargaining agreement.

A. Any unused donated leave shall be returned to the leave donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave time results in less than seven or eight hours per donor, depending on the donors' regular schedules, to be returned, that leave time shall not be returned.

B. Upon retirement, the leave recipient shall not be granted supplemental compensation on retirement for any unused sick time which he or she had received through the leave donation program.

Prohibited acts. An employee shall be prohibited from coercing or threatening, or attempting to coerce or threaten, another employee for the purpose of interfering with the rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion, or making a threat to engage in, or engaging in, an act of retaliation against an employee.

Suspension or termination of donated leave program. The City may suspend or terminate the donated leave program at any time upon 30 days' written notice of such suspension or termination to the Commissioner of the Civil Service Commission and all affected employees and labor negotiations representatives.

FAMILY AND MEDICAL LEAVE

In accordance with the federal Family and Medical Leave Act ("FMLA"), the City 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 City'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 City 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, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities agreed to by the City 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 of Reserves, incurred in the line of duty on active duty or whose pre-existing condition has been aggravated by his/her active duty service, that may render the 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 City for twelve (12) months or more and worked 1,250 hours or more in the twelve (12) month period preceding the first day of the requested leave may be eligible for an unpaid leave of absence of up to twelve (12) weeks during any twelve (12) month period.

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

Leave to care for a child after birth, adoption, or foster care must conclude within twelve (12) months of the child's birth or placement. If both spouses work for the City, 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 City, in writing, is required. If thirty (30) days’ notice cannot be provided, as much notice as is practical should be provided. Failure to give reasonable notice may delay the availability of the leave.

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

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

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

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

Failure to provide requested documentation may result in denial of leave. The City 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 City may require the employee to provide documentation or a statement of family relationship (e.g., birth certificate or court document) and proof of the need to care for the family member.

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

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

Intermittent Leave. When medically necessary, leave taken because of a serious health condition of an employee or family member or to care for a Covered Servicemember may be taken on an intermittent or reduced work schedule basis. The employee and City shall attempt to work out a schedule for such leave that meets the employee's needs without unduly disrupting the City's operations, subject to the approval of the employee's health care provider. The City 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 City 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 City.

Employees should consult with their Department Head and human resources official prior to taking an approved leave. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums. With regard to the employee's contribution portion of his/her health benefits pursuant to Chapter

78, P.L. 2011 and any voluntary supplemental benefits that the employee may have, the employee is solely responsible for making payment arrangements with the City or for any voluntary benefits, to the respective insurance company. Your healthcare coverage may cease if your premium payment is more than thirty (30) days late. With regard to any pension contribution that you may have, you must contact the human resources official to make payment arrangements concerning contributions or credits paid toward your pension benefits. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums.

Before returning to work following a medical leave (except for intermittent or reduced schedule leave) due to the employee's own serious health condition, the employee will be required to present a fitness for duty certification from his/her health care provider that he/she is medically able to resume work. If the date on which the employee is scheduled to return to work from FMLA leave changes, the employee is required to give notice of the change, if foreseeable, to the City 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 City. 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 City 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 City will comply with these state law provisions to the extent they provide for more generous benefits. State leave law benefits will run concurrently with FMLA benefits to the extent permitted by law.

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

NEW JERSEY FAMILY LEAVE

The City 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 City and have worked at least 1,000 hours for the City over the previous twelve (12) months.

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

- A newly born or adopted child or a child placed into foster care with the employee, but the leave must start within twelve (12) months of the birth of the child or the placement of the child.
- A family member (sibling, grandparent, grandchild, child, spouse, domestic partner, civil union partner, parent-in-law, or parent of a covered individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship) with a serious health condition.
- In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:
 - (i) requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
 - (ii) prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
 - (iii) results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

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

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

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

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

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

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

on a reduced leave schedule during any consecutive twenty-four (24) month period. Any remaining family leave to which the employee is entitled subsequent to the expiration of a leave taken on a reduced leave schedule may be taken on a consecutive or intermittent basis.

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

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

The employee also must give the City a medical certification supporting the need for leave. The City 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 City. If an employee fails to provide the required documentation, the City 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 City'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 City for the health insurance premiums paid on his/her behalf during the leave of absence (except if the failure to return to work was caused by the continuation, recurrence, or onset of serious health condition which would entitle the employee to a leave of absence under the law or other circumstances beyond the employee's control). With regard to any pension contributions, the employee must contact the human resources official to make payment arrangements concerning contributions or credits paid toward his/her pension benefits. Employees should consult with the City 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 City'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 City-provided leave available to him/her).

Retaliation Prohibited. The City 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 City encourages employees to bring any concerns or complaints about retaliation or compliance with the NJFLA to the attention of the human resources official.

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

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

Employees must provide the City 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.

BEREAVEMENT LEAVE

Employees are entitled to bereavement leave in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Employees shall immediately notify their department head, or his or her designee, when a death has occurred, and the date set for the funeral.

MILITARY SERVICE LEAVE

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

Organized Militia. Any permanent or full-time temporary officer or employee, who is a member of the organized reserve of the Army of the United States, United States Naval Reserve, United

States Air Force Reserve or United States Marine Corps Reserve, or other affiliated organization, including the National Guard of other states, shall be entitled to a leave of absence without loss of pay or time on all work days on which he or she is engaged in any period of Federal active duty, up to thirty (30) work days in any calendar year. A military leave of absence is in addition to the employees' regular vacation or other accrued leave.

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

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

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

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

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

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

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

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

JURY DUTY LEAVE

The City encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees who receive a summons to report for jury duty must notify their supervisor immediately so that arrangements may be made to cover your absence from work. In some cases, the City may provide a letter to the court requesting that jury service be postponed. Of course, employees are expected to report for work whenever the court schedule permits.

Either the City or the employee may request an excuse from jury duty if, in the City's judgment, the employee's absence would create serious operational difficulties. It is the decision of the courts to excuse or not excuse the request.

Employees who are required to serve jury duty that is scheduled during work hours shall be paid their regular rate of pay by the City. Employees who are summoned for service as grand or petit jurors are required to submit a copy of the summons to the City Administrator. Employees who attend jury service shall provide written verification of attendance signed by a representative of the Court to the City Administrator. Employees must report for work for any reasonable time the court is not in session during normal work hours.

ADMINISTRATIVE LEAVE

A. Employees are entitled to personal days off each calendar year in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Requests for administrative leave must be approved by the department head, or his or her designee. Except in the case of an emergency, requests for leave must be submitted at least 24 hours in advance of the time when the leave is to be taken. Use of administrative leave shall not be unreasonably denied. Priority in granting such leave requests shall be:

- (1) Emergencies.
- (2) Religious holidays.
- (3) Personal matters.

B. Administrative leave shall be credited at the beginning of each calendar year in anticipation of continued employment. Administrative leave that is not used during the calendar year shall be forfeited. An employee who leaves employment with the City shall not be required to reimburse the City for days already used. However, administrative leave shall not accrue after the last day of employment, nor shall it accrue during a leave of absence without pay or a suspension without pay.

COMPENSATORY LEAVE

Employees are entitled to overtime compensation in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Requests for compensatory time off must be approved by the department head, or his or her designee. Except in the case of an emergency, requests for leave must be submitted at least 24 hours in advance of the time when the leave is to be taken. Use of compensatory leave shall not be unreasonably denied.

Employees engaged in a public safety activity or an emergency response activity may accrue not more than 480 hours of compensatory time. Employees engaged in any other work may accrue not more than 240 hours of compensatory time. An employee shall, upon the termination of employment, be paid for the unused compensatory time.

CONVENTION LEAVE

Employees are entitled to convention leave in accordance with N.J.A.C. 4A:6-1.13. Requests for convention leave must be approved by the commissioner in charge of the department. Requests for such leave must be made at least 30 days in advance of the time when the leave is to be taken.

A. **Permanent employees.** A permanent employee who is a duly authorized representative of one of the established veterans organizations listed in N.J.S.A. 38:23-2 or of the New Jersey Civil Service Association shall, upon request, be granted a leave of absence with pay of up to five days in any calendar year to attend the State and National Convention. The leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for travel to and from the convention, but shall not exceed five days. Proof of attendance shall be submitted to the commissioner in charge of the department after the convention, and filed in the office of the City Clerk.

B. **Police and fire.** N.J.S.A. 11A:6-10 provides for a leave of absence with full pay to public employees who are duly authorized representatives of an employee organization and affiliated with the New Jersey Policemen's Benevolent Association, Inc., Fraternal Order of Police, Firemen's Mutual Benevolent Association, Inc., or the Professional Firefighters Association of New Jersey to attend any state or national convention of the organization subject to the limitations contained in the statute. The leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for travel to and from the convention, provided that such leave shall be for no more than seven days. Proof of attendance shall be submitted to the commissioner in charge of the department after the convention, and filed in the office of the City Administrator.

C. **Other convention leaves.** Except as may be mandated by state law, request for a leave of absence with pay to attend a convention dealing with subject matter directly related to the employee's official duties may be approved in the sole discretion of the commissioner in charge of the department. If the leave of absence is granted, proof of attendance shall be submitted to the commissioner in charge of the department after the convention and filed in the office of the City Administrator.

ELECTED OFFICE LEAVE

Employees are entitled to elective office leave in accordance with N.J.S.A. 40A:9-7.2 and N.J.A.C. 4A:6-1.17. Requests for such leave must be made in writing to the City Clerk and approved by the commissioner in charge of the department. The request for leave must be submitted within a reasonable time before the time when the leave is to be taken.

GUBERNATORIAL APPOINTMENT LEAVE

Employees are entitled to gubernatorial appointment leave without pay in accordance with N.J.A.C. 4A:6-1.12. Requests for such leave must be made in writing to the City Administrator and approved by the commissioner in charge of the department. The request for leave must be submitted within a reasonable time before the time when the leave is to be taken.

HOLIDAY LEAVE

- A. Employees are entitled to holiday leave in accordance with the collective bargaining agreement and the rules and regulations applicable to them. Any department head who finds it necessary to do so may require some or all employees of his or her department to report for work on any legal holiday.

- B. Holiday leave shall not be paid for holidays occurring before the first day of employment with the City, nor for holidays occurring after the last day of employment with the City. An employee ceases employment with the City upon death, retirement, resignation or termination. Holiday leave shall not be paid for holidays occurring during a leave of absence without pay or during a suspension without pay.

- C. If an employee is in a “no pay” status the day before or the day after a holiday, the employee is not eligible to receive holiday pay.

**SECTION FOUR: PERSONNEL RULES AND
REGULATIONS**

APPEARANCE

It is the City's policy that work attire should complement an environment that reflects an efficient, orderly, and professionally operated organization. This policy is intended to define appropriate "business attire" during normal business operations.

Employees of the City are required to dress appropriately for the jobs they are performing. This policy shall apply when employees are engaging in official City business or are otherwise representing the City. All City employees are expected to maintain high personal and professional standards. One of the most noticeable expressions of these standards is dress and appearance. All employees are representatives of the City and therefore dress and appearance should:

- Present a professional or identifiable appearance for external and internal customers as well as the public.
- Promote a positive working environment.
- Limit distractions caused by inappropriate dress.
- Ensure and promote safety while at work.
- Dress in a manner that is normally accepted in comparable operations.

Appropriate Attire

- Neat and Well-Groomed - During working hours, employees should appear neat and professional at all times. Employees are expected to be suitably attired and well groomed, and ensure that their clothing is clean and not torn, ripped or stained. This requirement does not place restrictions on employees appearance with respect to their choice of facial hair, hair length, etc. except where the facial hair or hair presents a health or safety hazard.
- Office Attire - Employees should use common sense and good judgment in determining what to wear to work. Acceptable attire: khakis, dress pants, slacks, skirts/dresses (not more than 2 ½ inches above the knee), golf shirts, sport jackets, closed or open toe dress shoes or dress sandals.
- Departments working in the field - Where uniforms are required, they must be worn during work hours. The uniforms should be neat and clean when the employee arrives for work. If uniform is not required then jeans/khaki pants must be in good condition and worn with the City logo T-shirt.
- Fridays - Casual business attire may be worn; Jeans if worn, must be in good condition, no rips, frays, holes. Capri pants that are below the knee may be worn. Sneakers in good condition. All other restrictions apply.
- Good personal hygiene is required.

Department Managers. It is expected that all Department Managers wear attire that is appropriate to their position of responsibility, or uniforms where applicable.

Prohibited Attire. Some attire is unacceptable for work at any time. The following list provides some examples, although it is not a complete list:

- Any clothing that contains an offensive word, message or slogan or picture directed at race, sexual orientation, gender, age, religion, disability, or is otherwise considered to be offensive or harassing in some way.
- Jeans with rips, holes, frays

- T-shirts with indiscreet brands displayed or commercial endorsements
- Cut-offs or shorts
- Gym wear or beachwear
- Clothing that reveals the employee's under garments
- Spandex, Lycra, or leggings
- Tank tops, tube tops, halter-tops, or shirts with spaghetti straps.
- Off the shoulder tops
- Lounge wear (i.e. pajama pants)
- Sweatshirts or sweatpants
- Miniskirts
- Flip-flops
- Sneakers
- Any clothing that reveals the employee's stomach, full back, cleavage, or chest, or otherwise revealing attire.
- Logos which promote contractors or vendors that the City may or may not conduct business with.

Exceptions to this policy require the prior approval of the Department Head. On those exception occasions, employees are still expected to present a neat appearance and are not permitted to wear items inconsistent with this policy.

Jewelry. Jewelry is acceptable, except where dangling or hanging jewelry constitutes a health or safety hazard. Tattoos that may be considered obscene/offensive by others must be covered.

Special Accommodations. It is the intent of this policy to comply with all applicable state, local and federal laws prohibiting discrimination based on race, religious creed color, national origin, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The City will make every effort to reasonably accommodate employees with a disability or religious beliefs, gender, gender identity, gender expression or other protected classes, that may make it difficult for said employees to comply fully with the dress code policy.

Employees should contact their Department Head to request such a reasonable accommodation. Department Heads and the Human Resources Department will work with the employee to develop a reasonable accommodation to meet the employee's specific needs while complying to the greatest extent possible with the general policy of the City.

