

PERSONNEL MANUAL OF TOBYHANNA TOWNSHIP:

ORGANIZATIONAL STRUCTURE<sup>[A1]</sup>  
AND  
PERSONNEL PROCEDURES, RULES,  
POLICES AND GUIDELINES

REVISED: 1/3/2012

PERSONNEL

ARTICLE 100

ARTICLE 100

PURPOSE AND SCOPE

SECTION 101.

A.

It is a purpose of this manual to establish uniform personnel procedures, rules, policies and guidelines that: support the Township's effort to provide excellent and cost effective service to its constituents; comply with the requirements of the law; and that result in fair treatment of employees.

In order to achieve these goals, the following principles shall be applied:

- .1 Recruit, select and advance employees and job applicants on the basis of their abilities, knowledge, and skills, and without regard to non-merit factors;
- .2 Provide fair and equitable compensation and benefits to employees relative to knowledge, skills, ability, education and experience, seniority; leadership, reliability; the Township's and taxpayers' abilities to pay; retention of employees and other relevant market and workplace factors;
- .3 Employees shall be retained and advanced on the basis of the quality of their performance. This quality shall be determined based on such factors as attendance, attitude, evidence of "teamwork", and demonstrated knowledge, skills, and abilities. Less than satisfactory performance in these and related areas shall be a basis for corrective action, training, discipline and possibly employment separation;
- .4 Fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliations, race, color, national origin, sex, religious creed, age or non-work related handicap, and with proper regard for the privacy and other constitutional rights of applicants and employees; and
- .5 Protect employees from coercion arising from partisan or political pressures.

B.

It is a purpose of this manual to provide to its employees a guideline on what is expected from them in return for the wages and benefits they receive. In general employees are expected to:

- .1 Conduct themselves as adults;
- .2 Recognize that even off-duty misconduct can reflect badly on the township;

- .3 Spend their time at work fulfilling their responsibilities to the public, minimizing downtime on personal matters or non-work issues;
- .4 At all times treat the public with courtesy, patience and reason; and
- .5 Adhere to the written and oral directives of the township and to avoid, as an excuse for obvious misconduct, that the township did not have a written rule dealing with the misconduct.

## SECTION 102.

SCOPE: The Personnel Manual shall apply to all Township Employees who shall be referred to as full-time permanent employees. The following groups of persons shall not be covered by this personnel policy: F.N. 1

- .1 Consultants, Solicitors and others compensated on a contractual or fee basis; and
- .2 Employees of Township Authorities

NOTE: These personnel policies apply in part to seasonal, temporary, casual per diem and part-time employees, as referenced. Where the policy section is silent as to the scope of its application, it should generally be assumed that the section applies without restriction to the Township Secretary or Township Manager, Administrative Assistant, and any Township seasonal, temporary, casual per diem and part-time employees.

## SECTION 103.

This handbook is a guide. It is not a contract of employment. It does not provide any contractual rights to the employee with respect to his or her terms or conditions of employment. Neither this handbook nor any written or oral policies, practices or procedures that may be developed from this handbook create an express or implied employment contract. At its discretion, Tobyhanna Township may revise some, or all, of this handbook at any time. If this handbook is revised, employees will receive copies of any new or revised handbook policies and should refer to these updated policies for guidance. In accordance with the laws of the Commonwealth of Pennsylvania, all employees are at-will. Your employment may be terminated at any time with or without cause. F.N. 2

To the extent any part of this document conflicts with a Collective Bargaining Agreement as to the terms and conditions of employment, the terms of the Collective Bargaining Agreement shall prevail.

F.N. 1 – Because these persons are not employees of the Township.

F.N. 2 – However, the Township is committed to adherence to federal and state law prohibiting certain kinds of discrimination and/or retaliation. No employee may be dismissed or otherwise adversely impacted by Township actions which violate those laws.

## ARTICLE 200

### ORGANIZATION AND DELEGATION OF AUTHORITY

#### SECTION 201.

PURPOSE: The responsibilities and authorities delineated in Article 200 are intended to establish and maintain a clear understanding of the roles that various categories of Township employees must play in order to maintain a sound Personnel Management Program, and to deliver high quality, cost-effective, municipal services.

