

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 37, “PERSONNEL POLICIES”
PART I, “GENERAL PERSONNEL PRACTICES” ARTICLE I, “PROCEDURES TO ADOPT
PERSONNEL PRACTICES” & PART II “POLICIES AND PROCEDURES” ARTICLES II
THROUGH VII OF THE CODE OF THE BOROUGH OF KENILWORTH.**

WHEREAS, on March 29, 2009 the Borough of Kenilworth Municipal Council adopted Ordinance 2009-03 amending its Personnel Policies; and

WHEREAS, the Borough of Kenilworth Municipal Council is in the process of amending Chapter 5, “Administration of Government”, Article V., “Appointive Officials”, Subsection 42, “Personnel Supervisor” & Subsection 43, “Administrative Officer” to clarify the roles of each respective position; and

WHEREAS, the Borough of Kenilworth Municipal Council finds that it is in the best interests of the Borough and its citizenry to amend and modify such sections of its Personnel Policies as set forth in the Borough Code so that they are consistent with its amendments to Chapter 5;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, New Jersey as follows:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

Note: Additions are shown in **bold and underlined** and deletions are shown as **strikethrough**.

Part 1

General Personnel Practices

Procedures to Adopt Personnel Practices

Article I

§ 37-1 Titles and salary ranges.

The governing body of the Borough of Kenilworth shall by ordinance establish titles for public employment by the Borough and salary ranges for Borough employees.

§ 37-2 Adoption and amendment of policies; applicability.

The governing body shall by resolution adopt and amend from time to time personnel policies and procedures, including rules concerning the hiring and termination of employees, terms and conditions of employment, and regulations required to comply with applicable federal and state employment-related law.

The personnel policies and procedures adopted pursuant to said resolution(s) shall be applicable to all officials, appointees, employees, prospective employees, volunteers and independent contractors of the Borough.

§ 37-3 Implementation and enforcement; conflict with other provisions.

The Borough ClerkAdministrative Officer shall be responsible to implement and enforce the personnel practices adopted by ordinance or resolution authorized pursuant to this article. If there is a conflict between said personnel practices and any duly adopted and lawful collective bargaining agreement, personnel services contract or federal or state law, the terms and conditions of that contract or law shall prevail.

Part 2

Policies and Procedures

Article II

General Provisions

§ 37-4 General policy.

A. It is the policy of the Borough of Kenilworth to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations. The personnel policies and procedures of the Borough shall apply to all employees, volunteers, elected or appointed officials and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract, or federal or state law, including the Attorney General's guidelines with respect to Police Department personnel matters, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

B. All employees, officers and department heads shall be appointed and promoted by the governing body. No person shall be employed or promoted unless there exists a position created by an ordinance adopted by the governing body as well as the necessary budget appropriation and salary ordinance.

C. The Borough-Clerk Administrative Officer and all managerial/supervisory personnel are authorized and responsible for personnel policies and procedures. The governing body has appointed the Borough's Chief Financial Officer to assist the Borough-Clerk Administrative Officer to implement personnel practices. The Borough-Clerk Administrative Officer and the Borough Chief Financial Officer shall also have access to the Borough's Labor Counsel appointed by the governing body from time to time for guidance in personnel matters.

D. As a general principle, the Borough has a "no tolerance" policy towards workplace wrongdoing. Borough officials, employees and independent contractors are to report anything perceived to be improper. The Borough believes strongly in an open door policy and encourages employees to talk with their supervisor, department head, Clerk Administrative Officer, governing body's liaison to the appropriate Borough department, and/or Chief Financial Officer concerning any problem.

E. The Personnel Policies and Procedures Manual adopted by the governing body is intended to provide guidelines covering public service by Borough employees and is not a contract. This manual contains many, but not necessarily all, of the rules, regulations, and conditions of employment for Borough personnel. The provisions of this manual may be amended and supplemented from time to time without notice and at the sole discretion of the Borough.

Article III

Employee Rights and Obligations Policies

§ 37-5 Antidiscrimination.

The Borough is committed to the principle of equal employment opportunity pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972. Under no circumstances will the Borough discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, disability, or sexual orientation. Decisions regarding hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employees or prospective employees feel they have been treated unfairly, they have the right to address their concern with their supervisor, or, if they prefer, their department head, Borough Clerk Administrative Officer, or the Personnel Finance Committee of the governing body.

§ 37-6 Americans with Disabilities Act.

A. In compliance with the Americans with Disabilities Act and the New Jersey Law Against Discrimination, the Borough does not discriminate based on disability. The Borough will endeavor to make every work environment handicap accessible, and all future construction and renovation of facilities will be in accordance with applicable barrier-free federal and state regulations and the Americans with Disabilities Act Accessibility Guidelines.

B. The Administrative Officer Borough-Clerk shall initiate an interactive dialogue with disabled employees and prospective employees to identify reasonable accommodations that do not create a hardship. Accommodations include modifications to facilities, equipment and work procedures, auxiliary aides, services and permanent reassignment to vacant positions. Employees who are reassigned to a different position shall receive the salary of their new position. Accommodations shall not be unduly expensive, extensive and disruptive or fundamentally alter the nature of the operation. The Act does not require the Borough to offer permanent "light duty," relocate essential functions or provide personal-use items such as eyeglasses, hearing aids, wheelchairs, etc. To be eligible for accommodations, individuals must 1) be able to perform the essential function of the position, 2) not create a real safety hazard to themselves, co-employees or the public, and 3) be otherwise qualified for the position in that they possess the prerequisites, including education, experience, training, skills,

licenses or certificates and other job-related requirements. All decisions with respect to accommodations shall be made by the Borough Clerk/Administrative Officer or the governing body as appropriate.

§ 37-7 Contagious or life-threatening illnesses.

A. The Borough of Kenilworth encourages employees with contagious diseases or life-threatening illnesses such as cancer, heart disease, Hepatitis C and HIV/AIDS to continue their normal pursuits, including work, to the extent allowed by their condition. As in the case of other disabilities, the Borough shall make reasonable accommodations in accordance with legal requirements to allow qualified employees with contagious or life-threatening illnesses to perform the essential functions of their jobs as long as they are able to meet acceptable performance standards.

B. Medical information shall be treated confidentially. The Borough will take reasonable precautions to protect such information from inappropriate disclosure. 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.

C. Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact the Borough Clerk/Administrative Officer.

§ 37-8 Safety.

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

B. The Borough 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.

§ 37-9 Temporary reassignment of duties.

A. Background.

(1) Workers' compensation laws provide lost wages and medical expenses to employees who are injured as a result of an on-the-job accident, injury, or occupational disease. Workers' compensation is designed to protect employees and their dependents against hardships from injury or death arising from the work environment. All permanent and temporary employees of the Borough of Kenilworth ("Borough") are covered by workers' compensation insurance.

(2) In an effort to continue to provide innovative and quality service to its employees, the Borough is pleased to provide a Temporary Reassignment of Duties Program ("program"). The program is designed to assign duties and responsibilities to employees covered by the workers' compensation laws which are consistent with specific medical restrictions, which will provide the Borough with increased efficiency from its work force, as well as provide higher self-esteem for affected workers.

(3) The program is intended for those employees who have been injured on the job, and who, under medical authorization, may return to work in a limited capacity.

(4) Issues arising under the Family Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA) or the New Jersey Law against Discrimination (LAD) are not covered by this policy. Those issues shall be handled in accordance with law.

B. Description of the program. The program is designated to provide temporary modified or alternate work assignments, where available, to employees who are deemed temporarily unable to perform their regular work duties or assignment due to a work-related illness or injury. This procedure will allow employees who are not fully capable of resuming their job responsibilities to return to a work assignment that is tailored to the individual's temporary limitations.

C. Objective of the program.

(1) To return employees to work who have been injured on the job. These employees may temporarily perform duties to assist the Borough in providing services to the general public. The job duties must have requirements consistent with the employee's health limitations as certified by a physician.

(2) To lower the absenteeism rate.

- (3) To minimize the negative psychological impact due to being out of work, and to provide a transition and adjustment for returning to work.
- (4) To create a safe work environment and sound safety practices.
- (5) To reduce disruption of the work schedule.
- (6) To assist employees in returning to their regular job duties at full capacity.
- (7) To increase the productivity of the Borough's work force. In order to assist the Borough to continue to provide services to its citizens, it is the Borough's policy to have these employees who are not totally disabled come to work and perform those functions which they are able to perform.