Disciplinary Action. Department Managers are responsible for enforcing the dress code in their areas of responsibility. This includes documenting incidents related to violations, monitoring situations to spot abuses, taking appropriate and timely action, and counseling employees who are inappropriately dressed. Counseling shall be conducted in a discreet and private manner. If an employee's clothing fails to meet policy standards it will be considered as reporting not ready to work and the employee may be sent home. Employees who are sent home to change their attire must utilize their own accrued leave time, or time off without pay. Subsequent violations of this policy may lead to progressive discipline, up to and including termination.

Requests for advice and assistance in administering or interpreting this policy should be directed to the HR Department.

Policy Enforcement and Responsibilities. Human Resources

Employees shall receive the dress code policy upon commencement of employment and/or through initial email distribution and by posting on the City's Human Resources web page.

Department Managers are required to enforce the dress code policy in their areas of responsibility. If questionable attire is worn, the respective Department Head will hold a personal, private discussion with the employee to advise and counsel the employee regarding the inappropriateness of the attire.

Disciplinary actions will be applied to either an employee or the department manager, as a result of dress code violations.

Collective Negotiations Agreements

In the event that this policy conflicts with any provisions of a collective negotiations agreement, the collective negotiations agreement shall be controlling and binding. Any warnings, discipline, loss of pay, forced use of any paid or unpaid leave, or any adverse employment actions issued pursuant to this policy remain subject the provisions of the applicable collective negotiations agreement, including but not limited to any just cause requirements and the grievance and arbitration process.

ALCOHOL AND DRUG-FREE WORKPLACE

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

YOUR ROLE AND RESPONSIBILITIES

DRUG-FREE WORKPLACE

The City of Millville (the City) is committed to maintaining a safe, pleasant, and productive working environment. You have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. This is considered a Health & Safety Policy of the City. This Policy highlights the City's New Jersey Drug-Free Workplace Policy. The City's Designated City Representative (DER) is the Human Resources Manager. The Alternative DER is the City Administrator.

The City recognizes the prime importance to the City of protecting the safety, health and welfare of its employees and others with whom we interface such as citizens, contractors and members of the public. The objective of this policy is to maintain a working environment free from the adverse effects of substance abuse. While the City has no intention of intruding into the private lives of its

employees, the City does expect employees to report to work unimpaired able to perform the duties of their job safely and effectively. In addition to absenteeism and accidents, substance abuse can adversely affect performance, productivity and workplace morale. Co-workers may feel that they have to cover up, or work harder because of someone's substance abuse. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The City has a duty to safeguard its employees and the public from the risk of harm from employees who work under the influence of alcohol and drugs. Similarly, employees who are working under the influence, and employees who know that a fellow employee is working under the influence, owe such a duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability. All employees and contractors are responsible and accountable for ensuring that they, and their employees, are not under the influence of alcohol or drugs when carrying out work for the City. Managers and supervisors are responsible for taking appropriate action where they identify individuals who are at work while under the influence of alcohol or drugs. They should also take appropriate action to protect the health and safety of individuals who may be affected.

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

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

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

WHO DO WE TEST?

- Pre-employment: All applicants must pass a drug test before beginning work after receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.
- Reasonable suspicion: Employees are subject to testing based upon (but not limited to) observations by supervision or management of apparent workplace use, possession or impairment. The City Personnel Officer shall be consulted before sending an employee for testing. All levels of supervision or management making this decision must utilize the Reasonable Suspicion Checklist to document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs and/or alcohol. Reasonable suspicion may include (but are not limited to) where the employee:
 - a) is unable to coordinate their actions;
 - b) has red or bloodshot eyes, or dilated pupils;
 - c) smells of alcohol;
 - d) acts contrary to their normal behavior;
 - e) exceeds alcohol concentration limits applicable to the task they perform or may be called on to perform;
 - f) is not behaving in a professional and competent manner and in accordance with City policy standards; or
 - g) otherwise appears to be impaired or affected by drugs or alcohol; or
 - h) returns a positive alcohol or drug test. If the results of the Reasonable Suspicion Checklist indicate further action is justified, the manager/supervisor should confront the employee with the documentation and with a union representative present (for all unionized employees) and/or with another member of management (for all nonunionized employees). Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management and a union representative (if appropriate) must escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.
- Post-accident: Employees are subject to testing when they are involved in an accident that damages a City vehicle, machinery, equipment, or property and/or result in an injury to themselves, another employee, or client requiring off-site medical attention. A probable belief circumstance will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including, but not limited to, forklifts, pallet jacks, automobiles, pickups, vans, or trucks). ***Within the discretion of the City, probable belief circumstances will not be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle is not in motion.*** In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.
- Follow-up: Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending upon the circumstances and the employee's work history/record, the City may offer an employee who violates this policy or tests positive the opportunity to return to work on a last chance basis pursuant to

mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the City for a minimum of one year but not more than two years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete their rehabilitation program or tests positive after completing the rehabilitation program, they will be subject to immediate discharge from employment.

- All DOT regulated employees are also subject to testing under this policy. Using the criteria below, the following positions have been classified by the City as safety-sensitive. Elected officials who are not otherwise classified as employees are not subject to testing under this Policy.
- All employees performing safety-sensitive functions, and all final applicants for positions where safety-sensitive functions are performed.

SAFETY-SENSITIVE CLASSIFICATIONS

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

HOW DO WE TEST?

Drug and alcohol testing is done through chemical analysis which determines without question if a person has drugs or alcohol in his or her system and in conformity with regulations of the New York Department of Health, New Jersey Department of Health, or CLIA. Specimens subject to testing include urine, breath, hair, oral fluids, or blood. Specimen collections, chain of custody and drug and alcohol tests will be in substantial compliance with the U.S. Department of Transportation (DOT) procedures if applicable to the type of specimen being tested. To ensure accuracy, urine lab test procedures shall include a preliminary drug screening, two highly sophisticated scientific tests including adulterant detection, and are reported to an independent certified Medical Review Officer prior to being released to the City. Observed urine collections will only be conducted with the consent of the donor, and the observer will be by a person whose gender matches the donor's gender as identified by the donor at the beginning of the observed collection. Observed collections will be conducted in a professional manner that minimizes discomfort to the donor, and a medical professional may serve as the monitor, regardless of gender.

The Medical Review Officer may recommend the collection of an alternate specimen (e.g., oral fluid) when a donor is unable to provide a sufficient amount of urine specimen at the collection site. The MRO will verify that chain of custody procedures were adhered to, use of a certified laboratory and that the test results were valid. The City provides reasonable accommodations to employees and/or applicants in the alcohol and drug testing program whose physical condition prevents them from producing a urine specimen suitable for testing. You may contact the DER if you wish to make an accommodation request. In accordance with City policy, a test result reported by the laboratory as a negative dilute urine test is not considered a negative test but subjects the donor to immediate retesting; and a second negative dilute urine test will render an applicant ineligible for hire and current employees, where a negative test is required, not currently fit for duty. FDA approved on-site screening devices may be utilized with all initial positive results confirmed by laboratory testing.

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

WHAT IF YOU TEST POSITIVE?

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

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

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

WHAT IF YOU FAIL TO FOLLOW SAFETY GUIDELINES?

Often times, impairment from drugs or alcohol will cause an employee to fail to adhere to safety guidelines and other common sense safe working practices. Failure to wear a seatbelt, failure to use City provided or required safety equipment, failure to follow safety guidelines, or removal (or disabling) of a safety guard will be willful misconduct connected with work, and subject the employee to discipline, up to and including discharge for violation of City Policy.

WHAT ABOUT IMPAIRING EFFECT MEDICATIONS OR SUBSTANCES?

Any employee working in a safety-sensitive position as defined by City Policy is required, as a safety rule, to pre-duty disclosure that they are taking or using ANY impairing effect prescription, including medical marijuana, over-the-counter medications, mind altering synthetic or designer drugs or other substance which may have an effect on performance of safety-sensitive duties. If the fact that the employee is taking or using an impairing effect medication or substance is not disclosed pre-duty by a safety-sensitive employee and the employee tests positive, is otherwise determined to be taking or using such, or is determined by the MRO to be a potential safety risk due to taking or using an impairing effect medication or substance, that employee will be subject to discipline, up to and including termination, for violation of this safety rule. If disclosure is made, the City reserves the right to send the employee for a Fitness-for-Duty evaluation to evaluate the medication or substance and its effects on the performance of safety-sensitive duties. In advance of testing, employees are encouraged to have their own doctor make an individualized assessment of any safety-related risks of the medications or substances which they are taking or using, providing the doctor a copy of their job description and having the doctor render an opinion on the safety-related risks. The employee need not disclose to the City the medication or medical condition involved to fulfill the disclosure obligation of this Policy. The same would be true if you attempted to substitute a specimen. Any employee who is found to have violated this Policy by attempting to defraud a drug or alcohol test may be subject to appropriate disciplinary action, up to and including termination for willful misconduct connected with work, or withdrawal of a job offer. No last chance opportunity is available under such a circumstance. It is a criminal. All information provided will be kept separate from personnel files and in a confidential manner. The MRO, or another Medical Professional selected by the City, will make the final determination on the safety-related risks of any particular medication or substance.

WHAT IF AN ADULTERANT IS FOUND?

The use of an adulterant (something added to a specimen to attempt to hide drug use) is considered a refusal to test and a violation offense to substitute or adulterate a test specimen. It also is a criminal offense in New Jersey to manufacture, sell, give away, or possess any device or substance designed or commonly used to substitute or adulterate a test specimen. *N.J. Stat. Ann. § 2C:36-10*. The MRO may declare a urine specimen to be adulterated or substituted based on the laboratory report.

WHAT IF I REFUSE?

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

DRUG EDUCATIONAL INFORMATION

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

WHAT IF YOU HAVE A SUBSTANCE ABUSE PROBLEM?

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

WHAT ABOUT A LAST CHANCE OPPORTUNITY?

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

WHY AND WHEN DO WE TEST?

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

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

POLICY PROHIBITIONS

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

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

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

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

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

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

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

b. Having possession of, being under the influence of, testing positive for or having in one's system, alcohol or cannabis. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing alcohol or cannabis. As it relates to a positive drug test for cannabis, an employee violates this policy if there is both positive drug test and evidence-based documentation of physical signs or other evidence of impairment during the employee's work hours. *Exceptions to the policy concerning alcohol consumption or possession may be made only upon the prior explicit approval of senior management for specifically identified circumstances.*

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

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

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

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

HOW CAN YOU HELP?

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

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

Drug Educational Information Alcohol (Depressant)

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

Amphetamines (Amphetamine and Methamphetamine) Stimulant

Common forms:	Amphetamine - usually capsules or white, flat, double-scored pills. Methamphetamine - white or granular powder, often packaged in aluminum foil or plastic bags.
How used:	Orally, sniffed up the nose, or injected.
Desired effects:	Most commonly sought after effects include euphoria, postponement of fatigue, increased energy, alertness and feelings of personal power. Repeated or chronic use often causes a strong dependence reaction and a schizophrenic loss contact with reality. Users coming off the drug experience extreme fatigue-induced sleep ("crash"), often followed by continued fatigue and depression.
Time in body:	Injection or sniffed up the nose; "rush" felt within 1 minute. Orally, effects felt within about ½ hour. Single doses detectable for about 48 hours.

Observable effects:

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

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

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

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

Cocaine - A Stimulant

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

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

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

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

Observable effects: Dilated pupils. Talkativeness, restlessness. Sniffing, runny nose, irritated or bloody nose. Dramatic mood swings, from "down" to "up" in minutes. Sense of power sometimes manifested in aggressiveness

Work issues: Frequent trips "to the restroom"—secluded place. Frequent sick-outs and unexplained absences. Hyper-excitability and over-reaction to stimulus. Isolation/withdrawal from friends and activities. Financial problems--borrows, steals and/or sells to support habit. Insomnia, restlessness, lack of sleep

Material Indicators: Small folded paper envelopes (bindles), plastic bags, small vials used to store drug. Razor blades, mirrors, cut off straws, coke spoons. Small glass pipes, and heat sources used to volatilize crack.

Slang terms: Coke, snow, toot, crack, blow, happy dust, "C"

Marijuana

Common forms: Dried green-brown flowers and leaves of the hemp (cannabis) plant--also as compressed tar like lumps (hashish) and sometimes as an oil to be spread on cigarettes (hash oil).

How used: Generally smoked in hand-rolled cigarettes (joints) or a small pipe, sometimes eaten in baked goods or steeped to make a tea.

Desired effects: Effects are somewhat dependent on the user and potency of the plant. Low doses tend to produce a dreamy state of relaxation and euphoria with changes in sensory perceptions (usually intensified) and alteration in thought formation and expression. Higher doses intensify these reactions with fragmentation of thought, memory impairment, shortened attention span, and illusions of insight. Marijuana currently sold on the street is 10 times more potent today than in past years.

Time in body: Marijuana dissolves in body fat cells and is detectable for extended periods of time--up to seven (7) days for occasional users and four (4) weeks or longer for chronic users

Observable effects: Red bloodshot glassy eyes (users often wear dark glasses and use eye drops to combat). Poor muscular control. Rambling, disconnected speech patterns. Euphoria--as laughing out of context. Getting "hung up" - i.e. going into the bathroom to comb your hair and coming out two hours later. Distinctive odor in air and/or on clothing.

Work issues: Lack of attention, vision and auditory changes, and poor muscular control. Inability to respond to emergencies and sudden situational changes. Frequent sick-outs and mis-outs. Lackadaisical "I don't care" attitude about person and work. Chronic health problems for frequent users--persistent cough, fatigue, frequent sickness.

Material indicators: Baggies of green-brown vegetable matter; rolling papers; small pipes (for marijuana) and very small pipes (for hashish); "roach clips" to hold the burned end of the marijuana cigarette; "roaches" discarded on the floor or in ash trays; distinctive odor of marijuana in the air.