#### SECTION 202.

OVERVIEW: The primary purpose of the Township's Government is to provide to its public, services needed and expected by that public. The primary mechanism through which the Township Government delivers these services is through Township employees. It is the goal of the Township to deliver the services needed by the public cost effectively, and at a high level of quality. Achievement of these two, related goals requires that Township Government operate as a cohesive unit, utilizing four levels of authority and responsibility. These four levels can be described as follows:

LEVEL I: The Employee with responsibility and authority to perform duly authorized and assigned tasks. Public employees are held to a higher standard of conduct than is generally the case for employees working in the private sector. Where taxpayer services, and taxpayer dollars are involved, there are special duties of due diligence imposed upon everyone having responsibility for the delivery of those services and responsibility for the effective use of those taxpayer dollars. Because it is important that citizens and taxpayers have confidence in their government, and in their government's use of its funding, any action by an employee, whether on or off duty, which tends to impair that confidence must be a matter of concern for those in charge of the Township's Government. This is true for rank and file employees, supervisory employees, and managerial level employees. By the same token, on duty and off duty actions of Township employees which serve to enhance public confidence in the public's government are matters of positive significance to those in charge of the Township's Government. For Fair Labor Standards Act purposes these employees are classified as "non-exempt."

LEVEL II: The Departmental Supervisory Level with responsibility and authority to supervise assigned employees on work projects according to project or program objectives issued by the Board of Supervisors and/or the Township Secretary/Township Manager. Departmental supervisors are required to function competently in a minimum of three general areas of supervision. First, they must function with technical competence in regard to the work of their department. Second, they must function with competence in their supervision and evaluation of personnel. Third, they enforce all Township policies and equal opportunity laws and must report violations of policies and complaints of discrimination. Competent personnel management is as important to the success of a supervisor as is his/her technical expertise. Accordingly, department supervisors have the authority and responsibility, where appropriate, to issue written reprimands, and written acknowledgments of excellent work, to the employees they supervise. In addition, where the situation demands it, a department supervisor can require an employee he

supervises to remove himself from a Township work-site or facility. Any such action shall be reported immediately to the Township Secretary/Township Manager. These employees supervise two or more persons and are “exempt” employees under the federal Fair Labor Standards Act.

LEVEL III: The Managerial Level, consisting of the Township Secretary/Township Manager and Administrative Assistant, is charged with the responsibility and authority to implement the policies and project/program objectives issued legislatively, or in any other lawful manner, by the Board of Supervisors. Managerial Level employees have the ability to recommend policies, ordinances, resolutions, and programs, and to administer, direct and evaluate the same. In addition, managerial level employees are responsible for providing to the Township Board of Supervisors, annually, a tentative budget from which the Board of Supervisors will fashion the Township’s final budget. The Township Secretary/Township Manager is charged with the responsibility and authority to administer the Township so that it operates within the parameters established by the budgeting process. The Township Secretary/Township Manager and Administrative Assistant have primary responsibility for the management of the Township’s personnel. This includes the authority and responsibility to plan and direct work to be performed by the workforce; to hire, furlough, promote, discipline, commend and make personnel-related recommendations [for example: compensation and/or benefits] and to decide other basic critical matters relating to personnel management.

LEVEL IV: The Township Board of Supervisors is the legislative authority of the Township; the sole policymaking body within the Township; and the Local Agency of the Township in the event that the Township is obligated to hold a local agency law hearing. In addition, the Township Board of Supervisors has the responsibility and authority to determine projects or program objectives; to approve ordinances and resolutions; to contract on behalf of the Township; to hire, reward, discipline, and dismiss Township managerial level employees; and to exercise the powers provided Second Class Township Boards of Supervisors in the Second Class Township Code, as well as exercise the authority provided to the Township Board of Supervisors by any other laws of the Commonwealth of Pennsylvania.

ARTICLE 300

POSITION CLASSIFICATION

SECTION 301.

PURPOSE: The Classification Plan attempts to group positions (jobs) similar in respect to assigned duties, responsibilities, skills, knowledge and experience requirements or preferences into various classes of jobs having common characteristics, requirements or properties. In addition, the Classification Plan's grouping of positions shall take into account the relative placement of a particular position in the broader employment market as reflected by the compensation accorded that position, or similar positions, throughout the relevant market. F.N. 1 Creating classifications in this manner will aid the Township in manpower planning and budgeting, the establishment and maintenance of an equitable pay plan, the development and maintenance of valid selection and recruitment programs, and the establishment and maintenance of appropriate career paths.

SECTION 302.

JOB DESCRIPTIONS: Job Descriptions shall be organized in the following manner: Job title; job Classification Plan group; statement of essential functions; statement of contingent duties (functions typically or on occasion performed by the occupant of the position, but functions which are not considered essential duties); standard experiential and/or academic requirements or preferences; other information pertinent to a reasonable understanding of the job being described.

SECTION 303.