D. Benefits of the program.

- (1) Increased morale. The program allows injured workers to feel needed in their job. This increases morale.
- (2) Productivity. The program allows employees who are temporarily reassigned to perform tasks regardless of whether there are other personnel available to do them.
- (3) Self-esteem. The program keeps employees motivated and mobile, makes them feel productive and facilitates the healing process.

E. Administration of the program.

- (1) The program shall be administered by the employee's department head in conjunction with the Borough's PersonnelFinance Committee.
- (2) Employees injured on the job are required to be examined by a health care provider authorized to treat the workers' compensation injury ("authorized physician"). Employees may be required to report to the authorized physician with their job description to enable the physician to ascertain what duties the employee is able to perform until the employee has been medically cleared to return to full duty. The Borough will not accept a nonauthorized physician's recommendation, nor will the Borough reimburse an employee under this policy for treatment by a nonauthorized physician.
- (3) The authorized physician's report(s) shall be reviewed to determine appropriate reassignment. The final determination of the employee for the alternate or modified assignments will be that of the PersonnelFinance Committee.
- (4) There shall be regular communication among the PersonnelFinance Committee, the department head, the employee, the authorized physician(s), and the workers' compensation carrier and administrator throughout the course of treatment and recovery.
- (5) The Borough shall maintain documentation regarding employee status in the program.
- (6) Within 10 working days after an employee commences a temporary reassignment, and periodically thereafter, a review shall be performed to determine the appropriateness of continuing the temporary reassignment.
- (7) All employees shall be given a copy of this policy. The policy shall be maintained in the Borough's Policy Manual.
- (8) The PersonnelFinance Committee, in conjunction with the workers' compensation carrier or administrator, must notify the authorized physicians about the program.
- (9) All reassignments under this policy are temporary. There are no permanent modified or alternate work assignments.
- (10) The Borough reserves the right to require an employee returning from temporary reassignment under this policy to submit to a fitness-for-duty examination.

F. Employee requirements.

- (1) Employees are required to perform the job tasks they are assigned pursuant to this program.
- (2) Employees are required to cooperate with and follow their supervisors' directions.
- (3) Employees are required to attend all appointments with authorized physicians.
- (4) Employees must provide all authorized physicians' notes and reports to their department head. The department head shall provide a copy of all authorized physicians' notes to the Personnel Finance

Committee.

(5) An employee who rejects temporary reassignment may become ineligible for workers' compensation benefits. In addition, once an employee's entitlement to leave pursuant to the FMLA has been exhausted, the employee who rejects temporary reassignment will be subject to disciplinary action, up to and including termination.

G. Assignment of job tasks.

(1) Temporary reassignment will be determined in conjunction with the limitations set forth by authorized physician(s).

(2) Temporary reassignments will be handled on a case-by-case basis.

(3) There shall be regular communication between the PersonnelFinance Committee and the employee's department head. The department head shall notify and coordinate with the PersonnelFinance Committee regarding the tasks that have been assigned to an employee.

(4) Upon request by the PersonnelFinance Committee, supervisors shall provide a list of assignments that are in need of being done which feasibly may be completed by an employee on modified duty.

(5) There is no restriction on the location or type of temporary reassignment, provided it is consistent with the limitation detailed by the Borough authorized physician and assists in continuing to provide services to the Borough's citizens.

H. Compliance with laws. The program shall be interpreted to be consistent with the FMLA, ADA and the LAD, and all other laws. To the extent any provision in the program conflicts with any federal or State of New Jersey law, the law shall control, but the balance of the program shall remain in effect.

§ 37-10 Drugs and alcohol.

A. The Borough recognizes that the use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is intoxicated or under the influence of alcohol or drugs during working hours shall be immediately suspended and subject to termination. The supervisor or department head will immediately report any suspensions to the Borough Clerk Administrative Officer.

B. Employees using prescription drugs that may affect job performance or safety must notify their supervisor or department head, who is required to maintain the confidentiality of any information regarding an employee's medical condition. Borough personnel who hold a commercial driver's license (CDL) are subject to the provisions of the Commercial Driver's Licenses Drug and Alcohol Testing Policy.

§ 37-11 Workplace violence.

A. The Borough will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Borough property, at Borough events or under other circumstances that may negatively affect the Borough's ability to conduct business.

B. Prohibited conduct includes:

- (1) Causing physical injury to another person;
- (2) Making threatening remarks;
- (3) Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- (4) Intentionally damaging employer property or property of another employee;
- (5) Possession of a weapon while on Borough property or while on Borough business, except with the authority of the Police Chief; and
- (6) Committing acts motivated by, or related to, sexual harassment or domestic violence.

C. Any potentially dangerous situations must be immediately reported. The Borough will actively intervene in any potentially hostile or violent situation.

§ 37-12 General anti-harassment.

The Borough will not tolerate harassment in the workplace, including harassment motivated by sex, race, creed, color, religion, national origin, ancestry, age, nationality, marital or political status, disability or sexual orientation. Borough officials, appointees, managers, supervisors, employees, volunteers and outside

contractors alike must comply with this policy and take appropriate measures to insure that such conduct does not occur. Violations of this policy will result in disciplinary action up to and including discharge or, in the event nonemployees are found to be at fault, other appropriate action. Employees who feel they have been subject to harassment must report the harassment to their supervisor, or, if they prefer, to the department head, Borough Clerk Administrative Officer or the Personnel Finance Committee of the governing body.

See the employee Complaint Policy.

§ 37-13 Anti-sexual harassment.

A. As a part of the Anti-Harassment Policy, the Borough also strictly prohibits sexual harassment, including, but not limited to:

- (1) Making unwelcome sexual advances or requests for sexual favors a condition of employment;
- (2) Making submission to or rejection of such conduct the basis for employment decisions affecting the employee;
- (3) Creating an intimidating, hostile or offensive working environment by such conduct;
- (4) Making unwelcome, offensive remarks or engaging in physical contact with a subordinate or fellow employee that would not have been made but for the employee's sex or which is sexually oriented to the extent that it would not occur but for the fact of the employee's gender; or
- (5) Harassment based solely on gender, which creates a hostile and offensive work environment.

B. Sexual harassment may take different forms. One specific form is a demand for sexual favors. Other forms of harassment include, but are not limited to:

- (1) Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats;
- (2) Suggestive objects or pictures, graphic commentaries, e-mails, suggestive or insulting sounds, leering, whistling, obscene gestures;
- (3) Unwanted physical contact, including touching, pinching, brushing the body, pushing; or
- (4) Nonsexual conduct such as intimidation and hostility based solely upon gender.

C. Employees who feel they have been subject to sexual harassment must report the harassment to their supervisor, or, if they prefer, to the department head, Borough Clerk Administrative Officer or the Personnel Finance Committee of the governing body. See the employee Complaint Policy.

§ 37-14 Whistle-blowers.

A. Employees have the right to complain of anything they perceive to be improper. This right shall be communicated to all employees in a letter outlining the specific employee complaint procedure. A written acknowledgement that the employee received this letter will be included in the employee's official personnel file. This right will also be communicated in the employee handbook. All complaints will be taken seriously and promptly investigated.

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

- (1) Disclosing or threatening to disclose to a supervisor, department head, the Borough Clerk, Administrative Officer, other official or to a public body, as defined in the Employment Protection Act (N.J.S.A. 34:19), an activity, policy or practice that the employee reasonably believes is in violation of law, a rule or regulation promulgated pursuant to law;
- (2) Providing information to or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or
- (3) Objecting to or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of a law, rule or regulation promulgated pursuant to law; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare.

C. In accordance with the statute, the employee must bring the violation to the attention of the Borough. However, disclosure is not required where 1) the employee is reasonably certain that the violation is known to one or more officials; 2) where the employee reasonably fears physical harm; or 3) the situation is emergency in nature. Employees are encouraged to complain in writing using the employee complaint form but may make a verbal complaint at their discretion. See the employee Complaint Policy. Under the law, the employee must give the Borough a reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations in the Grievance Policy. In accordance with the statute, a copy of this policy will be posted

in all facilities.

§ 37-15 Employee complaints.