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

Opioids (Morphine and Codeine)--Narcotic Depressants

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

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

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

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

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

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

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

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

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

Phencyclidine (PCP)

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

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

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

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

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

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

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

Material

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

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

Substance Abuse Professionals

NATIONAL RESOURCES

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

EMPLOYEE ASSISTANCE PROGRAM

See your Benefit Provider

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

NOTICE TO ALL EMPLOYEES AND APPLICANTS

DRUG-FREE WORKPLACE

The City of Millville (the City) is committed to maintaining a safe, pleasant, and productive working environment. You have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. This Policy highlights the City's New Jersey Drug-Free Workplace Policy. The City's Designated City Representative (DER) is the Human Resources Manager. The Alternative DER is the City Administrator.

The City recognizes the prime importance to the City of protecting the safety, health and welfare of its employees and others with whom we interface such as citizens, contractors and members of the public. The objective of this policy is to maintain a working environment free from the effects of substance abuse. While the City has no intention of intruding into the private lives of its employees, or preventing them from taking the medicine that they may need to stay safe and healthy, the City does expect employees to report to work unimpaired able to perform the duties of their job safely and effectively. In addition to absenteeism and accidents, substance abuse can adversely affect performance, productivity and workplace morale. Co-workers may feel that they have to cover up or work harder because of someone's alcohol or drug use. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The City has a duty to safeguard its employees and the public from the risk of harm from employees who work under the influence of alcohol and drugs. Similarly, employees who know that a fellow employee is working under the influence, owe a similar duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability.

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

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

Our program can help improve your health and help you avoid trouble with the law. Even if you do not use drugs or alcohol, this program will make your workplace safer and more productive, the City safer, and will help your friends and co-workers get the help they need. Compliance with this policy is a condition of your hire or continued employment. The City has developed its drug-free workplace policy in compliance with New Jersey Laws, *and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities*. All employees are subject to testing as outlined below. The existing drug and alcohol testing program will remain in place until the effective date of this program.

BULLETIN BOARD AND VIEWPOINT POLICY

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

Union business.

In accordance with the collective bargaining agreements, bulletin board space shall be made available by the City at permanent work locations for the use of the various unions for the purpose of posting union announcements and other information of a noncontroversial nature. The City maintains the right to review and approve all material posted on the bulletin board.

Union business.

In accordance with the collective bargaining agreements, bulletin board space shall be made available by the City at permanent work locations for the use of the various unions for the purpose of posting union announcements and other information of a noncontroversial nature. The City maintains the right to review and approve all material posted on the bulletin board.

COMPUTER USE, ELECTRONIC MAIL, CELL PHONE, AND INTERNET POLICY

The City's e-mail, voicemail, computer systems and Internet service are for official City business and use for all other non-business purposes is prohibited at all times. This includes, but is in no way limited to, the use of computers or City-issued mobile devices, use of social networking, gaming or TV/video.

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

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

City issued mobile devices

Only Employees who are on call after work hours or need to be accessible behind work hours and/or if your job duties require you to normally take calls when you are out of office are permitted to have a City cell phone. Usage of City issued cell phones are to be used for City business only and as follows:

1. City cell phones are limit to when an employee's normal job duties require them to be available/accessible beyond normal business hours (8:30 am-4:30 pm), and

2. The employees' normal job duties require them to be out of the office on work assignments during the workday and must be available/accessible during that period of time.

Personal usage of City computers is strictly prohibited.

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 City's tax-exempt status or its proper operation; and/or
- Download unauthorized software, fonts, templates or scripts

Employees are advised that all computers owned by the City are to be used for business purposes only during working time (as defined above), and that they have no expectation that any information stored on a City computer is private. Because e-mail messages are considered as business documents, the City expects employees to compose e-mails with the same care as a business letter or internal memo.

- Downloading or misusing software available through the Internet could violate copyright laws or licensing requirements.
- Personal use of any computer during working time (as defined above) is prohibited, unless expressly authorized by the employee's supervisor.
- The City reserves the right to block or cancel an employee's access to Internet sites or the Internet as a whole while using business computers or on the City's time.
- The e-mail, telephone, and Internet systems, as well as the messages thereon, are the property of the City.
- The City reserves its right to monitor its computer systems, including, but not limited to, e-mail messages, computer files and Internet usage, with or without notice, at any time, at the City's discretion. The City also reserves the right to access and disclose such communications and recordings to third parties in certain circumstances. Therefore, employees shall have no expectation of privacy in any transmissions made or received using City computers or email accounts.
- Employees must be aware that the mere deletion of a file or message may not fully eliminate that file or message from the system.
- The existence of personal access codes, passwords and/or "message delete functions," whether provided by the City or generated by the employee, do not restrict or eliminate the City's access to any of its electronic systems as the employees shall be on notice that they should not have any expectation of privacy when using these systems.

- Employees shall not share personal access codes or passwords, provide access to an unauthorized user, or access another's e-mail or Internet account without authorization.
 - The City's network, including its connection to the Internet, is to be solely used for business-related purposes during working time (as defined above). If permission is granted, an employee's personal use of the City's computer, e-mail and connection to the Internet shall not interfere with the employee's duties and shall comply with the City's policies and all applicable laws.
 - Any messages or transmissions sent outside of the organization via e-mail or the Internet will pass through a number of different computer systems, all with different levels of security. Accordingly, employees must not send privileged and/or confidential communications (i.e., Social Security numbers, medical and/or HIPAA protected information, dependent information or other information protected from unlawful disclosure), via e-mail or the Internet unless the message is properly encrypted, and should consider a more secure method of communication for such data.
 - Because postings placed on the Internet may display the City's address or other City-related information, and thus reflect on the City, make certain before posting such information that it exhibits the high standards and policies of the City. Under no circumstances shall data of a confidential nature (i.e., Social Security numbers, medical and/or HIPAA protected information, dependent information or other information protected from unlawful disclosure) be posted on the Internet.
 - If you identify yourself as an employee in any manner on any internet posting or blog, comment on any aspect of the City's business or post a link to the City, you must include the following disclaimer in an openly visible location: "the views expressed on this post are mine and do not necessarily reflect the views of the City or anyone associated/affiliated with the City."
 - Subscriptions to news groups or mailing lists are permitted only when the subscription is for a work-related purpose and authorized by City. Any other subscriptions are prohibited.
 - All files downloaded from the Internet, e-mail attachments or the like should be checked for possible viruses. If uncertain whether your virus-checking software is current, you must check with the City's Network Administrator before downloading.
 - Any "unauthorized use" of e-mail or the Internet is strictly prohibited while at work or while using a City computer. "Unauthorized use" includes, but is not limited to: connecting, posting, or downloading obscene, pornographic, violent, sexually suggestive, or discrimination based material; attempting to disable or compromise the security of information contained on the City's computer systems; or sending or receiving obscene, violent, harassing, sexual or discrimination based messages. If an employee receives a message that is representative of an "unauthorized use" of the City's electronic media from someone outside of the City, it is the employee's duty to immediately inform the sender of such materials that he or she must refrain from sending such materials.
 - Your Internet postings **SHOULD NOT VIOLATE ANY OTHER APPLICABLE CITY POLICY**, including, but not limited to, the following: the City's Anti-Harassment and Discrimination Policies.
 - City business which is conducted by an employee on his or her personal computer or device is subject to this policy and may be subject to the provisions of OPRA.
- Any employee who violates this policy shall be subject to disciplinary action, up to and including termination. This policy shall not be construed to restrict employees' rights to share information

about their employment terms and conditions communicate with each other; or engage in other concerted activities for their mutual aid and protection.

Social Network Postings.

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

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

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

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

Employee rights of communication.

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

Electronic Surveillance Prohibited

The unauthorized electronic surveillance of employees is disruptive to employee morale and is inconsistent with the respectful treatment required of our employees. For this reason, no employee may record the conversation of another employee or the public without his or her full knowledge and consent.

No employee may record, by any means, a conversation with another employee or member of the public unless all of the following criteria are met:

1. A legitimate purpose for the recording.
2. A recording device in plain view
3. Written authorization from the supervisor of the employee who wishes to record the conversation, or member of the public who is being recorded.

Surreptitious recordings are strictly prohibited unless authorized in writing by legal counsel. A violation of this provision may result in disciplinary action, including termination.

CONFIDENTIALITY OF PERSONNEL RECORDS

The City will ensure that adequate personnel records are maintained for each employee in accordance with applicable Federal and State requirements. These records shall include: dates of appointments, transfers, promotions and terminations, job titles, salaries, commendations, complaints, performance evaluations, disciplinary actions, amount of leave accrued and used, a record of the employee's training and other related matters, and attendance records.

A new employee's employment application, letters of reference, reference verification and any other supporting documents will be included in the personnel file. Confidential medical records are maintained in a separate file.

Personnel records, other than name, title, salary, compensation, dates of service, reason for separation, and information on specific educational or medical qualifications required for employment, are confidential and are available only to the employee, an authorized representative of the employee, and the human resources official. Personnel records may also be available to the Chief Administrative Officer, other members of management, the Employer's legal counsel, and members of the governing body on a need-to-know basis in connection with official duties. Additionally, the Employer will make the records available as required by law.

The official personnel file for each employee shall be maintained by the City Administrator. Personnel files are confidential records that must be secured in a locked cabinet and will only be available to authorized managerial and supervisory personnel on a need-to-know basis. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access. Employees whose duties require access to personnel documents or information must maintain their confidentiality. Violators of this confidentiality will be subject to disciplinary action up to and including termination.

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

(1) Employees should not, under any circumstances, provide another individual with information regarding a current or former employee. Any employee, including Department Heads, who receives a request for reference information should forward the request to the human resources official.

(2) Generally, unless otherwise required by law, the Employer will only confirm employees' name, title, salary, compensation, dates of service, reason for separation, if applicable, and specific educational or medical qualifications required for employment. The Employer's response to a request for reference information shall be communicated in writing only. The Employer does not honor oral requests for employment references.

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

Employee review - Upon request, employees may inspect their own personnel files at a mutually agreeable time on the City premises in the presence of the City Administrator or a designated supervisor. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes, except for reference checks and other information provided to the Employer in the hiring process, but may not review the contents of other employees' personnel files. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.

Confidential records - 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.

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

- A. In response to a valid subpoena, court order or order of an authorized administrative agency.
- B. To an authorized governmental agency as part of an investigation of the City's compliance with applicable law.
- C. To the City's agents and attorneys, when necessary.
- D. In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the City are parties.
- E. In a workers' compensation proceeding.
- F. To administer benefit plans.
- G. To an authorized health care provider.
- H. To first aid or safety personnel, when necessary.

I. To a potential future employer or other person requesting a verification of employment.

A new employee's employment application, letters of reference, reference verification and any other supporting documents will be included in the personnel file. Confidential medical records are maintained in a separate file.

Personnel records, other than name, title, salary, compensation, dates of service, reason for separation, and information on specific educational or medical qualifications required for employment, are confidential and are available only to the employee, an authorized representative of the employee, and the human resources official. Personnel records may also be available to the Chief Administrative Officer, other members of management, the City's legal counsel, and members of the governing body on a need-to-know basis in connection with official duties. Additionally, the City will make the records available as required by law.

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

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

CONTAGIOUS/LIFE-THREATENING ILLNESS POLICY

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 City 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 City 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 City's continued commitment to its affirmative action goals related to physically disabled employees.

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

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

- (2) Information may be disclosed without the prior written consent to qualified individuals for the purpose of conducting management audits, financial audits, and program evaluations, but these individuals shall not identify, either directly or indirectly, the person who is the subject of the record in a report or evaluation, or otherwise disclose the person's identity in any manner. Information shall not be released to these individuals unless it is vital to the audit or evaluation.
- (3) Information may be disclosed to the Department of Health as required by state or federal law.
- (4) Managers and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action.

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 City offers the following resources through the human resources official:

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

Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact the City Administrator.

CONFLICT OF INTEREST

Policy.

Employees, including City officials, must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interest of the City. Violations of this policy will result in appropriate disciplinary action. The City also recognizes nepotism as a conflict of interest within the confines of this policy and includes same to ensure faith and consistency of the highest standards within City government. *See* § 46-89 of the City Code.

State-mandated disclosure form.

The City recognizes the right of employees to engage in outside activities that are private in nature and unrelated to City business. However, business dealings that 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 shall notify employees and officials who are subject to this requirement.

Disclosure of possible conflicts.

A. An actual or potential 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, grandparent, daughter-in-law, son-in-law, grandchild, niece, nephew, uncle, aunt or any person related by blood or marriage residing in the household of an employee. 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 City Administrator or the City Solicitor to obtain clarification.

B. Since it is impossible to describe all of the situations that may cause or give the appearance of a conflict of interest, the prohibitions included in this policy are not intended to be exhaustive and include only some of the more clear-cut examples.

(1) Employees are expected to represent the City in a positive and ethical manner. Thus, employees have an obligation to avoid conflicts of interest and to refer questions and concerns about potential conflicts to the City Administrator or the City Attorney.

(2) Employees may not engage in, directly or indirectly either on or off the job, any conduct which is disloyal, disruptive, competitive, or damaging to the City. Prohibited activity also includes any illegal acts in restraint of trade.

(3) Employees may not accept any employment relationship with any organization that does business with the City. This prohibition on employment includes serving as an advisor or consultant to any organization of that type, unless the activity is conducted as a representative of the City.

(4) Employees must disclose any financial interest they or their immediate family have that does business with the City. The City may require divestiture of the interest if it considers the financial interest to be in conflict with its best interests.

(5) Employees and their immediate family may not accept gifts, or any special discounts or loans from any person doing, seeking to do, business with the City. The meaning of gifts for purposes of this policy includes the acceptance of lavish entertainment and travel and lodging, and any gift of any nominal value. See § 46-28, Gifts or gratuities.

(6) No person shall hold a job over which a member of his or her immediate family exercises supervisory authority.

(7) As stated previously, any conflict or potential conflict of interest must be disclosed to the City and failure to do so will result in discipline, up to and including termination.

Outside employment.

Employees are allowed to hold outside employment in accordance with City policy. Employees are prohibited from engaging in outside employment activities while on the job or using City time, equipment

or supplies in the outside employment activities. The City Administrator may request employees to restrict outside employment if the quality of City work diminishes. Any employee 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 City Administrator.