It is the duty of the Township Secretary/Township Manager or his/her designee to maintain and to create if necessary, accurate and up-to-date job descriptions for every "position" in the Township.

SECTION 304.

MAINTENANCE OF ACCURATE JOB DESCRIPTIONS: The Township Secretary/Township Manager or his/her designee, shall periodically review the Township's job descriptions to ensure their continuing accuracy, and shall periodically, not to exceed a three years, review the job Classification Plan to ensure its continued effectiveness in sensibly grouping employment positions into particular, broader, classifications.

F.N. 1 - Here "compensation" means the total "value package" enjoyed by one holding the position. It includes, for example, wages, insured benefits, likelihood of furlough or staff reductions, insured benefits, paid time off, and pensions.



ARTICLE 400

SALARY ADMINISTRATION  
AND  
PERSONNEL ACTIONS

SECTION 401.

PURPOSE: The Salary Administration Policy establishes the Township’s pay plan and defines the effect of selection, probationary period, promotion, demotion and other personnel actions on employee pay rates.

SECTION 402.

PAY PLAN: The Pay Plan shall include the schedule of pay rates, shall be linked to the Classification Plan, and shall attempt to set pay rates so that there is reasonable internal and external equity to the Township’s pay rates. By internal equity, it is meant that there should not be unjustifiable differences in the compensation assigned to jobs requiring similar skills, experience, education, knowledge, and responsibility. By external equity, it is meant that the total compensation structure for Township positions strives to mirror the relevant marketplace.**F.N.1** An employee’s seniority with the Township, and seniority in a particular position, may play, and is likely to play, a role in the employee’s compensation. Compensation differences between employees with similar skills, knowledge, background and responsibility, based on tenure with the Township are not a violation of the internal equity policy. In determining external equity, it will be appropriate for the Township to take into account its overall benefit structure, including but not limited to, pensions, insured benefits, paid time off, hours of work, job security, etc.

Section 403

ADMINISTRATION AND ADMENDMENTS: The Township Manager/Secretary or his/her designee, shall be responsible for the administering the Pay Plan, for developing and maintaining the Plan’s required forms and procedures, and for maintaining the records necessary to properly administer the Plan.

SECTION 404.

PERSONNEL ACTIONS AND PAY RATE ADJUSTMENTS: The following personnel actions shall affect the pay status of an employee in the manner described.

- .1 Probationary Appointments: In accordance with Pennsylvania law, all employees covered by this Manual are “at-will” public employees. During an employee’s first six months of employment, the employee shall be in probationary status. This means that the employee shall be more closely supervised, monitored, and

**F.N. 1-** See F.N. 1 Article 300.

evaluated than would normally be the case for a post-probationary at-will employee. Probationary employees shall normally enter Township employment at the minimum rate prescribed for a particular job position/classification plan group. Exceptions may be made if recommended by the Township Secretary/Township Manager and approved by the Township Board of Supervisors, when an eligible applicant cannot be hired at the minimum rate, or when such action is necessary to permit the Township to hire a highly valued applicant. Under no circumstances will a probationary employee receive an entrance pay rate below the minimum rate prescribed for the new employee's job/classification plan group. Probationary employees will not begin to accrue "seniority," of any kind, until they have successfully completed their probationary period. When an employee successfully completes his/her probationary period, then that employee's seniority in his particular employment position, and with the Township, shall relate back to the first day of probationary employment. Probationary employees will not enjoy the full structure of benefits available to post-probationary Township employees. When a Township benefit is not available to an employee during his/her probationary period, it will generally be detailed in the applicable Articles in this Manual. However, during an employee's probationary period, the employee is not eligible for: paid sick leave; use of paid vacation days; paid personal day leave, and shall not have access to the employee grievance procedure. The Township believes that it is entitled to a high standard of performance and effort from its employees, and that the public is entitled to service from public employees who evidence a good attitude towards their job and towards the public. A work place performance, particularly a work place performance effort, which is mediocre or worse, during a probationary period, will result in such employee's dismissal from Township employment. A supervisor or manager who has reason to know that the performance of a probationary employee has been mediocre, or has otherwise been given reason to be concerned about the quality of the employee, and who has not taken affirmative steps to apprise his/her department head and/or the Township Secretary/Township Manager of these concerns, is at risk for bring disciplined. No extensions of the probationary period will be granted.