Employees who wish to complain of harassment or any other workplace wrongdoing are requested to immediately report the matter to their supervisor, or, if they prefer, to their department head, the **Borough Clerk** or the **PersonnelFinance** Committee of the governing body. Employees are encouraged to complain in writing using the employee complaint form but may make a verbal complaint at their discretion. No retaliatory measures shall be taken against any employee who complains of workplace wrongdoing. The Borough will, to the maximum extent feasible, maintain the confidentiality of such complaints on a need-to-know basis. However, investigation of such complaints may require disclosure to the accused party and other witnesses in order to gather pertinent facts.

§ 37-16 Grievances.

A. A "grievance" is any formal dispute concerning the interpretation, application and enforcement of any personnel policy or procedure of the Borough. Grievances from union employees will be handled pursuant to the terms of the applicable bargaining unit agreement. All grievances from nonunion employees must be presented within five working days after arising and failure to report a grievance within such time shall be deemed as a waiver of the grievance. In the event of a settlement or ruling that results in a determination of monetary liability, such liability shall not exceed more than 30 working days prior to the date the grievance was first presented in writing.

- (1) Step 1. Any employee or group of employees with a grievance shall verbally communicate the grievance to the supervisor or department head. The supervisor or department head will communicate the decision to the employee within two working days.

(2) Step 2. If the employee is not satisfied with the decision, the employee must submit a written grievance to the **Borough ClerkAdministrative Officer** detailing the facts and the relief requested. The decision in Step 1 will be deemed final if the employee fails to submit a written grievance within five working days of the Step 1 decision. Upon receipt of such written grievance, the **Borough ClerkAdministrative Officer** shall schedule a hearing before the governing body, or its designee, within 21 days of receipt of the written grievance. The governing body, or its designee, shall render a decision within 15 working days after such meeting is held, which decision shall be in writing and either hand-delivered or mailed to the employee and the department head. The decision of the governing body shall be final, subject, however, to any other rights or remedies to which the employee may be entitled under state and federal law. The governing body may appoint a hearing officer for the purpose of hearing any grievance at Step 2.

- B. These limitations do not apply to employee complaints made under the General Anti-Harassment Policy, the Anti-Sexual Harassment Policy or the Whistle-Blower Policy.

§ 37-17 Access to personnel files.

The official personnel file for each employee shall be maintained by the **Borough ClerkAdministrative Officer**. 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. Any employees may review their file in the presence of the **Borough ClerkAdministrative Officer** upon reasonable request.

§ 37-18 Conflicts of interest.

- A. Employees, including Borough officials, must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Borough. Violations of this policy will result in appropriate discipline, including termination.
- B. The Borough recognizes the right of employees to engage in outside activities that are private in nature and unrelated to Borough business. However, business dealings that appear to create a conflict between the employee and the Borough's interests are unlawful under the New Jersey Local Government Ethics Act. Under the Act, certain employees and officials are required to annually file with the **Borough ClerkAdministrative Officer** a state mandated disclosure form. The **Borough ClerkAdministrative Officer** will notify employees and Borough officials subject to the filing requirements of the Act.
- C. A potential or actual conflict of interest occurs whenever an employee, including a Borough official, is in a position to influence a Borough decision that may result in a personal gain for the employee or an immediate relative, including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the Borough may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the **Borough ClerkAdministrative Officer** or the Borough Counsel to obtain clarification.

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

E. Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their Borough duties. Under no circumstances shall an employee accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the Borough or any person or firm seeking to influence Borough decisions. Meals and other entertainment valued in excess of \$100 are also prohibited. Employees are required to report to the Borough Clerk Administrative Office any offer of a donation, gratuity, contribution or gift, including meals and entertainment, that is in violation of this policy.

§ 37-19 Political activity.
Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using Borough time, supplies or equipment in any political activity. Any violation of this policy must be reported to the supervisor, department head, Borough Clerk Administrative Officer or the Borough Counsel.

§ 37-20 Employee evaluations.
The department head will complete a written evaluation and appraisal form for every employee to measure progress and to encourage self-improvement at least once a year. The evaluation will also record additional duties performed, educational courses completed as well as a plan to correct any weak points using the employee counseling form. After completing the evaluation, the supervisor or department head will review the results with the employee and return the form(s) with the signed acknowledgment to the Borough Clerk Administrative Officer. After review by the Borough Clerk Administrative Officer, the form(s) are to be included in the employee's official personnel file. As a part of the evaluation, employees have the right to request a conference with the Personnel Finance Committee of the governing body.

§ 37-21 Employee discipline.

A. An employee may be subject to discipline for all of the following reasons:

- (1) Incompetence, inefficiency or failure to perform duties;
- (2) Conviction of a crime;
- (3) Conduct unbecoming a public employee;
- (4) Violation of Borough policies, procedures and regulations;
- (5) Falsification of public records, including personnel records;
- (6) Violation of federal, state or Borough regulations concerning drug and alcohol use and possession;
- (7) Chronie or excessive Excessive absenteeism, attendance violations or lateness;
- (8) Misuse of public property, including motor vehicles; and
- (9) Other sufficient cause.

B. Major disciplinary action includes termination, disciplinary demotion or suspension or fine exceeding five working days. Minor discipline includes a formal, written reprimand or a suspension or fine of five working days or less. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the applicable grievance procedure.

§ 37-22 Employee termination policy.

A. An employee may be terminated depending upon the circumstances for any of the following:

- (1) Incompetence, inefficiency or failure to perform duties;
- (2) Conviction of a crime;
- (3) Conduct unbecoming a public employee;
- (4) Violation of Borough policies, procedures and regulations;

(5) Falsification of public records, including personnel records;

(6) Violation of federal, state or Borough regulations concerning drug and alcohol use and possession;

(7) Chronic or excessive Excessive absenteeism, attendance violations or lateness;

(8) Misuse of public property, including motor vehicles; and

(9) Other sufficient cause.

B. All discharges will be in accordance with federal and state laws, as well as applicable collective bargaining agreements.

§ 37-23 Resignation.

An employee who intends to resign must notify the department head in writing at least two weeks in advance. After giving notice of resignation, employees are expected to assist their supervisor and co-employees by providing information concerning their current projects and help in the training of a replacement. During the last two weeks, the employee may not use paid time off except paid holidays. The department head will prepare an employee action form showing any pay or other money owed the employee. The Borough Clerk/Administrative Officer will conduct a confidential exit interview to discuss benefits, including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee. On the last day of work, and prior to receiving the final paycheck, the employee must return the employee identification card, all keys and equipment. At this time, the employee will sign the termination memo designating all money owed, and this memo will be retained in the official personnel file.

§ 37-24 Work force reduction.

Pursuant to N.J.A.C. 4A:8-1.1, the Borough may institute layoff actions for economic, efficiency or other related reasons, but will first consider voluntary alternatives.

Article IV
Workplace Policies

§ 37-25 Job description.

A job description including qualifications shall be maintained for each position. All job descriptions must be approved by the governing body. The Borough Clerk/Administrative Officer will make copies available upon request.

§ 37-26 Attendance.

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 or when the supervisor and/or Administrative Officer gives prior approval. All absences must be reported to the supervisor prior to the start of the normal workday.

§ 37-27 Early closing and delayed opening.

In the event of unsafe conditions, the Borough Clerk/Administrative Officer may authorize department heads to close operations earlier than the normal working hours. If conditions exist prior to scheduled openings, the Borough Clerk/Administrative Officer shall notify department heads of a delayed opening and a new opening time. Each department will have a calling system in place. If the employee chooses not to report to work, a full vacation day or compensating time will be charged. 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 the Department of Public Works, Police, Fire, Sanitation, Emergency Services or any personnel who may be required to assist in an emergency.

§ 37-28 Breaks.

A. Full-time administrative personnel are entitled to a one-hour lunch that is to be arranged by the supervisor so that offices continue to function. Administrative personnel must arrange breaks so that offices continue to function. Breaks for other employees will be scheduled by the supervisor.

B. Part-time hourly employees who work five or more hours per day are entitled to a 1/2 hour lunch that is to be arranged by the supervisor.

§ 37-29 Dress code.