Gifts or gratuities.

Employees may not accept contributions, donations, gifts or gratuities that could be interpreted to affect their City duties. Under no circumstances shall a City employee accept contributions, donations, gifts or gratuities from a vendor doing business with or seeking to do business with the City or any person or firm seeking to influence City decisions. Meals and other entertainment valued in excess of \$100 are also prohibited.

Employees are required to report to the City Administrator any offer of a contribution, donation, gift or gratuity, including meals or entertainment that is in violation of this policy.

DISCIPLINE AND TERMINATION POLICY

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

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

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

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

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

Systems of progressive discipline.

A. Employees are expected to devote themselves to the mission of the City, meet all work standards, and conduct themselves appropriately. Failure to do so can result in disciplinary action, up to and including discharge.

B. Employees shall be subject to disciplinary action according to the nature of the offense. A system of progressive discipline shall be utilized for second and subsequent offenses of a similar or greater gravity.

C. Any infraction of the City's work rules or poor work performance is investigated. Employees may have another worker present as a witness during a discussion with management officials who are investigating an incident of misconduct or a possible serious rule violation. If the results of the investigation demonstrate that discipline is appropriate, the appointing authority shall decide on the appropriate penalty, based on the progressive discipline criteria set forth below.

(1) Under normal circumstances, the City endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. It does, however, retain the right to administer discipline in any manner it sees fit. This policy does not modify the status of employees as employees-at-will or in any way restrict the City's right to bypass the disciplinary procedures suggested.

(2) The normal application of progressive discipline should be:

(a) **Step 1:** Counseling and verbal warning.

[1] Step 1 creates an opportunity for the department head to schedule a meeting with an employee to bring attention to the existing performance, conduct or attendance issue. The department head should discuss with the employee the nature of the problem or the violation of company policies and procedures. The department head is expected to clearly describe expectations and steps the employee must take to improve performance or resolve the problem. A corrective action plan must be implemented. Should the department head consider the offense sufficiently serious to warrant consideration by the City Administrator and/or the commissioner of the department, the employee will be so advised and a meeting arranged with the City Administrator at the earliest possible date. All facts should be detailed at this meeting and, if possible, a determination shall be made at that time if disciplinary action is warranted.

[2] This meeting should be documented to ensure that the employee is clear on what the expectations are. The department head shall prepare written documentation of a Step 1 meeting. The written documentation shall be filed with the Personnel Officer as well as with the commissioner in charge of the department. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action.

(b) **Step 2:** Written warning.

[1] Although the City hopes that the employee will promptly correct any performance, conduct or attendance issues that were identified in Step 1, the City recognizes that this may not always occur. The Step 2 written warning involves more detailed documentation of the performance, conduct or attendance issues and consequences. When a department head determines that a written reprimand is appropriate, the situation must be discussed with the City Administrator or designee.

[2] During Step 2, the department head and City Commissioner will meet with the employee to review any additional incidents or information about the performance, conduct or attendance issues as well as any prior relevant corrective action plans. Management will outline the consequences for the employee of his or her continued failure to meet performance or conduct expectations.

[3] A formal performance improvement plan (PIP) requiring the employee's immediate and sustained corrective action will be issued within five business days of a Step 2 meeting. A warning outlining that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken may also be included in the written warning. Supervisors/managers are to refer to the PIP document.

(c) Step 3: Suspension and final written warning.

[1] There may be performance, conduct, or safety incidents so problematic and harmful that the most effective action may be the temporary removal of the employee from the workplace. When immediate action is necessary to ensure the safety of the employee or others, the department head may suspend the employee pending the results of an investigation as per the rules of the New Jersey Civil Service Commission.

[2] However, when suspension is recommended, it is the City Administrator and/or the commissioner of the department that will make the decision and may seek the advice of the City Attorney, if appropriate, prior to such an action taking place. Suspensions that are recommended as part of the normal progression of this progressive discipline policy and procedure are subject to approval from the appointing authority. Suspended employees may request a hearing under the applicable grievance procedure and civil service procedure.

[3] Depending on the seriousness of the infraction, the employee may be suspended without pay in full-day increments consistent with federal, state, and local wage-and-hour employment laws. Nonexempt/hourly employees may not substitute or use an accrued paid vacation or sick day in lieu of the unpaid suspension. Due to Fair Labor Standards Act (FLSA) compliance issues, unpaid suspension of salaried/exempt employees is reserved for serious workplace safety or conduct issues. The City Attorney will provide guidance so that the discipline is administered without jeopardizing the FLSA exemption status.

[4] Pay may be restored to the employee if an investigation of the incident or infraction absolves the employee.

(d) Step 4: Recommendation for termination of employment.

[1] The last and most serious step in the progressive discipline procedure is a recommendation to terminate employment. Generally, the City will try to exercise the progressive nature of this policy by first providing warnings, a final written warning or

suspension from the workplace before proceeding to a recommendation to terminate employment. However, the City reserves the right to combine and skip steps depending on the circumstances of each situation and the nature of the offense. Furthermore, employees may be terminated without prior notice or disciplinary action.

[2] Whenever an employee is recommended for dismissal, the City Administrator and/or the commissioner of the department will make the decision only after seeking the advice of the City Attorney. There must be a complete review of the employee's personnel file and all other facts to determine if there is sufficient cause for the dismissal. Terminated employees may request a hearing under the applicable grievance procedure and civil service procedure. The City's recommendation to terminate employment must be approved by the appointing authority.

D. Performance and conduct issues not subject to progressive discipline.

(1) Behavior that is illegal is not subject to progressive discipline, and such behavior may be reported to local law enforcement authorities. Typically, the City should suspend the employee immediately (with or without pay) and an investigation of the incidents leading up to the suspension should be conducted to determine if any further action, such as termination, should be taken.

(2) Similarly, theft, substance abuse, intoxication, fighting, behavior that puts staff, children, parents or the program at risk, and other acts of violence at work may also not be subject to progressive discipline and may be grounds for immediate termination.

E. Documentation. The employee will be provided copies of all progressive discipline documentation, including all PIPs. The employee will be asked to sign copies of this documentation attesting to his or her receipt of the corrective action outlined in these documents.

F. All supervisory and managerial employees must follow the progressive discipline policy set forth in this handbook.

G. Employees can appeal disciplinary actions pursuant to the rules of the New Jersey Civil Service Commission, with notification to the City Commissioner.

General causes.

A. An employee may be subject to discipline for any one or more of the following general causes:

- (1) Falsification of public records, including attendance and other personnel records; theft of time.
- (2) Failure to report absence.
- (3) Harassment of coworkers and/or volunteers and/or visitors.

- (4) Theft or attempted theft of property belonging to the City, fellow employees, volunteers or visitors.
- (5) Failure to report to workday or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence.
- (6) Fighting on City property at any time.
- (7) 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.
- (8) Possession, sale, transfer or use of intoxicants or illegal drugs on City property and at any time during work hours.
- (9) Entering the building without permission during nonscheduled work hours.
- (10) Soliciting on the City's premises during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and/or sales of products, such as those from Avon, Amway, etc.
- (11) Careless waste of materials or abuse of tools, equipment or supplies.
- (12) Deliberate destruction or damage to City property.
- (13) Sleeping on the job.
- (14) Carrying weapons of any kind on the City premises and/or during work hours, unless carrying a weapon is a function of your job duties.
- (15) Violation of established safety and fire regulations.
- (16) Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
- (17) Defacing walls, bulletin boards or any other City property.
- (18) Failure to perform duties, inefficiency or substandard performance.
- (19) Unauthorized disclosure of confidential City information.
- (20) Gambling on the City premises.
- (21) Horseplay, disorderly conduct and use of abusive and/or obscene language on the City premises, and off premises when engaged in City-related business.

- (22) Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort.
- (23) Conviction of a crime or disorderly person's offense.
- (24) Violation of City policies, procedures and regulations.
- (25) Unauthorized use of computers, Internet, and email.
- (26) Disparagement of the company or any company official whether this occurs on or off company property.
- (27) Incompetency, inefficiency or failure to perform duties.
- (28) Insubordination.
- (29) Inability to perform duties.
- (30) Chronic or excessive absenteeism or lateness.
- (31) Conviction of a crime.
- (32) Conduct unbecoming a public employee.
- (33) Neglect of duty.
- (34) Misuse of public property, including motor vehicles.
- (35) Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1), including sexual harassment.
- (36) Violation of federal regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and state and local policies issued thereunder.
- (37) Personal cell phone use that is disruptive to City operations.
- (38) Posting, displaying or distributing personal notices, flyers, posters, or materials of a political, religious, social, or otherwise advocacy-oriented nature in any work area, common area, or on City property without prior approval and authorization from a Department Head or other designated City official.
- (39) Using City resources, facilities, or equipment (including bulletin boards, offices, hallways, or electronic platforms) to promote personal opinions, beliefs, or causes not related to City business.

(40) Posting, displaying or distributing materials in any work area, common area, or on City property without prior authorization from a Department Head or other designated City official.

(41) Other sufficient cause.

B. Other sufficient cause shall include but not be limited to violations of municipal ordinances, rules and regulations, written policies, department directives or lawful orders of a superior.

Types of discipline.

Discipline may be in the form of major discipline or minor discipline and may include, but not be limited to, the following:

- A. Oral reprimand;
- B. Formal written reprimand;
- C. Counseling;
- D. Suspension with pay;
- E. Suspension without pay;
- F. Monetary fine;
- G. Disciplinary demotion;
- H. Removal.

Major disciplinary action includes termination, disciplinary demotion or suspension or fine exceeding five (5) working days. Minor discipline includes a formal, written reprimand or a suspension or fine of five (5) working days or less. Employees who object to the terms or conditions for any suspension exceeding 5 days discipline are entitled to a hearing under their applicable collective bargaining agreements and/or New Jersey Civil Service Act. Employees who object to the terms or conditions of the discipline are also entitled to a hearing under their applicable collective bargaining agreements. In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing.

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 the gravity of the situation, the number and kind of previous infractions and other circumstances. In every case, employees will be given an opportunity to state the situation from their point of view.

Termination of employment.

An employee may be terminated depending upon the circumstances including but not limited to the following offenses. All discharges will be in accordance with federal and state laws, including the New Jersey Civil Service Act as well as applicable collective bargaining agreements.

- A. Incompetence, inefficiency or failure to perform duties;
- B. Chronic or excessive absenteeism or lateness;
- C. Conviction of a crime;
- D. Conduct unbecoming a public employee;
- E. Misuse of public property, including motor vehicles;
- F. Violation of federal, state or City regulations concerning alcohol and drug use and possession;
- G. Repeated violations of City policies and procedures or rules and regulations;
- H. Falsification of public records including personnel records;
- I. Other sufficient cause.

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

DOMESTIC VIOLENCE POLICY

PURPOSE

The purpose of the State of New Jersey Domestic Violence Policy for Public Employer (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 City with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff. Persons designated by the City 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 can also 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 City. This includes, but is not limited to, facilities, work sites, equipment, vehicles, or while on work-related travel.

PERSONS COVERED BY THIS POLICY

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

RESPONSIBILITY OF EMPLOYERS TO DESIGNATE A HUMAN RESOURCES OFFICER

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

Primary HRO: Pamela A. Shapiro

Human Resources Manager

Alternate HRO: City Administrator

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 reports witnessing domestic violence to the designated HRO. Managers and supervisors must maintain confidentiality, to the extent possible, and be sensitive, compassionate, and respectful to the needs of persons who are victims of domestic violence.

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

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

DOMESTIC VIOLENCE REPORTING PROCEDURES

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

Each designated HRO shall:

- A. Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- B. Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- C. Provide the employee with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.
- D. Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act), referenced in this policy.
- E. If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team, Human Resources
- F. Maintain the confidentiality of the employee and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy.
- G. Upon the employee's consent, the employee may provide the HRO with copies of any TROs, FROs, and/or civil restraint agreements that pertain to restraints in the workplace and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TROs and FROs shall be maintained in a separate confidential personnel file.

CONFIDENTIALITY POLICY

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

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

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

CONFIDENTIALITY OF EMPLOYEE RECORDS

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

THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT

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

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

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

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

- 1) Seeking medical attention;
- 2) Obtaining services from a victim services organization;
- 3) Obtaining psychological or other counseling;
- 4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;
- 5) Seeking legal assistance or remedies to ensure the health and safety of the victim; or
- 6) Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

PUBLIC CITY DOMESTIC VIOLENCE ACTION PLAN

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

- A. Designate an HRO with responsibilities pursuant to this policy.
- B. Recognize that an employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities.
- C. Provide reasonable accommodations to ensure the employee's safety. Reasonable accommodations may include, but are not limited to, the following: implementation of safety measures; transfer or reassignment; modified work schedule; change in work telephone number or work-station location; assistance in documenting the violence occurring in the workplace; an implemented safety procedure, or other accommodation approved by the City.
- D. Advise the employee of information concerning the NJ SAFE Act; Family and Medical Leave Act (FMLA); or Family Leave Act (FLA); Temporary Disability Insurance (TOI); or Americans with Disabilities Act (ADA); or other reasonable flexible leave options when an employee, or his or her child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic violence.
- E. Commit to adherence to the provisions of the NJ SAFE Act, including that the City will not retaliate against, terminate, or discipline any employee for reporting information about incidents of domestic violence, as defined in this policy, if the victim provides notice to their Human Resources Office of the status or if the Human Resources Office has reason to believe an employee is a victim of domestic violence.
- F. Advise any employee, who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy, of the civil right of action under the NJ SAFE ACT. And advise any employee to contact their designated Labor Relations Officer, Conscientious Employees Protection Act (CEPA) Officer and/or Equal Employment Opportunity Officer in the event they believe the adverse action is a violation of their collective bargaining agreement, the Conscientious Employees Protection Act or the New Jersey Law Against Discrimination and corresponding policies.
- G. Employers, their designated HRO, and employees should familiarize themselves with this policy. This policy shall be provided to all employees upon execution and to all new employees upon hiring. Information and resources about domestic violence are encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

RESOURCES

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

DISTRIBUTION OF POLICY

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

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

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

OTHER APPLICABLE REQUIREMENTS

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

POLICY MODIFICATION AND REVIEW

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

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

POLICY ENFORCEABILITY

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

POLICY INQUIRIES & EFFECTIVE DATE

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

EDUCATION AND TRAINING

Reimbursement for educational expenses.