- .2 Promotions: When an employee is promoted from one position to another, such employee shall be subject to, at a minimum, a six month probationary period in the new position. During this probationary period, it shall be determined whether the employee is meeting reasonable job performance expectations in the position to which the employee has been promoted.
- .3 Demotions: When an employee is demoted (demotions may be either for disciplinary or non-disciplinary reasons), the employee shall be compensated at the appropriate lower rate of pay.
- .4 Layoff and Re-Employment: When layoffs are to occur, the following criteria are to be used in determining which employees are to be laid off:

1. The relevant work unit's job skill need, and the relative skill and ability of the possibly effected employees;
2. Employee performance and work records;
3. The seniority of the relevant employees within their department.

Employees laid off shall be put on a Re-Employment list and shall be eligible for Re-Employment for a period not exceeding one year following the layoff date. When Re-Employed, the employee shall be compensated for the position into which the employee is recalled.

#### SECTION 405.

OVERTIME: Overtime will be paid in accordance with the Fair Labor Standards Act. Exempt employees are not eligible for overtime or compensatory time. Non-exempt employees are, in compliance with the Fair Labor Standards Act, entitled to overtime pay for hours worked over forty (40) hours in a workweek. The Township shall compensate such work at the rate of time and one-half.

- .1 Compensatory Time Off: A non-exempt employee, with the approval of the Township Secretary/Township Manager, may be permitted to earn compensatory time, in lieu of overtime pay. A maximum of forty (40) hours of compensatory time may be accumulated in a calendar year. All accumulated compensatory time cannot be carried over to the following calendar year. Any unused accumulated hours will be paid to the employee in last month of the calendar year in which it was accrued.

If an employee leaves Township employment, or is transferred or promoted to exempt status, without having previously exhausted accumulated compensatory time, the employee shall receive a lump sum payment for that time calculated utilizing the employee's final, regular, hourly, non-exempt rate of pay.

Township Secretary/Township Manager will review all requests for use of compensatory time and will reasonably grant such requests; provided that such use does not unduly disrupt the operations of the Township or cause the Township to incur other overtime/compensatory time.

SECTION 406.

PART-TIME, PER DIEM AND TEMPORARY EMPLOYMENT: Part-time, per diem and temporary employees shall be compensated on an hourly basis equivalent to the entry-level hourly rate for regular full-time employees. Interns, student interns, and high school and college students employed temporarily by the Township during semester breaks or during the summer, will be compensated at not less than the minimum wage, but may be compensated at hourly rates not reflected in the Township's Pay Plan. Such employees will not be compensated at pay rates greater than those applicable to other categories of Township employees performing generally similar work.

SECTION 407.

FAIR LABOR STANDARDS ACT – SAFE HARBOR

- .1 Policy: The FLSA provides an exemption from both minimum wage and overtime payment for employees employed in bona fide executive, administrative, professional, computer and outside sales positions. To qualify for an overtime exemption, an employee generally must be paid no less than \$23,660 a year or \$455 per week on a salary basis. (This does not apply to teachers, lawyers, or medical personnel. Certain exempt computer employees may be paid at least \$455 on a salary basis or on an hourly basis at a rate not less than \$27.63 an hour.)

An exempt employee must receive his or her full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work and will not be paid unless appropriate accrued paid leave is utilized. If deductions are made from an employee's predetermined salary because of the employer's operating requirements, that employee is not paid on a "salary basis." If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

Deductions from pay are permissible when an exempt employee is:

- (a) Absent from work for one or more full days for personal reasons, other than sickness or disability;
- (b) In receipt of amounts such as jury or witness fees; or
- (c) On an unpaid disciplinary suspension for one or more full days, imposed in good faith for workplace conduct rule infractions.

Also, the Township is not required to pay an employee's full salary in the initial or final week of employment for penalties imposed in good faith for infractions of safety rules of major significance or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these

circumstances, either a partial day or full day deduction may be made. Finally, as a public sector employer, the Township operates under principles of public accountability, which permit deductions from the pay of an exempt employee for partial day or full day absences due to illness, injury or personal reasons when accrued paid leave is not used by an employee because:

- Permission for its use has not been sought or has been sought and denied;
- Accrued leave has been exhausted; or
- The employee chooses to use leave without pay, if such leave is available.

.2 Complaint Filing: The Township has classified those positions that are considered to be “exempt.” It is the policy of the Township to comply with the “salary basis” requirements of the FLSA with regard to exempt employees. If you believe that an improper deduction has been made to your salary, you immediately should report this information to the Township Manager/Township Secretary.

.3 Complaint Investigation: Reports of an improper deduction from wages will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction.