Dress, grooming and personal hygiene must be appropriate for the position. Uniforms are required for certain jobs and are to be worn in accordance with applicable departmental standards. All other employees are required to dress in a manner that is normally acceptable in similar business establishments and consistent with applicable safety standards. Employees shall not wear suggestive attire, athletic clothing, shorts, sandals, T-shirts, novelty buttons, baseball hats and similar items of casual attire that do not present a businesslike appearance. Hair, sideburns, moustaches and beards must be clean, combed and neatly trimmed.

Shaggy, unkempt hair is not permissible regardless of length. Tattoos and body piercings, other than earrings, may not be visible. The foregoing restriction on tattoos and body piercings shall not be applied to any employee who, as of the date of adoption, shall have such tattoos and/or body piercings, but shall apply as to any additional tattoos and/or body piercings of such employee. With the advance approval of the department head, the Borough will make reasonable religious accommodations that do not violate safety standards. Employees violating this policy shall be required to take corrective action or will be sent home without pay.

§ 37-30 Smoking prohibited.

The New Jersey Legislature has declared that in all governmental buildings, the rights of nonsmokers to breathe clean air supercedes the rights of smokers. In accordance with state law, the Borough has adopted a smoke-free policy for all buildings. Borough facilities shall be smoke free, and no employee or visitor will be permitted to smoke anywhere in Borough buildings. Employees are permitted to smoke only outside Borough buildings and such locations as not to allow the reentry of smoke into building entrances. This policy shall be strictly enforced, and any employee found in violation will be subject to disciplinary action.

§ 37-31 Use of vehicles.

- A. Borough-owned vehicles shall be used only on official business, and all passengers must be on Borough business.
- B. Vehicles may be taken home temporarily only with the advance approval of the department head. When an employee takes home a Borough vehicle, it is to be used only for official Borough business, and any other use is not permitted. Any violation of this policy constitutes cause for disciplinary action.
- C. The foregoing provisions shall be inapplicable to the Chief of Police.

§ 37-32 Telephone usage.

Borough telephones, including cell phones, are for official business, and employees may make a personal call only to inform their family of unexpected overtime. Charges for all other personal calls must be reimbursed to the Borough. The use of hand-held cell phones while driving Borough vehicles or while driving on Borough business is prohibited.

§ 37-33 E-mail, voice mail and Internet usage.

- A. Borough e-mail, voice mail and the Internet are for official business, and use for nonbusiness purposes is prohibited. All e-mail, voice mail and Internet messages are official documents subject to the provisions of the Access to Public Records Act.
- B. The Borough reserves the right to monitor, obtain, review and disclose all e-mail, voice mail and Internet messages for lawful and legitimate reasons. By using Borough e-mail, voice mail and the Internet, each user agrees that the Borough has unrestricted access and the right to disclose all information communicated or stored on the e-mail, voice mail and the Internet for any security, health, employment or other legitimate business reasons. Legitimate reasons also include systems maintenance, message routing, retrieval of business information, troubleshooting hardware and software problems, preventing system misuse, protecting confidential proprietary information, insuring compliance with software license policies and complying with legal and regulatory requests for information.

§ 37-34 Bulletin board.

The bulletin boards located in the Borough administrative building and other facilities are intended for official notices regarding policies, procedures, meetings and special events. Only personnel authorized by the Borough Clerk and or Administrative Officer may post, remove, or alter any notice.

§ 37-35 Use and care of Borough equipment.

- A. All equipment provided to an employee shall be utilized solely for Borough business. Employees shall keep all such equipment in good order and shall immediately notify the department head in the event repair to Borough equipment is required.
- B. In the event an employee shall negligently misplace, lose or damage any Borough-provided cell phone or radio-transmitting equipment, the employee shall be responsible for the payment of the repair or replacement thereof.
- C. Upon termination of employment, all Borough equipment shall be returned to the Borough.

Paid and Unpaid Time Off Policies

Article V

§ 37-36 Scope.

These policies cover nonunion employees. They also cover union employees to the extent that their collective bargaining agreements do not cover these issues.

§ 37-37 Paid holidays.

A. All full-time and part-time employees are entitled to the following paid holidays after completing 180 days of service and provided that the employee worked at least one day during the week in which the holiday falls, unless an employee has received advance approval from his or her department head to take the week in which the holiday falls as a vacation:

(1) New Year's Day.

(2) Martin Luther King's Birthday.

(3) Presidents Day.

(4) Good Friday.

(5) Memorial Day.

(6) Independence Day.

(7) Labor Day.

(8) Columbus Day.

(9) Veterans Day.

(10) Election Day.

(11) Thanksgiving Day.

(12) Day after Thanksgiving.

(13) Christmas Day.

B. A holiday falling on a Saturday will be observed on the preceding Friday, and a holiday falling on a Sunday will be observed on the following Monday.

C. Holiday pay paid to part-time hourly employees shall be based on their straight time hourly rate and shall be based on the average number of hours worked by such employees during the immediately preceding 90 days.

§ 37-38 Vacation leave.

A. Full-time employees.

(1) Vacation is an accrued benefit based on the following schedule:

One through seven years of service: two weeks;

After completion of seven years of service through 14 years: three weeks;

After the completion of 14 years of service through 19 years: four weeks; and

After the completion of 19 years: five weeks.

(2) Except as may be otherwise agreed by the department head, during the months of July and August vacations must be taken in one-week increments and with as far advance notice to the department head as is practical and must be approved by the department head. In all other events, employees must receive their department head's approval at least two weeks in advance of the first vacation day.

(3) A full-time employee appointed on or before May 4, 2022, shall be entitled to a minimum of three weeks of vacation leave regardless of their years of service.

(4) At the time of appointment, the Mayor and Council may credit a person being appointed with one or more years of service based upon that person's prior related professional experience

solely for purposes of calculating his or her vacation leave accrued while employed with the Borough under this Section. No such credit shall be guaranteed to a new appointment, and any credit provided to a new employee shall be in the sole discretion of the Mayor and Council based on the hiring needs of the Borough.

B. Part-time employees.

(1) All part-time hourly employees hired prior to January 1, 2009, shall be entitled to vacation based on the same schedule as full-time employees.

(2) All part-time hourly employees hired after December 31, 2008, shall be entitled to five paid vacation days after the completion of one year of service based on their straight-time hourly rate.

(3) Employees compensated on an hourly rate basis shall be entitled to vacation pay based on their straight-time hourly rate. A vacation week for an hourly employee shall be based on the average number of hours worked by such employee during the immediately preceding 90 days.

C. The vacation leave provided in this Section does not apply to any employee whose employment is governed by a collective bargainingnegotiations agreement providing alternative vacation leave benefits.

D. Any vacation leave accrued in the first or final year of employment shall be on a pro-rated basis calculated by the full months worked during that calendar year.

E. All employees who qualify for vacation leave and who resign or are released by the Borough for reasons other than cause shall be entitled to receive vacation pay (pro-rated) due with the employee's final paycheck. The amount payable shall be determined pro rata based on the number of complete months worked. Employees dismissed for cause shall not be entitled to such vacation pay.

F. Any vacation days not used at the end of a year shall be forfeited and the employee shall not be entitled to payment for any such day, except that carryover may be permitted in limited circumstances where authorized by the Mayor and Council if such leave time is not utilized in a given year due to a recognized state of emergency at that time.

§ 37-39 Personal leave.

A. All full-time employees and all part-time hourly employees hired on or before December 31, 2008, who are not subject to a collective bargaining agreement are entitled to two personal days per year, and any unused days are forfeited at the end of each calendar year.

B. All part-time hourly employees hired on or after January 1, 2009, shall not be entitled to personal days.

§ 37-40 Sick leave.

A. All full-time employees and all part-time hourly employees hired on or before December 31, 2008, who have completed at least one year of service are entitled to five working days of sick leave per calendar year. All part-time hourly employees hired on or after January 1, 2009, who have completed at least one year of service are entitled to two working days of sick leave per calendar year. School crossing guards shall be entitled to three sick days per year. Sick leave is to be used only in cases where the employee is ill and unable to work or in cases of the serious illness of a family member.

B. All employees absent on sick leave for three or more consecutive working days must submit a doctor's verification of illness or injury. If an employee is attending to an immediate family member, a doctor's verification of that individual is required. After the 10th day of absence on sick leave in one calendar year, a doctor's verification must be submitted for all sick leave absences, regardless of duration. Prior to the return to work, the Borough may require an employee to be examined by a physician designated by the Borough to verify fitness to return to normal duties. An employee will not be permitted to return to work until the verification is received.