The City values the experience that each employee brings to City government. The City recognizes that continuing education is vital to the growth of the individual and the changing dynamics of the public sector. Collective bargaining agreements generally provide for reimbursement of educational expenses

when the course is relevant to City business and the present or probable future duties of the employee. Courses must be outside the employee's scheduled work hours.

Training.

The City recognizes that it has a responsibility to train the employees to perform the work required of them. The City provides funds through its budget so that employees can attend conferences, seminars, and training which will benefit the employee and the City. The department head may authorize said training after consultation with the commissioner in charge of the department when funds are available and such training will benefit the City. The department head, to the extent possible, shall authorize such training on an equitable basis within the department consistent with the mission of the department.

- A. The City in conjunction with the City Attorney will arrange for employment practices seminars at least annually to train all managerial and supervisory personnel. The City also will offer nonmandatory training to all other employees with special emphasis on employee rights and protections under various federal and state laws as well as the employment practices of the City. Records shall be maintained in the official personnel files of all employees trained under this procedure.

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

Cross training.

Employees shall be cross trained to the degree practical to provide for coverage of work activities when employees are absent due to sickness, vacation or other reasons. Cross training between departments is encouraged to provide a manpower reserve according to workload levels. If a department is in need of additional staff to work through an unusual backlog of work, the department heads shall cooperate in providing adequate manpower.

TUITION REIMBURSEMENT

The City of Millville may reimburse an employee for credit and/or noncredit training and/or education that either offers growth in an area related to his or her current position or that may lead to promotional opportunities. This training and/or education may include: college credit courses, continuing education courses, seminars, webinars, conferences, training and certifications that are job related.

An employee must secure a passing grade of a “B” or its equivalent to obtain any reimbursement. For non-graded courses, a Certificate of Completion is required to receive any reimbursement from the City of Millville. Expenses related to said training and/or education must be: 1. pre-approved, 2. validated by receipts and 3. supported by a copy of the final grade or Certification provided. Reimbursement to the employee occurs upon the completion of the training and/or education and upon submission of completion and expense documents.

Requests for training and/ education reimbursement requires the written notification of the Human Resources Department prior to enrollment and/or registration. Human Resources will coordinate the reimbursement to the employee with the Finance Department.

ELIGIBILITY

To be eligible for training and/or education reimbursement, City of Millville employees must be full time regular employees who have completed at least 6 months of employment and be in good standing. Further, the requested training and/or education must be deemed relevant to the employees current or targeted job and must be approved by the immediate supervisor prior to enrollment/registration.

PAYBACK

In the event an employee resigns or terminates the City of Millville within 2 years of completing city-funded training and/or education, the employee shall remit payment to the City within 60 days of departure in the full amount which the employee was reimbursed by the City of Millville for the training and/or education provided for the prior 2 year period, less related travel and lodging fees.

EMPLOYMENT REFERENCES

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

Employees should not, under any circumstances, provide another individual with information regarding a current or former employee. Any employee, including Department Heads, who receives a request for reference information should forward the request to the human resources official. Generally, unless otherwise required by law, the City will only confirm employees' name, title, salary, compensation, dates of service, reason for separation, if applicable, and specific educational or medical qualifications required for employment. The City's response to a request for reference information shall be communicated in writing only. The City does not honor oral requests for employment references.

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

ETHICAL CONDUCT

Pursuant to the provisions of the Local Government Ethics Law:

1. No employee or member of his or her immediate family will have an interest in a business organization or engage in any business, transaction or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

2. No employee should use or attempt to use his or her official position to secure unwarranted privileges or advantages for him or herself or others.
3. No employee should act in his or her official capacity in any matter wherein he or she, a member of his or her immediate family, or business organization in which he or she has an interest, has a direct or indirect personal or financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.
4. No employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.
5. No employee, member of his or her immediate family, or business organization in which he or she has an interest, should solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan contribution, service, promise or other thing of value was given or offered for the purpose of influencing him or her directly or indirectly in the discharge of his or her official duties.
6. No employee will use, or allow to be used, his or her public employment, or any information, not generally available to members of the public, which he or she receives or acquires in the course of and by reason of his or her employment, for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.

No employee or business organization in which he or she has an interest will represent any person or party other than the City in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he or she serves. An employee or members of his or her immediate family may represent himself or herself in proceedings concerning the employee's own interests.

NEPOTISM

Purpose. It is the intent of this policy to avoid the appearance of a conflict of interest either on the part of a member of the Board of Commissioners or a member of the administrative staff. Unless otherwise provided by law or New Jersey Civil Service Commission rule, immediate relatives shall not be hired, promoted or transferred to a regular full-time or regular part-time position where:

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

"Relative" defined. For purposes of this policy, a relative by blood or marriage is defined as a spouse, father, father-in-law, stepfather, mother, mother-in-law, stepmother, son, son-in-law, stepson, daughter, daughter-in-law, stepdaughter, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister. Additionally, members of the immediate household shall be considered a relative even though not related by blood or marriage.

Relative of administrator. No person who is a relative of an administrator shall be appointed to a position with the City that is in a line relationship involving direct supervision and evaluation of the position by the administrator. The administrator whose relative is seeking employment with the City shall not participate in that portion of any meeting where the proposed appointment is discussed. An administrator with the City shall be those persons who are in the Administration Unit and who are covered by the employment agreement between the City of Millville and the Administration Unit.

Relative of commissioner. Unless the appointment is a nondiscretionary appointment, no person who is a relative of a commissioner shall be appointed to employment with the City in a department under the control or supervision of the commissioner. In the event a relative of a commissioner seeks employment with the City in a different department, then the employment application shall be reviewed by the Personnel Committee and a recommendation made to the remaining commissioners who may make the appointment by majority vote at a public hearing subject to N.J.S.A. 40:72-4 and 40:72-5. The commissioner whose relative is seeking employment shall not participate in that portion of any meeting where the proposed appointment is discussed.

OUTSIDE EMPLOYMENT

Conditions under which outside employment is permitted - 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 City Administrator may request employees to restrict outside employment if the quality of City work diminishes. Any employee who holds an interest, or is employed by, any business doing business with the City must submit a written notice of these outside interests to the City Administrator.

Full-time employees of the City may engage in outside employment if:

- A. The employee maintains the City as his or her primary employer;
- B. The employment does not conflict with his or her duties or position as an employee of the City, including the employee's availability to work call-in situations when the job responsibilities require that availability.
- C. The outside employment does not create a conflict of interest with the City employment; and
- D. The employee does not perform outside work during his or her regularly scheduled work hours with the City.

PERFORMANCE EVALUATION

Department heads shall evaluate probationary employees a minimum of three times during the working test period and provide a written recommendation to the commissioner in charge of the department indicating whether the employee should be retained.

Termination at end of working test period. - The City shall comply with N.J.A.C. 4A:2-4.1 et seq. if an employee is terminated from service or returned to his or her former permanent title at the conclusion of a working test period due to unsatisfactory performance.

The City recognizes that an employee job performance evaluation system is the basis for assisting in employee growth and development. The City requires supervisors to conduct performance appraisals to ensure that:

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

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

During performance reviews, supervisors will consider, among others:

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

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

Probationary Employees. Department heads shall evaluate probationary employees a minimum of three times during the working test period and provide a written recommendation to the commissioner in charge of the department indicating whether the employee should be retained.

Termination at end of working test period. The City shall comply with N.J.A.C. 4A:2-4.1 et seq. if an employee is terminated from service or returned to his or her former permanent title at the conclusion of a working test period due to unsatisfactory performance.

POLITICAL ACTIVITY

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and

their political affiliations. In accordance with State law, employees are prohibited from engaging in political activities while performing their public duties and from using the City's time, supplies or equipment in any political activity. Political activities include, but are not limited to, advocating the election or appointment of any candidate for office, verbally or otherwise, and soliciting funds for campaigns or campaign materials.

Additionally, State law precludes employees from directly or indirectly using their position to control or affect the political action of another person. In accordance with the Hatch Act and Federal regulations, an employee whose principal employment is with a program financed in whole or in part by Federal funds or loans shall not:

- Be a candidate for public office in a partisan election. (This provision does not apply to the elected head of an executive department or an individual holding elective office, where that office is the sole employment connection to federally funded programs.)
- Use his/her official authority to influence, to interfere with or affect election results or nominations for office.
- Directly or indirectly coerce contributions from any employee to support a political party or candidate. See The Hatch Act, 5 U.S.C. § 1501 et seq.

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

RESIGNATION

Resignation - Employees may resign in good standing by giving the Commissioner in charge of their department, or their department head, at least 14 days' written notice. If an employee resigns without submitting the required notice, he or she shall be held as having resigned not in good standing.

Absent from duty - Any employee who is absent from duty for five or more consecutive workdays without just cause or an approved leave of absence shall be considered to have abandoned his or her position and shall be held as having resigned not in good standing.

Failure to return to duty - Any employee who has not returned to duty for five or more consecutive workdays following an approved leave of absence shall be considered to have abandoned his or her position and shall be held as having resigned not in good standing.

SAFETY POLICY

The City endeavors to provide a safe and healthy work environment for all employees and shall comply with the requirements of the Public Employees Occupational Safety and Health Act ("PEOSHA"). The 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 unsafe public condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or accident involving the City's facilities, equipment, or motor vehicles must also be immediately reported to the supervisor or Department Head and the Chief Administrative Officer. Failure to do so constitutes grounds for disciplinary action.

Employees are encouraged to discuss safety concerns with supervisory personnel.

Training and Rules - Consistent with this policy, employees shall 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.

Reporting requirements - Any occupational or public unsafe act, condition, practice, or procedure must be reported to the supervisor or department head. Any work-connected accident or accident involving City equipment, facilities or motor vehicles also shall be reported immediately. 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.

Risk Management Loss Control Plan - Adoption of plan; annual review.

The City has adopted a risk management loss control plan, which is designed to minimize the risk of losses due to accidents and injuries. The plan is also designed to provide a healthy and safe environment free from any recognized hazards. Written copies of the plan shall be distributed to all department heads. City employees shall cooperate with the implementation of the plan.

This plan shall be reviewed on an annual basis by the department heads and recommended modifications shall be reviewed and adopted by the governing body as required.

SMOKING

The New Jersey Legislature has declared that in all government buildings the rights of nonsmokers to breathe clean air supersedes the rights of smokers. In accordance with state law, the City has adopted a smoke-free policy for all buildings. City facilities shall be smoke-free, and no employee or visitor shall be permitted to smoke anywhere inside City buildings. Employees are permitted to smoke outside City buildings at such locations so as not to allow the reentry of the smoke into the building entrances.

Designated smoking areas have been marked for City employee's use. Smoking inside and outside vehicles owned by the City and near or around equipment, while operating or not, that may be sensitive to smoke is also prohibited. Any violation of this policy shall constitute grounds for disciplinary action.

TEMPORARY MODIFIED DUTY

The purpose of this policy is to establish uniform standards throughout the City government for temporary modified duty. Temporary modified duty within a department of government shall be available to full-time permanent public employees on a fair and equitable basis under the conditions set forth herein when a public employee has a qualified disability that prevents the employee from performing his or her regular job with the City.

Definitions

As used in this article, the following terms shall have the following meanings unless the context clearly indicates otherwise.

ADA The Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., which provides federal protection from employment discrimination for individuals with qualified disabilities.

CHIEF EXECUTIVE OFFICER - The Commissioner in charge of a department of government except the Fire Department and the Police Department. The Fire Chief and the Police Chief are the chief executive officers of their respective departments.

DEPARTMENT HEAD - The highest-ranking civil service employee, statutory employee, or appointee who is in charge of a subordinate department of City government, such as the Tax Assessor or the Tax Collector.

DISPARATE TREATMENT - That employees who are not disabled are treated more favorably than a disabled employee.

LAD

A. The Law Against Discrimination, N.J.S.A. 10:5-1 et seq., which provides state protection from employment discrimination for individuals with qualified disabilities. The New Jersey Department of Labor 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.

B. The LAD prohibits discrimination in all aspects of the employment life cycle, including but not limited to the following:

- (1) Recruitment.
- (2) Interviewing.

- (3) Hiring.
- (4) Promotions.
- (5) Benefits administration.
- (6) Salary plans.
- (7) Performance improvement plans.
- (8) Job reviews.
- (9) Application of policies and procedures.
- (10) Discipline.
- (11) Termination.
- (12) Compensation.

MAXIMUM MEDICAL IMPROVEMENT - The point at which the authorized medical provider or authorized examining physician determines that the condition resulting from the injury or illness is stable, additional medical treatment or physical therapy will not improve the patient's condition, or the patient has reached the medical plateau of recovery.

PERMANENT DISABILITY - A condition that exists in a disabled employee that is likely to last for an indefinite period of time or throughout the remainder of the life of the employee.

QUALIFIED DISABILITY - A disability as defined under the ADA or the LAD.

REASONABLE ACCOMMODATION - An accommodation provided to an employee with a qualified disability that permits the employee to perform all of the essential functions of his or her job but does not impose an undue hardship on the operation of the employer's business. Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include:

- A. Acquiring or modifying equipment or devices;
- B. Job restructuring;
- C. Part-time or modified work schedules;
- D. Reassignment to a vacant position;
- E. Adjusting or modifying examinations, training materials or policies;
- F. Providing readers and interpreters; and
- G. Making the workplace readily accessible to and usable by people with disabilities.

TEMPORARY DISABILITY - A condition that exists in a disabled employee that is likely to last until the employee has reached the maximum medical improvement.

Reasonable accommodation.