## ARTICLE 500

### SECTION 501.

EMPLOYEE DEFINED: All employees of the Township regularly working (i.e. scheduled to work) in excess of thirty-five (35) hours per week shall be deemed full-time employees. A part-time employee is one regularly scheduled to work thirty-five (35) or less hours per week. A per diem employee is a sub-category of temporary employee. An individual hired as a temporary employee shall be employed for a specified length of time, not to exceed six (6) months. A per diem employee is an individual who has agreed to work for the Township on unscheduled basis, and who is willing to work on a day-to-day basis, as the Township needs his/her work. A per diem employee might not be called for work for weeks or even months, but on occasion be called to work for several consecutive days, depending upon circumstances. However, employees who work in the manner defined in this paragraph for “temporary employees”, or in the manner defined for “full-time employees”, shall not be categorized as per diem employees. “Seasonal” employees are “temporary” employees; “casual” employees are “per diem” employees.

### SECTION 502.

WORK WEEKS: The regular work week for all hourly full-time Office employees shall be a forty (40) hour work week, consisting of five (5) consecutive eight (8) hour work days (exclusive of a thirty (30) minute meal period and inclusive of two fifteen (15) minute break periods) with two (2) consecutive days off.

### SECTION 503.

#### LUNCH AND BREAK PERIODS:

- .1 All Hourly Personnel: All hourly personnel shall be entitled to one-half (1/2) hour, without pay, for lunch. The Township shall not have a set lunch period; rather management will schedule employees to utilize this meal period so that, throughout the working day, municipal facilities stay open to the public, and so that the work which needs to be done can be efficiently accomplished. [For example, when a road crew is laying asphalt, the timing of the meal period will depend on the facts of the asphalt pour.]
  
- .2 All Township Personnel: All Township personnel shall be entitled to two (2) fifteen (15) minute breaks, with pay, each work day. This break time shall be taken as one (1) fifteen (15) minute break in the morning hours and one (1) fifteen (15) minute break in the afternoon hours. This break time may not be:
  - a. Bridged with the one-half (1/2) hour lunch period; or,
  - b. Accrued (break time not taken is lost).**F.N.1**

- .3 The lunch period is not work time and employees are not expected nor permitted to work during the lunch period.
- .4 The Township does not owe “smoke breaks” in addition to their normal 15 minute breaks and such breaks are not available.

#### SECTION 504.

ATTENDANCE: It is an essential function of all jobs in the Township that the person assigned the job is able to routinely, and timely, report to work as scheduled. Employees are expected to report to work as scheduled. All employees shall be responsible for recording their hours of attendance by use of the appropriate Township time recording device or document. No employee is permitted to record the time of any other employee. Employees are entitled to pay for time worked, and taxpayers are entitled to productive employment when the Township compensates an employee for time recorded as working time. All timesheets must be initialed, on a daily basis, by the employee recording his time. Each Department will establish its reporting off procedures. Employees are expected to make good faith efforts to follow reporting off procedures. Exempt employees are not paid on a time worked basis but the Township does require the recordation of their work time so as to better understand its workplace needs and effectiveness, and in recognition of its obligations to the public.

**F.N. 1-** There will be occasions when work circumstances do not permit an employee to receive his/her 15 minute break. Such occurrence does not create an additional pay obligation on the part of the Township to owe the employee some future time off work with or without pay.

ARTICLE 600

EMPLOYEE GRIEVANCES

SECTION 601.

PURPOSE: It is the purpose of this article to establish the means by which employment matters of concern to the employee may be resolved in a fair and equitable manner.

SECTION 602.

GRIEVABLE MATTERS: A grievance is any written complaint filed by an employee with his immediate department supervisor regarding: alleged poor or unsafe working conditions; alleged unjust discipline; or alleged unfair or improper application of the Township Personnel Rules, Regulations and Policies. The Township's policy against sexual harassment is at Article 1600, and contains a separate complaint procedure. Any employee, who believes he/she has been subjected to sexual harassment, or to retaliation for having made a sexual harassment complaint or other complaint of employment discrimination, should refer to the Sexual Harassment policy (Article 1600) or the EEO policy (Article 1500).

SECTION 603.

GRIEVANCE PROCEDURES: Grievances shall be in written form and the grievance procedure shall contain the following steps:

Step I – The employee's immediate department supervisor (but see Section 702).

Step II – The Township Secretary/Township Manager; his decision is final, except that disciplinary suspensions, demotions, or dismissals may be appealed to the Board of Supervisors. In such a case, the Board's decision is final.

SECTION 604.

EMPLOYEE REPRESENTATIVE: The grieving employee is entitled to reasonably use the services of another Township employee as his/her representative. Employees are not entitled to legal representation during the internal grievance process.