C. Any sick days not used during a calendar year may be added to the vacation time allowed to an employee in the following calendar year only and not thereafter.

D. Employees compensated on an hourly rate basis shall be entitled to sick pay based on their straight-time hourly rate. A sick day for an hourly employee shall be based on the average number of hours worked by such employee per day during the immediately preceding 90 days.

§ 37-41 Bereavement leave.

A. Full-time employees are entitled to five consecutive calendar days leave of absence for each death of an employee's immediate relative. Bereavement leave shall not extend beyond seven consecutive calendar days immediately following the death of a family member. "Immediate relative" includes spouse or

significant other, child, parent, stepchild, sibling, grandparents, and/or grandchildren or any person related by blood or marriage residing in an employee's household. For all other individuals related to the employee by blood or marriage, the employee shall be entitled to two days leave of absence.

B. Employees are paid for all working days during the bereavement leave.

§ 37-42 Jury duty.

A permanent employee required to render jury service shall be entitled to be absent from work during that service and will be paid the difference between any payment received for jury duty and the employee's regular salary, up to a maximum of eight hours per day. Payment to an hourly employee shall be based on the average number of hours worked in the immediately preceding 90 days.

§ 37-43 Leave of absence.

A. Employees may be granted a personal leave of absence for up to six months at the sole discretion of the governing body if the leave does not cause undue operational disruption. The leave must include the use of any accrued vacation and sick leave time, regardless of the length of leave requested. The portion of the leave that runs beyond the exhaustion of vacation and sick leave will be without pay or longevity credit. In exceptional circumstances, the governing body may extend a leave of absence for an additional six months, if such extension is considered in the best interests of the Borough.

B. Personal leaves are not granted for the purpose of seeking or accepting employment with another employer or for extended vacation time. Employees on personal leave of absence for more than two weeks in any month will not receive holiday pay and will not accrue personal leave, sick leave or vacation time for that month. Health benefits may also be impacted. Refer to the Borough Health Benefits Policy. A personal leave is granted with the understanding that the employee intends to return to work for the Borough. If the employee fails to return within five business days after the expiration of the leave, the employee shall be considered to have resigned.

§ 37-44 Family and Medical Leave Act.

A. Employees who have been employed for at least 12 continuous months and have worked at least 1,000 base hours, excluding overtime, in the preceding twelve-month period are eligible for family and medical leave with no loss of position or pay rate. However, employees on such leave will not continue to accrue vacation days, sick days, personal days or longevity. Employees taking family or medical leave under this section continue to be eligible for paid health insurance coverage under the Borough policy.

B. Upon written notice, eligible employees are entitled to a family or medical leave for up to 12 weeks to care for a newly born or adopted child or a seriously ill immediate family member or for the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position. Eligible employees who take leave under this policy must use all accrued available vacation and personal days during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.

C. The period of leave must be supported by a physician's certificate. An extension past 12 weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The Borough reserves the right to deny any request for extended leave. Additional information concerning the Family Leave Policy and eligibility requirements is available from the Borough Clerk/Administrative Officer.

§ 37-45 Military leave.

A. Any full-time employee who is a member of the National Guard, Naval Militia, Air National Guard, or a reserve component of any United States armed force who is required to engage in field training will be granted a military leave of absence with pay for the training period as authorized by law. The paid leave will not be counted against any available vacation.

B. When an employee, after one year's service with the Borough, is called to active duty or inducted into the United States military, the employee shall automatically be granted an indefinite leave of absence for the duration of military service. To be reinstated by the Borough without loss of privileges or seniority, the employee must report for duty with the Borough within 60 days following release from active duty under honorable circumstances.

C. During the period of active military duty, the employee shall be paid the difference between military salary and the employee's regular salary for a period not to exceed 180 days. Employees on active service will also continue to receive paid health insurance coverage during the one-hundred-and-eighty-day period plus an additional 30 days. After this period has expired, employees may continue coverage for themselves or their dependents under the Borough group plan by taking advantage of the COBRA provision. Members of the state-administered retirement systems (PERS and PFRS) will continue accruing service and salary credit in the system during the one-hundred-and-eighty-day period.

Article VI

Compensation and Employee Benefits Policies

§ 37-46 Scope.

These policies cover nonunion employees. They also cover union employees to the extent that their collective bargaining agreements do not cover these issues.

§ 37-47 Payroll.

A. Salary ranges are established by ordinance, and the salary must fall within the minimum and maximum ranges for the employee's title. Employees are paid every week. Employees who are going on vacation and would like their checks in advance must make a written request at least two weeks in advance of the vacation.

B. The Borough will not accept responsibility for any employee's personal finances. The Borough of Kenilworth will acknowledge judgments against an employee's pay but will not act as a mediator between the employee and creditors.

§ 37-48 Overtime compensation.

A. Department heads may authorize overtime, subject to the following:

- (1) Total salary costs must be kept within the department's current budget.
- (2) Use of overtime is only for emergencies and for situations where there are unusual and/or compelling circumstances.

B. Notwithstanding the foregoing, the governing body may, by resolution, authorize the use of overtime at any time. For the purposes of this provision, "emergency" is defined as a disaster, civil disturbance, severe storm or other similar occurrence creating conditions which, if unchecked, would endanger lives or property or interrupt essential services.

C. Under the Federal Fair Labor Standards Act, certain employees in managerial, supervisory, administrative or professional positions are exempt from the provisions of the Act. The Borough Clerk/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 governing body's prior approval and at the sole discretion of the governing body.

D. All other employees are classified as nonexempt and are subject to the provisions of the Act. Depending on work needs, nonexempt employees may be required to work overtime. Nonexempt employees are not permitted to work overtime unless the overtime is budgeted and approved by the department head and the Administrative Officer. Nonexempt employees working overtime without prior approval will be subject to disciplinary action.

E. Nonexempt employees will receive overtime compensation for hours worked in excess of 40 in a weekly period. Employees may choose overtime compensation in the form of overtime pay at their regular hourly salary or compensating time off. The maximum number of hours that an employee may accrue for future compensating time off 80. Once this maximum has been accumulated, all additional hours will be compensated by overtime pay. Accrued and taken overtime compensating hours must be noted on the employee's time sheet.

F. Nonexempt employees will receive 1 1/2 hours of overtime compensation for each hour worked in excess of 40 hours in a weekly period. For purposes of overtime compensation, hours worked are computed to the nearest 1/2 hour per day. Previously scheduled vacation time and holiday time are considered time worked for purposes of determining overtime compensation, but sick time and personal time are not.

G. Employees must make a request to their supervisor at least two days in advance when they want to take compensating time off. The supervisor will approve the request if the absence does not cause undue hardship to the department.

§ 37-49 Health insurance.

A. Employees and their immediate family members are provided health insurance in the same manner and to the same extent as provided under the collective bargaining agreement between the Borough and the union representing the Kenilworth Police Department.

B. The complete benefit plan is on file in the Borough Clerk's office, and a summary plan description will be provided to all employees. Benefit levels for nonunionized employees are subject to change at the discretion of the Borough.

C. Health insurance coverage for employees on a leave of absence or who cease Borough employment will terminate at the end of the month in which the leave begins or employment is terminated, except coverage will continue for up to 12 weeks for employees on leave pursuant to the Family and Medical Leave Act and up to 30 weeks for employees on military leave. Upon termination of coverage, employees may extend health insurance coverage for themselves or their dependents by taking advantage of the COBRA provision for a period of up to 18 months. For more information, consult the Borough Clerk/Administrative Officer.

D. Health insurance upon retirement.

- (1) All employees of the Borough who are hired in a full-time capacity after March 15, 2014, and who retire under the provisions of an applicable retirement plan for the employees of the Borough with 25 years of continuous service credited under such retirement plan and continued in full-time service at the Borough of Kenilworth for 15 or more years when they retire, may continue to receive paid health insurance coverage. Employees receiving retiree health benefits must notify the Borough Clerk/Administrative Officer in writing, with satisfactory proof of enrollment and years in the plan, when they become eligible for Medicare Parts A and B.
- (2) Those full-time employees who were continuously employed by the Borough prior to March 15, 2014, and who retire under the provisions of the applicable retirement plan for the employees of the Borough with 25 years of continuous service credited under such retirement plan may continue to receive paid health insurance coverage. Employees receiving retiree health benefits must notify the Borough Clerk in writing, with proof of enrollment, when they become eligible for Medicare Parts A and B. For more information, consult the Borough Clerk/Administrative Officer.