- A. A public employee with a qualified disability who can perform all of the essential functions of his or her job with the City, with a reasonable accommodation, shall be permitted to return to his or her job with the City as required by federal and state law.
- B. A public employee with a qualified disability who cannot perform all of the essential functions of his or her job with the City, even with a reasonable accommodation, shall not be permitted to return to his or her job with the City, but the public employee shall be

eligible for temporary modified duty if he or she is capable of performing the job that is available and is otherwise qualified.

Available positions.

- A. The chief executive officer of a department of government does not have the authority to create a position of employment that does not already exist within the department or to fill a vacant position that does exist if the work is not necessary for the efficient operation of the department or to fill a vacant position that does exist if there are not adequate funds available in the budget of the department to compensate the employee filling the position.
- B. Where a department of City government has a vacant position available and there is a need within the department to fill the position and adequate funds are available within the budget of the department to compensate the employee, a public employee with a qualified disability shall be eligible to return to work to perform temporary modified duty if the employee is capable of performing the job and is otherwise qualified.

Time restrictions.

- A. Temporary modified duty within a department of government shall not extend beyond a six-month period of time.
- B. Temporary modified duty within a department of government shall end before the expiration of the six-month period of time if the employment position is filled by a permanent employee or the work is no longer needed by the department or if there are insufficient funds available within the budget of the department to continue to pay the salary of the employee.

Assignments.

- A. Nothing contained herein shall be interpreted to guarantee temporary modified duty for any public employee who is eligible for such duty. The chief executive officer of each department of government has the authority to assign personnel and reassign personnel within the department in accordance with his or her judgment as to what work is necessary to maintain the efficient operation of the department and who is best qualified to perform the available jobs within the department. During the process of evaluating the qualifications of available personnel, the chief executive officer shall consider competence, conduct, performance, and other reasonable standards. No public employee shall receive disparate treatment because of his or her qualified disability.
- B. The commissioner in charge of the department or the department head reserves the right to obtain a medical report from the treating physician, at the City's expense, which indicates the nature and extent of the employee's medical condition, the prognosis for partial or complete recovery, the work restrictions, if any, and any other information relevant to returning to work. The employee shall cooperate with the City in securing the report.
- C. The commissioner in charge of the department or the department head reserves the right to require the employee to be examined by a physician designated and compensated by the City as a condition of the employee's return to work. The employee shall cooperate with the City in having the examination and securing the report

TRANSITIONAL DUTY

Purpose - To establish guidelines and procedures for giving transitional duty assignments to an employee who is recovering from a work-related injury or illness and has been given temporary physical work restrictions by an authorized medical provider.

Delegation of responsibility - Throughout this procedure, the designation "Transitional Duty Coordinator" has been used to signify the individual with the ultimate decision-making authority in this process. As with many other personnel processes, the Transitional Duty Coordinator may delegate this responsibility to a designee as deemed appropriate.

General information regarding transitional duty assignments.

- A. Transitional duty is an opportunity, provided at the sole discretion of the Transitional Duty Coordinator, for an employee to remain in the workforce while recuperating from a work-related injury or illness. The program benefits both the employee and employer by saving employee leave, accelerating recovery, and reducing claim costs. If an employee with work-related restrictions refuses transitional duty without a verifiable medical cause, the employee's benefits under workers' compensation may be adversely affected.
- B. The Transitional Duty Coordinator should evaluate the work restrictions of employees injured on the job to determine if the employee can be assigned transitional duty. The work restrictions must be in written form from the authorized medical provider and must clearly describe the physical restrictions and limitations related to performing transitional job duties. If the Transitional Duty Coordinator has questions or needs clarification, he or she should discuss the restrictions with the authorized medical provider and the Claims Administrator before making the transitional duty assignment.
- C. The Transitional Duty Coordinator's decision to make and/or continue a transitional duty assignment should take into consideration the employee's work restrictions including employee's knowledge, skills, abilities, safety of the motoring public, other employees and the general public and the availability of work benefitting the department.
- D. A transitional duty assignment is temporary in nature. It may be a combination of various unrelated job tasks. The assignment also does not need to be for a full forty-hour workweek. Depending upon the nature of the injury or illness, transitional duty may last from one week to two months.
- E. The Transitional Duty Coordinator should make transitional duty assignments with the goal of returning the employee to full duty as soon as possible. This may require the addition of or adjustments to duties included in the assignment as the employee's medical condition progresses. When a department is unable to assign suitable work, other departments may be contacted to determine if a suitable work assignment can be identified.
- F. The authorized medical provider must submit a status report to the Transitional Duty Coordinator and Claims Administrator after each employee visit; noncompliance with this process should be reported to the Claims Administrator immediately. The Transitional

- Duty Coordinator should review the transitional duty assignment after each visit with an authorized medical provider and, if advantageous for the employee and the department, allow the assignment to continue until maximum medical improvement (MMI) is reached or until the employee is released to full duty.
- G. Employees will be paid in accordance with applicable policies, salary ordinances and bargaining agreements while on transitional duty. No overtime will be authorized unless the employee is expressly given permission by the department head. All overtime assignments must be approved in advance by the department head and must be in accordance with the transitional duty assignment set forth by the authorized medical provider.
 - H. Where appropriate, the employee's time card should be maintained by the department to which the employee is regularly assigned.
 - I. The Transitional Duty Coordinator should notify upper management and the Claims Administrator if he or she becomes aware that an injured employee may have permanent medical restrictions. Permanent restrictions should be handled differently from temporary restrictions. Permanent restrictions may also be considered as a qualified disability under the ADA.

Making transitional duty assignments - Making transitional duty assignments is the joint responsibility of the employer, Claims Administrator and managed care provider. The Claims Administrator and authorized medical provider should continually evaluate the availability of transitional duty for all temporarily disabled employees.

A. The Transitional Duty Coordinator reviews the authorized medical provider's work restrictions and selects transitional duty assignments that are of benefit to the department and appear to be within those restrictions. This may include assignments requiring travel to alternate work locations. A transitional duty assignment does not have to be a full forty-hour workweek. The following skills may be necessary to participate in a transitional duty assignment:

- (1) Sit or stand for some tasks.
- (2) Understand and follow directions and procedures.
- (3) Accept direction and function cooperatively.
- (4) Communicate effectively and coherently using telephone, or when initiating or responding to verbal communications.
- (5) Read and comprehend documents.
- (6) Exercise independent judgment.
- (7) When the Transitional Duty Coordinator and the supervisor determine that transitional duty is within the employee's work restrictions, the Transitional Duty Coordinator provides a letter to the employee offering the transitional duty assignment. The letter must describe the work to be performed, state the transitional duty assignment will be reviewed periodically and state that the assignment is temporary. This letter should be handed to the employee upon arrival to work the following day. If the employee does not return to work the next day, the employee should sign and date the letter, noting receipt. If it is necessary to mail the letter to the employee, it should be mailed certified/return receipt with a copy placed in the personnel file.

- (8) If the employee agrees to the transitional duty assignment, he or she should sign the transitional duty offer and return it to the Transitional Duty Coordinator. If the employee declines the transitional duty assignment, the employee should code his or her time in accordance with applicable policies, salary ordinances and bargaining agreements. If an employee with work-related restrictions declines a transitional duty assignment without a verified medical cause, the Transitional Duty Coordinator should immediately notify the Claims Administrator. Refusal of a transitional duty assignment may adversely affect the employee's workers' compensation benefits.

B. If the employee's objection to a transitional duty assignment is based on a disagreement with the authorized medical provider regarding work-related restrictions, the Transitional Duty Coordinator should discuss the case with the authorized medical provider and the Claims Administrator.

Communications.

A. The Transitional Duty Coordinator shall maintain the confidentiality of all medical information related to the transitional duty assignment. Only individuals with an administrative "need to know" shall be included in discussions on transitional duty. This includes department heads and human resources representatives. Where applicable, the Transitional Duty Coordinator shall limit discussions with the authorized medical provider and other authorized individuals to the medical restrictions and transitional duty issues in question.

B. If the need for transitional duty arises from a work-related injury or illness, the Transitional Duty Coordinator should contact the Claims Administrator. Copies of all related correspondence shall be sent to the Claims Administrator.

C. Questions related to transitional duty accommodations under the Americans with Disabilities Act and Family Medical Leave Act should be forwarded to the Personnel Department and/or municipal solicitor.

D. The Transitional Duty Coordinator shall provide initial and continuous communication with employees regarding the transitional duty program (see sample statement).

Definitions - As used in this policy, the following terms shall have the meanings indicated:

AMERICANS WITH DISABILITIES ACT (ADA): Federal protection from employment discrimination for individuals with qualified disabilities. The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life — to enjoy employment opportunities, to purchase goods and services, and to participate in state and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin — and Section 504 of the Rehabilitation Act of 1973 — the ADA is an "equal opportunity" law for people with disabilities.

AUTHORIZED MEDICAL PROVIDER: A medical provider who has been designated to provide medical care and/or medical opinions for employees with work-related injuries or illnesses as authorized by the New Jersey State Workers' Compensation statute.

EMPLOYEE: Any person who renders service for pay, including persons working under a professional service contract. Employees include persons in probationary, regular, casual or temporary status.

FAMILY MEDICAL LEAVE ACT (FMLA): Federal job protection during use of leave for a "serious health condition" or other qualifying event as defined under the Act.

MAXIMUM MEDICAL IMPROVEMENT (MMI): The point at which the authorized medical provider determines that: 1) the condition resulting from the injury or illness is stable; 2) additional medical treatment or physical therapy will not improve the patient's condition; or 3) that the patient has reached the medical plateau of recovery.

PHYSICAL WORK RESTRICTIONS: Work restrictions placed on an employee by the authorized medical provider.

TRANSITIONAL DUTY A temporary work assignment that does not exceed an employee's medical work restrictions during a period of recovery from a work-related injury or illness. A temporary work assignment that does not develop into a permanent position and returns the employee to regular full duty as soon as possible.

TRANSPORTATION EXPENSES

Transportation furnished at cost - It is the policy of the City to reimburse employees for reasonable and necessary expenditures made by employees while on official City business. Whenever employees travel in the course of their official duties on behalf of the City, they shall be furnished transportation at cost by the City.

Use of personal motor vehicle - Whenever the Commissioner in charge of a department authorizes an employee to use his or her personal motor vehicle for such travel, the employee shall be reimbursed transportation expenses at the federal mileage allowance rate, plus tolls for the most direct route. This allowance is to compensate for the cost of gasoline, oil, depreciation and insurance. The rate published by the IRS will be reviewed annually by the Finance Department.

VIDEO SURVEILLANCE POLICY

City use of video surveillance.

A. 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.

B. 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.

C. 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 from the designee of the City.

D. 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.

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

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

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

Driving Privileges and Licensure. The use of a City Vehicle by an employee is subject to the approval and discretion of the Chief Administrative Officer. Any employee operating a City Vehicle must have, in his or her possession, a valid driver's license issued by a state regulatory body within the United States. Licenses issued by any territory or possession of the United States, the District of Columbia, or any international agency (including any province of the Dominion of Canada) must be expressly approved by the City's insurance carrier before an employee will be permitted to operate a City Vehicle.

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

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

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

1. The City reserves the right to suspend an employee's City driving privileges if the City deems necessary based on the employee's driving record.
2. The City shall utilize information obtained pursuant to this section only for the purposes of furthering the objectives of this Policy and for no other reason, and will not reveal personal or other information contained in an employee's driving abstract record to any party except where required by applicable law.

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

D. If requested by the Chief Administrative Officer or human resources official, the employee must agree to consent to a simulated road test to determine his/her fitness to safely operate a vehicle.

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

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

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

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

If the employee will be absent from duty for more than two (2) working days, or more than five (5) consecutive days, including weekends and holidays, he/she must surrender the City vehicle to his/her

direct supervisor unless directed otherwise. An employee storing the vehicle at his residence must provide safe parking for the vehicle at all times.

Commuting. City Vehicles shall not be taken home for any reasons. City vehicles shall not be utilized for non-work related purposes or utilized for commuting to and from work.

Accidents and Incidents. Prior to operation of any City vehicle, employees must consult their Department Head as to the appropriate steps to take if they become involved in an accident (filling out accident reports, obtaining witness names, etc.)

A. In the event of an incident or accident involving the use of a City Vehicle, employees must immediately contact their supervisor and/or Department Head. All required reports and documentation must be submitted to the Chief Administrative Officer within two (2) business days of receipt.

B. An employee may be required to submit to an alcohol or drug screening test following an accident or incident if there is a reasonable suspicion to believe that the employee's use of drugs or alcohol may have contributed to the cause of the accident or as otherwise required by law or other policy of the City.

Citations and Violations. Operators of City Vehicles are expected to follow all laws, regulations and rules proscribed by the Motor Vehicle Commission. Drivers are responsible for paying any moving violation tickets and MUST notify the City of said violations within forty-eight (48) hours of receipt of said ticket (regardless of the employee's decision to contest such ticket in municipal court). Drivers are responsible for paying all parking tickets incurred. The City should be notified of the receipt of a parking ticket within 48 hours of receipt of said ticket.

Drivers are responsible for all "Notice of Delinquent Toll Payment Violations" (including but not limited to EZ-Pass). Upon having been notified of said violation, either by direct mail or notice from the City, an employee shall, within ten (10) business days of such notice, provide acceptable proof to the City that the outstanding toll and any related fees have been paid.

General Policies and Procedures. Employees authorized to use a City Vehicle for official business must adhere to the policies and procedures set forth in this Policy. Failure to comply with the provisions below will result in a loss of privileges:

A. Drivers must ensure that all required documents (driver's license, LD. badge/card, registration, insurance card) are in their possession while operating the vehicle. Vehicle registration and insurance cards should be kept in a locked compartment of the vehicle when not in use.

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

C. Vehicles are to be kept clean at all times, and should be washed and vacuumed regularly (unless prohibited by the New Jersey Department of Environmental Protection or other similar regulatory body).

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

E. In accordance with N.J.S.A. 39:4-97.3 and any other applicable statutes and regulations, the use of hand-held phones or electronic devices (BlackBerry, navigation systems, etc...) while driving City Vehicles is prohibited. This prohibition includes the sending or reading of e-mails, text messages, and other similar communications.