SECTION 605.

THE TOWNSHIP SECRETARY/TOWNSHIP MANAGER: The Township Secretary/Township Manager shall be responsible for implementation, administration, and enforcement of this grievance procedure. To accomplish those goals, he shall, from time-to-time, develop forms and procedures needed to allow the procedure to work effectively.



SECTION 606.

EMPLOYEE FAILURE TO FILE GRIEVANCE: Any grievance not properly submitted, in writing, within five (5) calendar days of its occurrence, or within five (5) calendar days of the day the grievant knew or should have known of its occurrence, is untimely. An untimely grievance is deemed, automatically, denied.

SECTION 607.

A written grievance shall contain the following: A factual description of the matter being grieved. The description should be in chronological order, containing relevant dates, times and places, and should name witnesses to the events, if relevant. Attached to the grievance which is to be dated, should be any relevant documents in the possession of the grievant. The grievance should identify sections of this manual or other regulations and policies allegedly violated. The relief sought should be specified. See Procedure 601 on the next page of these rules.

## PROCEDURE 600

### EMPLOYEE GRIEVANCES

#### PROCEDURE 601

#### GRIEVANCES:

- .1 Using a Township approved grievance form; the grieving employee shall complete Part I, the Grievance Statement. The statement shall describe the facts supporting the grievance, including the date(s) on which the grievance occurred, and the names of any employees/persons who were witnesses to the grievance or it is believed have relevant information concerning the grievance; Part II, including the Section(s) of the personnel policy allegedly violated, and/or the alleged poor or unsafe working conditions; Part III, remedy sought by the grievant; and the signature space and date space on the Employee Grievance Form.
- .2 The Immediate Department Supervisor shall, within seven (7) work days of receipt of the grievance, discuss the grievance with the employee.
- .3 The Immediate Department Supervisor shall analyze the grievance and shall, within three (3) work days after the previous discussion, complete the response at the First Step and meet with the employee to explain the decision. An Immediate Department Supervisor does not have the authority to modify, without permission from the Township Secretary/Township Manager , stated Township policy.
- .4 The aggrieved employee may, within three (3) workdays, after receipt of the written decision of the Immediate Department Supervisor:
  - a. If in agreement with the Immediate Supervisor's response, sign and date the Step I response blank and return the grievance form to the Supervisor with a copy also going to the office of the Township Secretary/Township Manager .
  - b. If disagreeing with the Immediate Department Supervisor's decision, elect to appeal the decision to the Township Secretary/Township Manager , within three (3) workdays following receipt of the Immediate Supervisor's response, notifying the Secretary/Manager of his/her desire to appeal the initial decision. Attached to this written notice of appeal shall be a copy of the employee's grievance and the Immediate Supervisor's response.

PROCEDURE 602:

SECOND STEP GRIEVANCE

- .1 The Township Secretary/Township Manager , shall, within ten (10) work days of receipt of a grievance, discuss the grievance with the employee.
- .2 The Township Secretary/Township Manager shall analyze the facts and the issues of the grievance;
  - a. The Township Secretary/Township Manager shall within seven (7) work days of the discussion, complete, in writing, the response of Step II, and he/she shall meet with the employee to explain the decision.
  - b. The Township Secretary/Township Manager shall apprise the employee's Supervisor of the grievance and the final decision.
  - c. The Township Secretary/Township Manager's decision is final and may not be grieved to a higher level. **F.N.1**

**F.N.1** – An employee may appeal certain adverse disciplinary decisions at the Secretary/Manager's level to the Board of Supervisors. See the Articles and Procedures which immediately follow.

## ARTICLE 700

### EMPLOYEE DISCIPLINE

#### SECTION 701.

**PURPOSE:** It is the purpose of this Article to state the Township's disciplinary policy and its approach to administration of that policy.

#### SECTION 702.

**POLICY:** The primary function of discipline in the Township shall be to direct employees to more productive job behavior, thereby assuring that the taxpayers are receiving benefits appropriate to the tax dollars which are assessed against those taxpayers. The Township's basic rules of conduct are appended to this personnel policy, as Appendix A. They may, in the discretion of the Township, from time-to-time be modified. The Township's list of disciplinary rules is not intended to be exhaustive, but is intended, rather as guidance. The Township expects adult and responsible level of behavior from its employees, and it reserves the right to discipline employees for inappropriate behavior which has not been made the subject of a particular disciplinary rule or rules. Township employees are held to the particularly high standard conduct which has been referenced in many Pennsylvania Appellate Court decisions involving public sector employees. Grievances alleging unfairness in the imposition of disciplinary demotions, disciplinary suspensions and disciplinary dismissals shall be processed, initially, at the Second Step and not to the disciplined employee's Immediate Supervisor. Township employees fully covered by this personnel manual, its grievance procedure, and its disciplinary policy, remain at all times, "at will" employees.