§ 37-50 Drug prescription benefit.

- A. Employees and their immediate family members are provided drug prescription insurance in the same manner and to the same extent as provided under the collective bargaining agreement between the Borough and the union representing the Kenilworth Police Department.

- B. The complete benefit plan is on file in the Borough Clerk's office, and a summary plan description will be provided to all employees. Benefit levels for nonunionized employees are subject to change at the discretion of the Borough.

§ 37-51 Dental benefits.

- A. Employees and their immediate family members are provided dental benefits in the same manner and to the same extent as provided under the collective bargaining agreement between the Borough and the union representing the Kenilworth Police Department.

- B. The complete benefit plan is on file in the Borough Clerk's office, and a summary plan description will be provided to all employees. Benefit levels for nonunionized employees are subject to change at the discretion of the Borough.

§ 37-52 Prescription eyeglasses benefit.

- A. Employees and their immediate family members are provided prescription eyeglasses benefits in the same manner and to the same extent as provided under the collective bargaining agreement between the Borough and the union representing the Kenilworth Police Department.

- B. The complete benefit plan is on file in the Borough Clerk's office, and a summary plan description will be provided to all employees. Benefit levels for nonunionized employees are subject to change at the discretion of the Borough.

§ 37-53 Retirement.

Under state law, all employees must enroll in the New Jersey Public Employee Retirement System or the Police and Firefighters Retirement System as applicable. The employee's contribution to the plan will be deducted from the employee's pay. An employee who has completed the required number of years and who has reached the required age under the Plan may retire by notifying the department head in writing. The state retirement plans request six months' advance notice to process the application. After giving notice of retirement, employees are expected to assist their supervisor and co-employees by providing information concerning their current projects and help in the training of a replacement. The department head will prepare an employee action form showing any pay or other money owed the employee. The Borough Clerk/Administrative Officer will conduct a confidential exit interview to discuss benefits, including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee. On the last day of work, and prior to receiving the final paycheck, the employee must return the employee identification card, all keys and equipment. At this time, the employee will sign the termination memo designating all money owed, and this memo will be retained in the official personnel file.

§ 37-54 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. The Borough covers workers' compensation benefits through its membership in a joint insurance fund. 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 joint insurance fund, and payment for unauthorized medical treatment may not be covered pursuant to the Act.

§ 37-55 Employee assistance.

- A. Goal of policy. The goal of this policy is to balance the Borough's respect for individuals with the need to maintain a safe, productive and alcohol/drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the improper consumption of alcohol or illegal use of drugs is incompatible with employment with the Borough.
- B. Objective. The Borough recognizes the health implications of alcohol abuse and drug use on its employees and considers it a treatable illness. As with other illnesses, the Borough's primary objective is to assist in the employee's rehabilitation. The Borough designed this policy to encourage employees to voluntarily seek help for any alcohol or substance abuse problem.
- C. Rehabilitation program. An employee may voluntarily admit to the Borough that he or she has an alcohol or substance abuse problem without fear of discipline or discharge. Upon admission of an alcohol or substance abuse problem, the employee shall immediately enroll himself or herself in a rehabilitation program at the employee's sole cost and expense. The Borough will not take disciplinary action against an employee who voluntarily admits having an alcohol or substance abuse problem unless that employee refuses to enroll in and complete a rehabilitation program. Upon return to work after satisfactorily completing a rehabilitation program, the employee must agree to submit to the random follow-up testing. Employees who test positive in a subsequent drug and/or alcohol test or who voluntarily enter rehabilitation on more than one occasion shall be subject to disciplinary action, up to and including discharge. Nothing in the foregoing shall preclude the employee from obtaining coverage and/or reimbursement for payments made for rehabilitation services from any applicable insurance coverage.
- D. Screening tests. The governing body shall be responsible for the selection of a qualified laboratory to perform the appropriate drug and/or alcohol screening tests and shall also be responsible for selecting physicians to conduct physical examinations and drug and/or alcohol screening tests where appropriate.

§ 37-56 Educational assistance and training.

- A. Subject to sufficient funds in the budget and upon approval of the department head, employees may apply for reimbursement of tuition expenses incurred for training or college courses directly related to the employee's work. The Borough Clerk Administrative Officer will be the sole judge of whether a particular course or program is "directly related" to the employee's work, and such course or program must be preapproved by the Borough Clerk Administrative Officer to qualify for reimbursement.
- B. Employees may receive reimbursement for up to \$500 per year towards the tuition cost for training or college courses that they take on their own initiative. The reimbursement must be repaid if the employee leaves Borough employment within 24 months of receipt. When enrollment for short training courses or seminars is requested by the Borough, employees will receive full reimbursement.

§ 37-57 Conferences and seminars.

Requests to attend a conference or seminar must be approved by the department head and the Borough Clerk Administrative Officer. Requests shall be made sufficiently in advance to take advantage of discounts for early registration and must be submitted to the department head at least 30 days before the event. Requests must be in writing, including the conference schedule, registration information and estimated costs. The department head is responsible to detail all training requests during the budget formulation process. Approval of any conference or seminar request is conditioned upon the availability of funds.

§ 37-58 Terminal leave.

- A. All full-time permanent employees hired on or before December 31, 1995, who retire with less than 25 years of service with the Borough and who qualify for a pension under state law by reason of length of service or service-connected disability shall be entitled to terminal leave in the amount of 1 1/2 days for every year of full-time service.
- B. All full-time permanent employees hired on or before December 31, 1995, who retire with 25 years of service or more with the Borough and who qualify for a pension under state law by reason of length of service or service-connected disability shall be entitled to terminal leave in the amount of two days for every year of full-time service.

§ 37-59 Longevity compensation.

- A. Eligibility. All full-time employees hired on or before December 31, 1995, shall be entitled to longevity

compensation in accordance with this section. Any employee hired on or after January 1, 1996, shall not be eligible for longevity compensation. An employee must work an average of at least 35 hours per week in any year of service to be eligible.

B. Calculation of amount. In addition to the salaries payable, all eligible employees shall receive a longevity payment calculated with reference to the employee's base salary in effect on the December 31 of the calendar year preceding the date of payment. The amount of the longevity payment shall be calculated in accordance with the following schedule:

Years of Service	Additional Compensation per Annum (percentage of salary)
5	2%
10	4%
15	6%
20	8%
25	10%

C. Calculating years of service. All periods of employment shall be computed from January 1 of the year of taking office, appointment or employment, unless said date was subsequent to June 30, in which case the calculation shall be computed from January 1 of the year following. Additional compensation of any nature, including overtime, shall not be considered in computing longevity compensation. Eligible employees shall be credited with all time served with the Borough, whether consecutive or nonconsecutive, and whether served on a full-time or a part-time basis, as defined above. Any interruption of service due to a cause beyond the control of the employee, such as military service, injury in the line of duty or illness, shall be considered as service for the purpose of determining the length of service. Leaves of absence granted at the request of the employee shall not be considered in determining length of service.

§ 37-60 Compensation of employee expenses.

A. All employees traveling on preapproved Borough business or using personal assets for Borough purchases shall be compensated for expenses according to the following schedule:

- (1) Lodging and meals: all reasonable, preapproved expenses.
- (2) Purchases: all verified, preapproved expenses.

(3) Automobile expenses: in accordance with the Internal Revenue Service standard mileage rates for employees, self-employed individuals, or other taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes.

B. All travel expenses must be itemized and accompanied with receipts. The appropriate department head must approve the expenses prior to reimbursement, except that any expense or expenses in excess of \$150 must be approved by the governing body.

Article VII

Managerial and Supervisory Procedures

§ 37-61 Employment procedure.

A. Recruitment. The Borough Clerk Administrative Officer will coordinate the employment recruitment process for all vacancies to ensure compliance with contractual, legal and equal opportunity requirements. When a vacancy occurs, it is the responsibility of the department head to notify the Borough Clerk Administrative Officer, who will distribute notification of the vacancy to all departments. The Borough Clerk Administrative Officer will undertake to recruit qualified applicants in accordance with applicable federal and state law. Where positions are advertised, the media or other periodical utilized must have as wide circulation as possible to encourage applications from candidates from diverse backgrounds and must prominently state that the Borough is an equal opportunity employer.