F. All occupants must wear seat belts at all times when the vehicle is in use and observe all road safety rules and regulations, such as "Wipers On, Lights On."

G. Employees are expected to operate vehicles in a safe and courteous manner at all times and are expressly reminded to avoid tailgating or other unsafe practices.

H. Employees are reminded of the risks inherent from driving while drowsy. In the event that a driver becomes tired while operating a vehicle, they should pull off the road and seek appropriate assistance.

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

WORK FORCE REDUCTION

Pursuant to N.J.A.C. 4A:8-1.1, the City may institute layoff actions for economy, efficiency or other related reasons, but will first consider voluntary alternatives. Seniority, lateral or other reemployment rights for employees in career service titles will be determined by the New Jersey Civil Service Commission.

WORK HOURS AND ATTENDANCE

Regular and punctual attendance of employees is essential for the effective and efficient operation of the business of City government. All employees are expected to be at work and ready to assume their duties at the beginning of the scheduled workday. Lateness and absence will be tolerated only in emergencies which are beyond the employees' control. Unscheduled absences, patterns of excessive absences, reporting for work late, leaving work early, failing to inform department heads of planned absences in advance and similar unsatisfactory attendance will subject an employee to disciplinary action.

Unscheduled absences place an unfair burden on coworkers and should be avoided. Frequent unscheduled absences, including late arrivals and early departures, are grounds for discipline, up to and including discharge. In addition, employees who fail to provide proper notification of late arrivals and unscheduled absences are subject to discipline, up to and including discharge.

Employees will be subject to immediate corrective action for no call/no shows.

Responsibility of employees.

- A. Department heads shall prepare attendance reports on forms specified by the City Administrator. These reports shall be kept for the department's use and also shall be sent to the City Administrator weekly.
- B. Department heads shall warn an employee of a pattern of absenteeism, lateness or leaving work early as soon as the pattern is apparent. Department heads shall be accountable for failure to detect patterns of abuse. Department heads are expected to initiate appropriate disciplinary action through the office of the City Administrator, if such violations occur.
- C. Employees who intend to be absent from work must comply with the notification and request and approval procedures required for securing authorized leaves of absence from work.
- D. Employees who intend to be late for work or who intend to leave work early must inform their department head no later than 15 minutes after the scheduled start of work.

Work hours.

- A. The normal workday for thirty-five-hour-per-week employees shall be 8:30 a.m. to 4:30 p.m.
- B. The normal workday for forty hours per week employees shall be 7:30 a.m. to 4:30 p.m. A commissioner in charge of a department shall be authorized to adjust this work schedule from 7:00 a.m. to 4:00 p.m. by written authorization for employees working in the field. A commissioner in charge of a department shall also be authorized to adjust this work schedule to reduce the lunch hour from one hour to one-half hour by written authorization for employees working in the field. The written authorization shall be filed in the office of the City Administrator for payroll and personnel purposes.
- C. Those departments of government which are required to operate a twenty-four-hour-per-day-and-seven-day-per-week operation shall establish shift schedules for those employees who are required to work these shifts. These shift schedules shall be approved by the department head and the commissioner in charge of the department and filed with the office of the City Administrator for payroll and personnel purposes.
- D. Summer schedules with modified work hours for employees regularly working outside in the weather may be approved annually by resolution of the governing body.
- E. A commissioner in charge of a department shall be authorized to approve a special work schedule for employees who are performing essential services for the City outside the normal workday. The written authorization shall designate the schedule by days per week and the hourly assignments and shall be filed in the office of the City Administrator for payroll and personnel purposes.

Computerized time system.

- A. All employees shall use the computerized time system.
- B. Employees shall swipe their card and hit "in" to begin the workday. Employees shall swipe their card and hit "out" to end the workday.
- C. When employees leave work for their scheduled lunch, they shall utilize the computerized time system to clock out when they leave and to clock in when they return. Department heads are authorized to override this requirement for employees working in the field at lunch time where time clocks are not available and/or when it is not practical because of business emergency to return to the office to utilize the computerized time system.

Policy violations.

The department head is authorized to excuse absences from work, late arrivals to work or early departures from work for emergencies occurring which are beyond the control of the employee. However, the employee shall be docked pay for the time away from work. Employees violating this policy are subject to disciplinary action. The following system of progressive discipline is recommended for the enforcement of this policy:

- A. A written warning for the first violation.
- B. A written reprimand for the second violation.
- C. Minor discipline for the third violation.
- D. Major discipline for the fourth or subsequent violation.

Early closing and delayed opening policy.

In the event of unsafe conditions, the Commissioner in charge of Emergency Management may authorize the City Administrator to close operations earlier than the normal working hours. If conditions exist prior to scheduled openings, the administrator shall notify department heads of a delayed opening and a new opening time. Each department will have a calling system in place. If an employee chooses not to report to work, compensating time will be charged as per current personnel practices and collective bargaining agreements. Sick time will only be charged for a legitimate illness. If work is called off for the day, no time will be charged for the day. This provision does not apply to employees deemed essential as per the administrative policy of the City, on file in the City Administrator's office, and any personnel who may be required to assist in an emergency.

WORKPLACE HEALTH INFORMATION PRIVACY POLICY

Federal law - The United States Department of Health and Human Services issued the Privacy Rule to implement the requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Privacy Rule standards address the use and disclosure of individually identifiable health information by organizations subject to the Privacy Rule. It also addresses standards for individual privacy rights to understand and control how an individual's health information is used. The Office of Civil Rights within the United States Department of Health and Human Services has the responsibility for implementing and

enforcing the Privacy Rule. It is the policy of the City of Millville to comply with the HIPAA Privacy Rule.

Protected health information - The Privacy Rule protects all individually identifiable health information held by the City in any form or medium, whether electronic, paper, or oral. The Privacy Rule calls this information "protected health information (PHI)."

Safeguards and security- The City Administrator must take reasonable steps to safeguard the protected health information of an employee from any intentional or unintentional use or disclosure that violates the HIPAA Privacy Rule. All protected health information of employees or family members of employees shall be maintained in a file separate from the official personnel file of the employee and stored in a locked cabinet during periods of the day and night when access is not required.

Authorized use and disclosures - The major purpose of the Privacy Rule is to define and limit the circumstances in which the protected health information of an employee may be used or disclosed by the City. The City may not use or disclose protected health information except:

- A. As the Privacy Rule permits or requires; or
- B. As the employee who is the subject of the information authorizes in writing.

Written authorization - The authorization must be written in specific terms. All authorizations must be in plain language and contain specific information regarding the health information to be disclosed or used, the person disclosing and receiving the information, the expiration date of the authorization, the right of the employee to revoke the authorization in writing, and any other data required by federal law.

Minimum necessary requirement - A central aspect of the Privacy Rule is the principle of minimum necessary use and disclosure. The City must make reasonable efforts to use, disclose and request only the minimum amount of protected health information needed to accomplish the intended purpose of the use, disclosure or request. The minimum necessary requirement is not applicable in any of the following circumstances:

- A. Disclosure to or a request by a health care provider for treatment;
- B. Disclosure to an individual who is the subject of the information, or the individual's personal representative;
- C. Use or disclosure made pursuant to an authorization;
- D. Disclosure to federal officials for complaint investigation, compliance review, or enforcement;
- E. Use or disclosure that is required by law; or
- F. Use or disclosure required for compliance with HIPAA Transaction Rule or other HIPAA Administration Simplification Rules.

Designated private official - The City Administrator is designated as the person responsible for implementing the Workplace Health Information Privacy Policy. The City Administrator is also the contact person responsible for receiving employee complaints and providing employees with information on the privacy practices of the City.

Access and confidentiality

A. All access to protected health information maintained on file by the City must be through the office of the City Administrator. No employees of the City shall have access to protected health information except as required to perform their official duties.

B. Any employee having access to protected health information shall be responsible for maintaining its confidentiality. No employee shall discuss protected health information of another employee with anyone except those persons who are authorized to receive the information and then only in the context of performing their official duties.

C. Managers and supervisors shall not question employees about their medical conditions. Instead, all such inquiries and matters shall be referred to the City Administrator for appropriate processing in accordance with the policies and procedures of the City and applicable federal law, rules, and regulations.

Employee rights - Any employee who believes that their privacy rights have been violated has the right to complain to the Federal Office of Civil Rights and to the City Administrator. The employee shall comply with the Employee Complaint Policy when filing or making a complaint to the City Administrator.

[THIS PAGE IS BLANK]

APPENDIX

APPENDIX A

CDL Drug and Alcohol Testing Policy

*These sample policies and procedures are not intended to be all-encompassing and are believed to conform to current law and practice at the time of preparation. However, municipalities and authorities are cautioned to seek legal advice from a qualified employment attorney before adopting any employment policies and procedures. Please note any information NOT italicized in this policy is **REQUIRED** for compliance with NJDOT regulations. Non-mandatory language is italicized and is optional.*

Table Of Contents

<u>SECTION A - GENERAL</u>	101
<u>SECTION B - PROHIBITIONS</u>	111
<u>SECTION C - TESTS REQUIRED</u>	114
<u>SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY</u>	121
<u>SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT</u>	126
<u>SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL</u>	128
<u>SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE</u>	130
<u>APPENDIX A - CERTIFICATE OF COMPLIANCE WITH DOT CELL-PHONE/TEXTING BANS</u>	140

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 Millville (the “City”) 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 the City of Millville 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 the City; or
- (3) The commercial driver's license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to the Employer 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. The City shall ensure that all covered employees are aware of the provisions and coverage of the City’s CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

CITY OF MILLVILLE SERVICE AGENT CONTACT INFORMATION

DESIGNATED CITY REPRESENTATIVE (DER)

NAME: Pamela A. Shapiro

TITLE: Human Resources Manager
ADDRESS: 12 S. High Street, Millville, NJ 08332
PHONE: 856-825-7000
E-MAIL: pamela.shapiro@millvillenj.gov

HOURS WHEN AVAILABLE: Upon Request

ALTERNATE DESIGNATED CITY REPRESENTATIVE (DER)

NAME: City Administrator

MEDICAL REVIEW OFFICER (MRO)

NAME: Dr. Adam Zucconi
ADDRESS: 352 S. Delsea Drive
Vineland, NJ 08360
PHONE: (856) 690-1616

LABORATORY

NAME: Premier Orthopedic Associates
ADDRESS: 352 S. Delsea Drive
Vineland, NJ 08360

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: To be Determined
ADDRESS:
PHONE:

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: To be Determined
ADDRESS:
PHONE:

THE CITY OF MILLVILLE'S INDEPENDENT AUTHORITY

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

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

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

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

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

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that the City of Millville 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). The City 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. The City 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 Millville 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 the employer 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 the City of Millville that a driver has used alcohol or controlled substances based on the City's direct observation of the employee, information provided by the driver's previous City(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 the employer 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 the employer. 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 City, consistent with applicable DOT agency regulations, after being directed to do so by the City.

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

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

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests

required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

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

OTHER REQUIREMENTS IMPOSED BY THE CITY OF MILLVILLE 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 the City, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. *Accordingly, the City may adopt, under its own authority, a Non-DOT drug and alcohol testing program.*

REQUIREMENT FOR NOTICE 382.113

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

STARTING DATE FOR TESTING PROGRAMS 382.115

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

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

DRIVER IDENTIFICATION 382.123

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

EMPLOYEE ASSISTANCE PROGRAM

The City of Millville

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

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If the City 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. The City 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 the City 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. The City shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

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

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

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

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions

of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) The City of Millville 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) The City of Millville may require a driver to inform the City of any therapeutic drug use.

All drivers of the City 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 the City of Millville 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 to the City 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 the City 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. The City of Millville, 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'S 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 the City of Millville), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the City 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.

THE CITY OF MILLVILLE RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

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

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for the City, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the City uses the exception in paragraph (b) of this section. The City shall not allow a driver, who the City intends to hire or use, to perform safety-sensitive functions unless the City has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. The City 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, the City shall accept the result as a negative test.

(b) The City of Millville 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 the City) or
 - (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the City of Millville and

(3) The City of Millville ensures that no prior City of the driver of whom the City of Millville has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.

(c) (1) If the City of Millville exercises the exception in paragraph (b) of this section, the City 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 the City of Millville 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 the City cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, the City shall conduct a pre-employment controlled substances test.

(d) The City of Millville may, but is not required to, conduct pre-employment alcohol testing under this policy. If the City 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, the City of Millville 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, the City of Millville shall test for controlled substances for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

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

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

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, the City of Millville 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, the City 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, the City of Millville 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 the City of Millville 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) The City of Millville 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 the City of Millville.

(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 The City of Millville.

(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 the City of Millville 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) The City of Millville shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
(2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
- (c) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
(2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
(3) Each driver selected for testing shall be tested during the selection period.
- (d) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, the City of Millville, 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 the City's random testing pool, and all covered drivers must be in the random pool. If the City conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) the City does not need to compute this total number of covered drivers rate more than on a once per month basis.

(2) The City of Millville 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, the City must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool.
- (e) (1) The City of Millville shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
(2) The City of Millville shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.
- (f) The City of Millville 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, the City shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
- (g) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- (h) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the City of Millville, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(i) If the City of Millville is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the City 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 The City of Millville is subject.

REASONABLE SUSPICION 382.307

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

(b) The City of Millville 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. The City of Millville'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 the City of Millville who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving City premises driving a motor vehicle.*

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with the Federal regulation. A driver may be directed by the City of Millville 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, the City of Millville 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, the City of Millville 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 the City of Millville 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, the City of Millville 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 the City of Millville 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 the City of Millville 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. The City of Millville shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. The City of Millville 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 the City of Millville 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) The City of Millville's copy of the alcohol test form, including the results of the test,

- (ii) The City of Millville's copy of the controlled substances test chain of custody and control form,
- (iii) Documents sent by the MRO to the City of Millville, 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 employer's alcohol or controlled substances test results that the City of Millville.

- (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 the City of Millville'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 the City of Millville'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) The City of Millville'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 the City'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) The City of Millville 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 the City of Millville or any of its drivers.