#### SECTION 703.

##### RESPONSIBILITIES:

- .1 The Township Board of Supervisors shall be responsible for final approval of disciplinary procedures and employee work rules.
- .2 The Township Secretary/Township Manager shall be responsible for providing all pertinent data to the Board of Supervisors regarding personnel matters and issues, and shall be responsible for executing Board approved policies, and;
  - a. Hearing and deciding on disciplinary demotions, dismissals and suspensions; and
  - b. The custodial, and lawful, care of employee personnel records and employee medical records. Employee medical records shall be maintained separately from employee personnel records, and both of these records shall be maintained so that only those with a legitimate/lawful right to know may review them. In addition, pre-employment records relating to

an employee's application for employment shall be maintained separately from the employee's basic personnel file and are not available for employee inspection to the extent that they contain confidential information confidentially provided.

- .3 The Township Secretary/Township Manager shall also be responsible for:
  - a. Recommending work rules and disciplinary procedures;
  - b. Reviewing and revising all disciplinary actions taken against employees to assure conformance with Township policies and procedures;
  - c. Maintaining records of disciplinary action; and
  - d. Initiating disciplinary action.
- .4 The Immediate Department Supervisor shares responsibility with the Township Secretary/Township Manager for initiating disciplinary action. The Immediate Department Supervisor is expected to initiate disciplinary action where discipline is appropriate, and may be properly subject to discipline himself for not so doing.

PROCEDURE 700

EMPLOYEE DISCIPLINE

PROCEDURE 701:

PROGRESSIVE DISCIPLINE

- .1 Generally, the Township subscribes to a progressive discipline approach to disciplining its employees. The general scheme of progressive discipline used by the Township is stated in the attached disciplinary rules. The intention, generally, to use progressive discipline, however, does not mean that every action which deserves a disciplinary response must begin with a written reprimand. The appropriate level of discipline will relate to the disciplinary scheme stated in the attached rules; the employee's disciplinary history; the significance and seriousness of the act which deserves a disciplinary response; and other relevant facts going to the totality of the circumstances. It is, generally, the Township's policy to deal with discipline as a private matter, and to avoid embarrassing employees through public reprimands or other acts of discipline. However, the Sunshine Act requires that certain disciplinary results be made public; personnel files are subject to subpoena; and, an employee's own actions may make it impossible to deal with the situation in a non-public manner. For example, Township Supervisors may find it impossible to deal effectively, in a completely confidential way, with an employee who is openly insubordinate, inebriated on the job, or belligerent to a member of the public. In such circumstances, the employee bears the burden of having created the situation that makes confidential management of the circumstances impossible.
  
- .2 The Township has an affirmative legal duty to thoroughly and promptly investigate, and remediate, any sexual, religious, or racial harassment committed by an employee against another employee. Because of this specific legal obligation, and the potential liability to the Township should it fail to meet this obligation, employees are hereby given particularized notice that such harassment carries the likelihood of severe discipline, up to and including dismissal. Furthermore, supervisors who become aware of such harassment, and who fail to take affirmative steps to halt it, including the imposition or recommendation of discipline, are themselves subject to potentially severe discipline, up to and including dismissal. This particularized notice also applies to any retaliation imposed on one who files, or one who supports the filing employee, a sexual, etc. harassment complaint.

PROCEDURE 702:

THE WRITTEN REPRIMAND

- .1 This is the lowest level of discipline which the Township may impose upon an employee. It is typically imposed upon an employee by that employee's Immediate Supervisor, though it may also be imposed upon an employee by the Township Secretary/Township Manager or the Township Board of Supervisors. It is imposed when the employee violates a Township rule in a manner which would justify, in keeping with Township rules, the imposition of a written reprimand. It may also be imposed, where appropriate, for actions or inactions which justify discipline, and which are not explicitly covered in the disciplinary rules.
- .2 When an employee's Immediate Supervisor, or the Township Secretary/Township Manager, contemplates issuing a written reprimand, a meeting shall be scheduled with the employee. The purpose of that meeting shall be to provide the employee with an opportunity to explain "his side of the story", and for the employee to understand why discipline is being contemplated. An employee's failure to conduct himself properly at such a meeting would be separate grounds for discipline.
- .3 If, at the conclusion of this meeting, the supervisor has determined that the written reprimand should be issued, the written reprimand will be completed and provided to the employee. It shall state the facts which justified the discipline; the rule or rules (if any) violated by the employee; and shall warn the employee regarding future, more severe discipline, in the event that the inappropriate behavior is repeated.
- .4 The party issuing the written reprimand shall cause a copy of the reprimand to be placed in the employee's personnel file. If the person issuing the written reprimand is the employee's Immediate Supervisor, a copy of the reprimand shall go to the Township Secretary/Township Manager .
- .5 In regard to probationary employees, the issuance of any disciplinary reprimand shall create the presumption that the employee will not be retained beyond the end of his/her probationary period. This should be stated in the written reprimand. The issuance of a second written reprimand to a probationary employee during his/her probationary period will result in the immediate dismissal of that employee.