B. Applications. All candidates must fully complete an application form. A resume will not be considered

as a substitute for this form. The application is a confidential document and will not be available to anyone who is not directly involved in the hiring process.

- C. Interviews. The Borough Clerk Administrative Officer or department head will coordinate the interview process, including the scheduling of applicants, development of interview questions and standards to measure candidate responses. All questions must be in accordance with the New Jersey Division on Civil Rights Guidelines for Pre-Employment Inquiries. Reasonable accommodations must be made for disabled applicants.
- D. Physical examinations. The Borough Clerk Administrative Officer may require applicants, prior to employment, to successfully pass a physical examination consistent with the Americans with Disabilities Act to assure that the work required by the position will not cause injury to the employee or co-employees and that the person is fit to meet the requirements of the position. The Borough Clerk Administrative Officer may require periodic physical examinations to determine the employee's continued ability to perform the duties of the position. All physical examinations must be performed by a physician chosen by the Borough at the expense of the Borough. All medical records of employees and prospective employees are confidential and are to be maintained by the Borough Clerk Administrative Officer separate from the employee's official personnel file.
- E. Job offers. The final decision will be made by the governing body after all references and other information have been verified. Every effort shall be made to offer reasonable accommodations pursuant to the Americans with Disabilities Act. The employment offer must be made in a letter to the candidate outlining all terms and conditions of the offer. The letter will also establish a deadline for acceptance.
- F. Acceptances and rejections. If the first offer is rejected, the governing body will decide to hire another candidate or reopen the position. Once a candidate accepts the employment offer, all other candidates will be notified in writing that they were not accepted for the position.
- G. Record retention. All applications, notes made during interviews and reference checks, job offers and other documents created during hiring process must be returned to the Borough Clerk Administrative Officer. Documents related to the successful candidate will be placed in the employee's official personnel file, except medical records, including physical examinations, must be maintained in a separate file. All records documents related to other candidates must be retained for at least one year. Records and documents created during the hiring process are confidential and must be retained in a locked cabinet.

§ 37-62 Veteran's preference.

- A. A veteran's preference is hereby established in the Borough for veterans and their widows and orphans. Such preference shall apply for hiring purposes only, and only in Borough government or service, or any subdivision or agency thereof, for which the salary is paid for from local tax revenues and for which a test, examination or other means of evaluation, be it oral or written, is used in determining which applicant shall be hired or appointed, as the case may be.
- B. The following system of preference points shall be used in determining which applicant shall be hired or appointed, provided that such applicant is otherwise qualified for the position:
 - (1) For a veteran residing in the Borough of Kenilworth: five points or first consideration where no test is given;
 - (2) For a veteran residing in the Borough of Kenilworth with a service-connected disability and who is capable of meeting the job qualifications: 10 points or first consideration if a tie exists or first consideration where no test is given;
 - (3) For a veteran residing in the Borough of Kenilworth with a non-service-connected disability and who is capable of meeting the job qualifications: seven points or first consideration where no test is given;
 - (4) For widows and orphans of veterans residing in the Borough of Kenilworth, should no veteran apply and/or qualify: five points or first consideration if no test is given;
 - (5) Veterans residing in the Borough of Kenilworth shall receive first consideration over veterans from other communities.
- C. Any veteran or veteran's widow or orphan residing in the Borough of Kenilworth and applying for a job or position within the Borough, for whom the foregoing provisions shall apply, must declare on the initial application his or her intention to exercise his or her right to preference.

§ 37-63 Open Public Meetings Act procedure concerning personnel matters.

Discussions by the governing body or any body of the Borough concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective

officer or employee shall be in closed session unless the individual requests in writing that the discussion be held in open session. Such request must be granted. Prior to the discussion by the governing body or any body of the Borough concerning such matters, the Borough Clerk Administrative Officer shall notify the affected person(s) of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session. In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session, then the discussion shall be in closed session. If the individual(s) does not request that the discussion be held in open session, the governing body or other body of the Borough may at its sole discretion invite the affected individual(s) to attend the applicable portion of the closed session.

§ 37-64 Processing and orientation of new employees.

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

- A. A tour of the appropriate facilities to acquaint the new employee with overall operations as they relate to the specific position;
- B. The completion of all pertinent personnel, payroll, insurance and pension forms;
- C. A review of the employee handbook and acknowledgment of receipt;
- D. A review of the Personnel Policies and Procedures Manual if the employee is a manager or supervisor and acknowledgment of receipt;
- E. The employee Complaint Policy letter and acknowledgment;
- F. A safety orientation and acknowledgment; and
- G. Arrangements for the new employee to complete required PEOSHA safety training.

§ 37-65 Initial employment period.

Except where state requirements direct otherwise, new employees (or present employees transferring to new positions) will be hired subject to an initial employment period of not less than six months or more than 12 months, as determined by the governing body. During this initial employment period, the new employee or transferee will be provided with training and guidance from the supervisor. At the end of the initial employment period, the supervisor will conduct an employee evaluation: see the Performance Evaluation Procedure. New employees may be discharged at any time during this period if the department head, in consultation with the Borough Clerk Council Liaison to the Department, concludes that the employee is not progressing or performing satisfactorily. Under appropriate circumstances, the governing body may extend the initial employment period.

§ 37-66 Employee handbook.

The Borough Clerk Administrative Officer, with the assistance of Labor Counsel, shall draft an employee handbook for the approval of the governing body. A separate version of the handbook will be drafted for part-time and seasonal employees as well as for major bargaining groups if appropriate. Once approved, copies will be distributed, and employees will be required to sign an acknowledgment of receipt that will be placed in the official personnel file. The handbook will be revised and redistributed whenever there is a significant change in personnel practice or every two years.

§ 37-67 Performance evaluation.

- A. Periodic evaluations are critical to create a formal record of an employee's performance over time and establish a foundation for personnel actions such as promotion and termination. In addition to day-to-day feedback to the employee, a performance evaluation must be conducted for all employees at least annually and no later than April 30 of each year. The completed appraisal becomes part of an employee's permanent record. This is a legal document that is discoverable in lawsuits.
- B. Performance discussions must also provide employees with guidance regarding their ability to meet job standards. Extraordinary skills or abilities should be recognized in addition to areas for improvement. Supervisors or department heads should review future training needs and career planning. The reviewersupervisor or department head should also encourage the employee to make suggestions about how the department can improve. The reviewersupervisor or department head should ask employees for feedback regarding the employee's skills as they relate to communication, team building, delegation, and sensitivity to needs of subordinates. Open communication is the key to improvement.
 - (1) Setting the stage. The reviewersupervisor or department head must create a productive climate for the discussion. In preparing the evaluation form, prior evaluations should be reviewed to identify trends. Employees must be notified in advance of the meeting and should be given a copy of the blank

evaluation form. The meeting should be private, without interruptions, in a comfortable environment.

- (2) Confirm expectations. The reviewer should start the discussion of each performance area by reviewing expectations. Ask the employee to confirm the employee's understanding of job requirements. Refer to the job description as appropriate.
 - (3) Rating. Continue The supervisor or department head shall continue the discussion by giving the employee's rating in each performance area. The supervisor or department head should be prepared to refer to documentation. Employees should be evaluated based on set standards, not as they compare to other employees. It is rare that any person's rating in all areas is either high or low. The evaluation should consider performance during the entire period, not just the recent past. Care should be taken to avoid allowing one aspect of a person's performance to overshadow all other performance factors, be it positive or negative. Ideally, each performance area should be evaluated individually based on specific behaviors exhibited.
 - (4) Discussing future plans. This is where the reviewersupervisor or department head should turn to the discussion to the future performance and development of the employee. A counseling action plan form must be completed if any item is rated "needs improvement" or "does not meet minimum standards." Specific performance goals must be established for the next review period, along with plans for achieving those goals.
 - (5) Closing the discussion. When all performance areas have been discussed, the supervisor or department head shall close the discussion by summarizing all of ratings in an overall rating for the review period in the following manner:
 - (a) "Outstanding" means exceptional performance in all areas of responsibility. Planned objectives were achieved well above the established standards, and accomplishments were made in unexpected areas.
 - (b) "Exceeds expectations" means consistently exceeds established standards in most areas of responsibility. All requirements must be met and objectives achieved above the established standards.
 - (c) "Meets job requirements" means all job requirements were met and planned objectives accomplished within established standards. There were no critical areas where accomplishments were less than planned.
 - (d) "Needs improvement" means performance in one or more critical areas does not meet expectations. Not all planned objectives were accomplished within the established standards, and some responsibilities were not completely met.
 - (e) "Does not meet minimum standards" means performance is unacceptable and important objectives have not been accomplished. Needs immediate improvement.

corrective action within a specific time frame. The employee should clearly understand both the corrective action and the consequence (i.e., termination) if the problem is not corrected or reoccurs. The employee should acknowledge receipt of the warning and may include additional comments. A copy of the written reprimand with the signed acknowledgment and comments must be forwarded to the Borough Clerk for the employee's official personnel file and the supervisor and/or the Administrative Officer shall notify the governing body's liaison for the Department of said written reprimand.