(b) If the City of Millville is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report the City's annual calendar year summary information, the City shall prepare and submit the report to the FMCSA by March 15 of that year. The City of Millville shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. ***Entity Name*** 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). The City of Millville may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard copy, for MIS form submission. For information on the electronic version of the form, see:

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

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

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

(d) If the City of Millville 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 the City of Millville) 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. The City of Millville 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 the City of Millville However, a **City** official (e.g., Designated City representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS 382.405

(a) Except as required by law or expressly authorized or required, the City of Millville 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. The City of Millville 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) The City of Millville 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 the City of Millville or any of its drivers.

(d) The City of Millville 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 employer and any other information pertaining to the employer'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 the City of Millville or any of its drivers.

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

(i) The City of Millville must disclose information related to the City'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, the City of Millville shall disclose information related to the City'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 City is permitted only as expressly authorized by the terms of the driver's request.
- (h) The City of Millville 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) The City of Millville 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 THE CITY OF MILLVILLE 382.407

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

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

- (a) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.
- (b) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and canceled controlled substances test results.
- (c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit an 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.

CITY NOTIFICATIONS 382.411

- (a) The City of Millville 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. The City of Millville 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. The City shall also inform the driver which controlled substance or substances were verified as positive.

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

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

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

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

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the City 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) The City of Millville shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if the City of Millville 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. The City of Millville 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 the City of Millville, including driving a commercial motor vehicle, nor shall the City 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, the City of Millville 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 the City of Millville with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on City's property, or in any of the City's vehicle, or on City'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 the City's personnel when contacted. Failure to advise the City 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

The City of Millville 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

THE CITY’S OF MILLVILLE OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

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

(1) The City of Millville 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) The City of Millville 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 the City of Millville 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 workday the driver is required to be in compliance with the policy; (*PERIOD OF THE WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Controlled substance use pursuant to § 382.213;

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

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

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

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

(e) *Certificate of receipt.* The City 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. The City shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

The City of Millville 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 the City of Millville’s Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of the City’s efforts to meet its *Employer’s 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) The City 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) The City 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) The City 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, the City 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 the City whether there is information about the individual driver in the Clearinghouse, but will not release that information to the City. 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 City must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the City fails to conduct a full query within 24 hours, the City must not allow the driver to continue to perform any safety-sensitive function until the City 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 City 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 the City of Millville may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the City 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, an 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's 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's 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's 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's 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) *EMPLOYER.*

(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 the Employer.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver’s drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

(1) The SAP reports to the Clearinghouse the information required in § 382.705(d);

(2) The employer reports to the Clearinghouse that the driver’s return-to-duty test results are negative;

(3) The driver’s current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and

(4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver’s drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

(1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.

(2) Information about a particular driver’s drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. *Exception:* No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer’s use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from

the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

(c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

(c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.

(d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(e) (4) As of January 6, 2023, Employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) *Exceptions.*

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

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

(ii) [*Reserved*]

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Attachment A

City of Millville

Commercial Motor Vehicle Driver's

Certificate of Compliance with DOT Cell-Phone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

*Except as prohibited under City policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.*

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. The City can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by the City to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

APPENDIX B

**Policy Addressing the
Protection and Safe Treatment
of Minors And F.A.Q.'s**

(Updated on 6/15/2021 from 7/10/20)



Policy Addressing the Protection and Safe Treatment of Minors

I. Purpose and Scope:

Under New Jersey law (N.J.S.A. 9:6-8.21), 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. Fifty thousand 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 four 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, 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.*** However, it is important 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 seven out of every eight molesters are male, they match the general population in ethnicity, religion, education, and marital status. So there is no stereotype, especially since abusers go to great lengths to blend in. However, only 10% 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 their 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 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 anymore, 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 N.J. 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 **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 Millville (hereinafter the "City") is committed to the safety of all individuals in its community. However, the City has a particular concern for those who are potentially vulnerable, including minor children. The City 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 is 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 is fully committed to protecting the health, safety, and welfare of minors who interact with officials, employees, and volunteers of the City to the maximum extent possible. These Policy and Procedures establish the guidelines for officials, employees, and volunteers who set policy for the City or may work with or interact with individuals under 18 years of age, and those who supervise employees, and volunteers who may work with or interact with individuals under 18 years of age, with the goal of promoting the safety and wellbeing of minors.

This Model Policy provides guidelines that apply broadly to interactions between minors and officials, employees, and volunteers in programs operated by the City 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 (local unit type), 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 N.J. Department of Children and Families and law enforcement at the same time by the individual designated by the (local unit type) to report all possible cases of abuse.
- **Employees, Staff, or Counselors** – persons working for the (local unit type) on a full-time or part-time basis, and compensated by the (local unit type).

- **Facilities** - Facilities owned by, under the control of, or rented or leased to the (local unit type).
- **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.
- **N.J.M.E.L. JIF**-New Jersey Municipal Excess Liability Fund Joint Insurance fund
- **Officials** – Elected officials of the (local unit type), appointed Board members, and Authority Commissioners
- **One-On-One Contact** - Personal, unsupervised interaction between any Authorized Adult and a participant without at least one other Authorized Adult, parent, or legal guardian being present.
- **Programs** - Programs and activities offered or sponsored by the (local unit type).
- **Volunteers**-Individuals volunteering their time to provide services to the (local unit type) who are not on the payroll and receive no compensation.

III. **Policy:**

The City 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 is firmly committed to protecting children under the care and supervision of the City from all forms of physical, mental, sexual, and emotional abuse. The City is committed to establishing and implementing safeguards to eliminate opportunities for abuse of children entrusted to the care of the City. The procedures outlined below shall apply to all officials, employees, and volunteers of the City.

IV. **Recruitment and Hiring of Employees and Vetting of Individuals Volunteering Their Time:**

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

- a. National Database Criminal History Search
- b. National Sex Offender Search
- c. Social Security Trace/Validation

2. For full-time employees in supervisory positions involving minors:

- a. National Database Criminal History Search
- b. National Sex Offender Search
- c. Social Security Trace/Validation
- d. Education Verification
- e. Employment Verification
- f. Credit Check
- g. Motor Vehicle Record
- h. Reference Check

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

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

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

Written documentation of the background check shall be maintained by the (local unit type) in perpetuity.

- ii. Background checks that disclose any negative or questionable results must be reviewed and approved by the (local unit type) ***prior to*** the individual being hired and/or working with minors. **Provisional hiring should not be permitted.**
- iii. All prospective employees and volunteers must complete the training adopted by the (local unit type) ***PRIOR TO*** starting employment or volunteer service. **In addition to completing the training course adopted by the (local unit type),** it is highly recommended that all volunteer coaches complete the Rutgers SAFETY Clinic course (*Sports Awareness for Educating Today's Youth*™), which is a three-hour program that meets the "Minimum Standards for Volunteer Coaches Safety Orientation and Training Skills Programs" under (N.J.A.C. 5:52) and provides partial civil immunity protection to volunteer coaches under the "Little

League Law" (2A:62A-6 et. seq.) The current Rutgers Safety Clinic Course includes a module on the sexual abuse of minors. If coaches completed the Rutgers course more than five years ago and it did not have any training on the sexual abuse of minors, it is highly recommended that the coaches be required to watch the video on the MEL website. Documentation verifying that the coaches watched and understood their responsibilities must be kept to confirm that the training was completed.

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

V. Procedures and Responsibilities of Officials:

Under New Jersey Law, an official may be held liable for the abuse or neglect of a child if he or she fails to implement appropriate safeguards to protect the child while the minor has been entrusted to the care of the City. 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 (local unit type).

- Officials of the City are required to :
- i. Complete the initial training course adopted by the City and any updated/refresher course, in order to better understand their legal duties and responsibilities under Federal and N.J. State Law. The training program will include the following concepts:
 - Recognizing the signs of abuse and neglect of minors.
 - Establishing guidelines for protecting minors from emotional and physical abuse and neglect.
 - Understanding and being prepared to implement the procedures necessary to eliminate opportunities for abuse.

- Becoming familiar with the legal requirements to report suspected cases of abuse.
 - Fully understanding the legal consequences for not being diligent in making certain that employees of the City 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

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 potentially interact with minors, shall adhere to the following policy.

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

- a. Establish a written procedure for the notification of the minor's parent/legal guardian in case of an emergency, including medical or behavioral problems, natural disasters, or other significant program disruptions. Authorized Adults with the program, as well as participants and their parents/legal guardians, must be advised of this procedure in writing prior to the participation of the minors in the program. In addition, the City shall provide information to parents or legal guardians detailing the manner in which the participant can be contacted during the program.
- b. Make certain that all program participants provide a **Medical Treatment Authorization form annually** to the City.
- 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 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 cyberbullying is prohibited and will be addressed immediately.
- No theft of property will be tolerated.
- No use of tobacco products will be tolerated.
- Misuse or damage of the City property is prohibited. Charges will be assessed against those participants who are responsible for damage or misuse of property.
- The inappropriate use of cameras, imaging, and digital devices is prohibited, including the use of such devices in showers, restrooms, or other areas where privacy is expected by participants.
- Under no circumstances are any images of any child taken during any of the activities conducted or sponsored by the City to be shared on any social media platform without the expressed written consent of a parent or legal guardian.
- If possible, the City shall assign a staff member who is at least 21 years of age to be accessible to participants. Additional Authorized Adults will be assigned to ensure one-on-one contact with minors does not occur, and that appropriate levels of supervision are implemented.
- Take appropriate steps to ensure that children are not released to anyone other than the authorized parent, guardian, or other adult authorized by the parent or guardian. This shall include annual written authorization on file in advance.
- Develop and make available to participants and their parents or guardians, the rules and discipline measures applicable to the program. Program participants and staff must abide by all regulations and may be removed from the program for non-compliance with the rules.
- The **recommended** ratio of counselors to program participants should reflect the gender distribution of the participants, and should meet the following:
 1. One staff member for every six participants ages 4 and 5
 2. One staff member for every eight participants ages 6 to 8
 3. One staff member for every ten participants ages 9 to 14
 4. One staff member for every twelve participants ages 15 to 17

- The Responsibilities of the counselors must include, at a minimum, informing program participants about safety and security procedures, rules established by the program, and behavioral expectations. Counselors are responsible for following and enforcing all of the rules and must be able to provide information included herein to program participants and be able to respond to emergencies.

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

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

VII. Procedures for Law Enforcement Officers:

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

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

- a. **Transporting minors in a police vehicle.** Whenever possible, victims or alleged victims of sexual assault or other crimes, or minors removed from a situation for protective purposes, shall be transported by two officers (at least one of whom shall be of the same sex as the victim) in unmarked vehicles that does not have a prisoner compartment/partition. Officers transporting a minor for whatever reason shall document starting and stopping mileage through radio contact.
- b. Directives issued by the N.J. State Attorney General pertaining to interaction with minors shall be incorporated into the policy.

- c. The following provisions from the "**Code of Conduct**" for counselors shall be included in the policy for officers assigned to work in school settings (i.e., Class 3 officers):
- i. Officers will, at all times, respect the rights of students and use positive techniques of guidance, including positive reinforcement and encouragement.
 - ii. Officers will portray a positive role model for youth by maintaining an attitude of respect, loyalty, patience, courtesy, tact, and maturity.
 - iii. Officers shall not transport children in their own vehicles. Officers shall not arrange to see students outside of school, and this includes babysitting, sleepovers, and inviting children to their home. Any exceptions require a written explanation before the fact and approval of the Chief.
 - iv. Officers shall make certain that they are neat, clean, and appropriately attired.
 - v. Officers will refrain from intimate displays of affection towards others in the presence of children, parents, and staff. Officers shall not buy gifts for students at any time.
 - vi. All officers are required to complete the initial training course offered by the NJMEL JIF, and any refresher courses as well.

VIII. Training Requirements:

Individual training courses have been designed for each of the following categories, and **all** officials, employees, and volunteers of the City are required to complete training (and refresher course training) adopted by the City. ALL employees of the City 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 and individual trainees also keep copies of their own training records.

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

All elected officials, appointed officials, department heads, and supervisors shall complete the **initial virtual training course** offered by the NJMEL, **"PROTECTING CHILDREN FROM ABUSE"** and adopted by the City of Millville and any updated/refresher course in order to better understand their

legal duties and responsibilities under Federal and N.J. State Law. The course includes the following:

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

b. **Volunteers and Employees of the CITY OF MILLVILLE**

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

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

i. Course Content shall include:

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

c. **Law Enforcement Officers**

i. Course Content shall include:

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

IX. Reporting Suspected Child Abuse/Neglect:

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

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

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

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

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

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

- Report the suspected abuse to the New Jersey Department of Children and Families. Please be prepared to include the following information to the extent the information has been told to you.
 - a. **Who:** The child and parent/caregiver's name, age, and address and the name of the alleged perpetrator and that person's relationship to the child.

- b. **What:** Type and frequency of alleged abuse/neglect, current or previous injuries to the child, and what caused you to become concerned.
- c. **When:** When the alleged abuse/neglect occurred and when you learned of it.
- d. **Where:** Where the incident occurred, where the child is now, and whether the alleged perpetrator has access to the child.
- e. **How:** How urgent the need is for intervention and whether there is a likelihood of imminent danger for the child.

- Call the Hotline established by the N.J. Department of Children and Families @ 1-877-652-2873. It is not the supervisor's role to decide whether a case should be reported. All cases shall be reported.

➤ For ***Law Enforcement Officers:***

- Immediately report any suspected or alleged cases of abuse or neglect to the New Jersey Department of Children and Families and to the County Prosecutor.

X. Important Information Regarding Reporting Suspected Abuse Under NJ Law:

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

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

XI. Acknowledgment of Receipt and Review of Policy:

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

ATTACHMENT 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 	<p>Wary of adult contacts Apprehensive when other children cry</p> <p>Behavioral extremes:</p> <ul style="list-style-type: none"> • Aggressiveness • Withdrawal <p>Frightened of parents Afraid to go home Reports injury by parents</p>

<ul style="list-style-type: none"> To external genitalia 	
---	--

Physical Neglect

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

Sexual Abuse

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

Emotional Maltreatment

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

ATTACHMENT 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.