(3) Suspension. The supervisor and/or the Administrative Officer and/or the governing body's liaison may recommend the suspension of an employee. Whenever an employee is recommended for suspension by the supervisor and/or the Administrative Officer, the governing body's liaison to the appropriate Borough department must approve the decision. Notwithstanding the above, the governing body's Liaison can act on its own to make the final decision to suspend an employee, after seeking the advice of the Borough's Labor Counsel. There must be a review of the employee's personnel file and the pertinent facts to determine if there is sufficient cause for the suspension. Suspended employees may request a hearing under the applicable grievance procedure.

(4) Dismissal. The supervisor and/or the Administrative Officer and/or the governing body's liaison may recommend the dismissal of an employee. Whenever an employee is recommended for dismissal, the governing body will make the decision only after seeking the advice of the Borough's Labor Counsel by the supervisor and/or the Administrative Officer, the governing body's liaison to the appropriate Borough department must approve the recommendation. Notwithstanding the above, the governing body's Liaison can act on its own to make the final decision to dismiss an employee, only after seeking the advice of the Borough's Labor Counsel. There must be a complete review of the employee's personnel file and the pertinent all other facts to determine if there is sufficient cause for the dismissal. Terminated employees may request a hearing under the applicable grievance procedure.

C. An employee that is suspended and/or dismissed pursuant to the above, may request a hearing pursuant to the Grievance policy set forth in Section 37-16

§ 37-69 Personnel file.

A. The official personnel files shall be maintained by the Borough Clerk Administrative Officer, and employee medical information will be maintained in a separate file. At least annually, the Borough Clerk Administrative Officer will review files to make sure they are up-to-date and will follow up with the department heads as necessary.

B. The official file shall include at least the following:

- (1) The original application signed by the employee;
- (2) Notes from any pre-employment interview and reference check;
- (3) The original letter detailing an offer of employment and any additional correspondence concerning the employee's hiring;
- (4) A signed acknowledgment that the employee received a copy of the Employee Complaint Policy letter;
- (5) A signed acknowledgment that the employee has received the employee handbook;
- (6) A signed acknowledgment that the employee received the safety orientation;
- (7) Annual written performance evaluations, including documentation that the evaluation was reviewed with the employee;
- (8) Counseling action plans;
- (9) Records relating to on-the-job accidents;
- (10) Disciplinary actions, including an acknowledgement that the employee was notified of the proposed disciplinary action and was given an opportunity to respond;
- (11) Records relating to any other employment actions, including promotions, demotions, transfers, resignations, leaves, etc.;
- (12) Educational transcripts; and
- (13) Any other pertinent information.

§ 37-70 Employee complaint investigation.

Employees have the right to formally or informally report any statement, act, or behavior by a co-employee, supervisor, elected official or visitor that they believe to be improper.

A. Reporting. Employees should be asked to report complaints in writing utilizing the employee complaint form, but are not compelled to do so.

B. Identification/screening. The employee shall present the complaint to his or her supervisor/department head, who must report all written or verbal complaints to the Borough Clerk Administrative Officer, unless the complaint is against the Borough Clerk the Administrative Officer, in which event such complaint shall be reported to the Chief Financial Officer governing body's liaison to the appropriate Borough department. Upon receipt of the complaint, the supervisor/department head/governing body's liaison to the appropriate Borough department will determine if the complaint was made pursuant to the General Anti-Harassment Policy, the Anti-Sexual Harassment Policy, the Whistle-Blower Policy, a grievance procedure or is another form of complaint. A file will be established, including the written complaint, the investigation procedure followed and the response action plan. As soon as possible but no later than 10 days after receiving the complaint, the supervisor/department head/governing body's liaison to the appropriate Borough department will interview the employee. If the employee is reluctant to sign a written complaint, the investigator will prepare written notes of the date, time and place of the complaint and the specific allegations. These notes will be read back to the employee who will be asked to affirm, preferably in writing the information's accuracy. In the event a complaint is against the employee's supervisor/department head, the complaint shall be filed with the Administrative Officer and/or the Borough Clerk governing body's liaison to the appropriate Borough department, who shall refer the complaint to the governing body's Personnel Finance Committee for investigation and resolution in accordance with this policy. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

C. Investigation. The investigating person/entity will seek the advice of the Borough Labor Counsel when planning the investigation. The investigation should establish the frequency and nature of the alleged conduct and whether the complaint coincides with other employment events such as a poor performance evaluation. The investigation should also determine if other employees were subjected to similar misconduct. It is important to protect the rights of both the person making the complaint and the alleged wrongdoer.

D. Response plan: no corrective action required. The investigating person/entity will discuss the conclusions with the Borough Labor Counsel and render a decision within 14 days after the investigation is complete. If the validity of a complaint cannot be determined or the complaint is groundless, the complaining employee should be notified in writing. Care should be taken to avoid being too specific, confrontational or accusatory and to avoid any language that might be construed as defamatory. A general statement is usually more appropriate that the claim was thoroughly investigated but could not be sufficiently documented or confirmed to justify taking formal action. The employee should be assured that future complaints will be investigated and that the Borough is committed to eliminating wrongful employment practices when they are found to exist. If the investigation reveals that the complainant intentionally and maliciously levied false charges against the alleged wrongdoer, the complainant must be notified of the seriousness of filing a false complaint and the appropriate disciplinary penalty under the circumstances, up to and including termination.

E. Response plan: corrective action required. If the investigation reveals that the complaint is justified and substantiated, the investigating person/entity shall refer the matter to the governing body, which will formulate a corrective action plan as well as possible disciplinary action, with the advice of Borough Labor Counsel. The complaining employee will be notified, in writing, that it appears that the complaint was justified and an appropriate response plan has been formulated. A copy of the response plan should be attached to the letter. The response plan should provide for appropriate remedial action to prevent a recurrence of the wrongful act or behavior.

§ 37-71 Requests for employment verification and references.

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

B. In response to a request for information, the Borough Clerk Administrative Officer will only verify an employee's name, dates of employment, job title, department and final salary. No other data or information will be furnished unless:

(1) The Borough is required to release the information by law; or

(2) The employee or former employee authorizes the Borough in writing to furnish this information and releases the Borough from liability.

§ 37-72 Continuing education.

A. The Borough will arrange for employment practices seminars at least annually to train all managerial/supervisory personnel. The Borough will also offer nonmandatory training to all other

employees, with special emphasis on employee rights and protections under various federal and state laws as well as Borough employment practices. Records will be maintained in the official personnel files of all employees trained under this procedure.

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

SECTION 3. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 4. This Ordinance shall take effect upon final passage and publication according to law.



Linda Karlovitch, Mayor

INTRODUCTION					COUNCILPERSON					FINAL ADOPTION						
Moved	Sec.	Ave	Nay	Abs.	NP	COUNCILPERSON					Moved	Sec.	Ave	Nay	Abs.	NP
		X				KAY CECERI										
		X				MARK DAVID										
X	X					JOSEPH FINISTRELLA										
	X					SCOTT PENTZ										
X	X					FRED PUGLIESE										
	X					JOHN ZIMMERMAN										

I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.

Introduced:
August 17, 2022
Final Adoption:
September 7, 2022



Kathleen Moschitta, Deputy Borough Clerk