PROCEDURE 703:

DEMOTION AND DISMISSAL.

- .1 In the event that a probationary employee deserves to receive, during the probationary period, discipline more harsh than a written reprimand, the probationary employee shall be immediately dismissed from employment.
- .2 An Immediate Supervisor may recommend, to the Township Secretary/Township Manager suspension, demotion or dismissal of an employee reporting to that supervisor. Subject to review and reversal by the Township Board of Supervisors, the Township Secretary/Township Manager may, acting upon the recommendation of an Immediate Supervisor, or acting upon his own judgment, suspend, demote or dismiss an employee.
- .3 An Immediate Supervisor does have the authority to suspend, with or without pay, an employee whose continuing presence on the work site creates an unreasonable safety or morale problem. For example, an Immediate Supervisor may “send home” any employee who threatens or attacks another employee, is determined to be inebriated at work, is inappropriately hostile/rude to the public, etc. **F.N.1**
- .4 Except in circumstances of the kind referenced in the immediately preceding subsection, an employee will not generally be suspended, demoted, or dismissed until that employee has been given an opportunity to “tell his side of the story”. In the event of a circumstance such as that described in the immediately preceding subsection, as soon as practical, the employee shall be given an opportunity to tell “his side of the story”. These opportunities to discuss the potential disciplinary situation shall be with the Township Secretary/Township Manager.
- .5 After the Secretary/Manager has had an opportunity to discuss the potential disciplinary situation with the employee, the Township Secretary/Township Manager shall determine if discipline, demotion or dismissal will occur, and should inform the employee, in writing, of his/her decision. This writing shall detail the Secretary/Manager’s analysis, the relevant facts, and the disciplinary rules (if any) involved in the Secretary/Manager’s decision. This written decision shall be provided to the employee and placed in the employee’s personnel file. The appropriate Personnel Action Form shall also be provided to the Township’s payroll clerk. In a confidential manner, the Township Secretary/Manager shall report his actions to the Township Board of Supervisors. If the employee’s prior work history, including employee’s prior disciplinary history, were important to the Township Secretary/Township Manager in assessing the level of discipline, such facts shall be referenced in the Secretary/Manager ’s written decision.

**F.N.1** – An inebriated employee will not be designated to take himself home. Where there is reasonable suspicion that an employee is inebriated or “under the



influence” the Township can order the employee to be tested. If he refuses that refusal will be a separate ground for discipline.

- .6 In the event that a Township employee receives discipline in the form of a suspension, demotion or dismissal, the employee may appeal the Secretary/Manager’s decision beginning at Step II of the grievance procedure. In the event of a timely appeal to the Board of Supervisors, a non-public meeting of the Board, the Township Secretary/Township Manager, the employee’s Immediate Supervisor, and the employee shall be scheduled. The employee shall be given an opportunity to present his/her point of view. This meeting is not a trial. The employee shall not be entitled to the use of legal counsel; the proceedings shall not take place utilizing formal direct and cross-examination; a court stenographer shall not be used; etc. The Township Secretary/Township Manager or his designee shall take notes of the meeting. Following the meeting, in consultation with the Township Secretary/Township Manager, the Township Board of Supervisors shall decide whether to uphold, modify, or reverse the Township Secretary/Township Manager. The decision of the Board of Supervisors, including the rationale for that decision, shall be reduced to writing by the Secretary/Manager or other person designated by the Board of Supervisors to do this. That writing shall be provided to the Township Secretary/Township Manager, the grievant, and to the employee’s personnel file. There shall be no appeal from this decision. If it is necessary, pursuant to the Sunshine Act, for the Board of Supervisors to, in public, state its decision, the Board shall make that statement without going into detail regarding the basis for the decision. (For example, if the Board decided that an employee was properly dismissed for sexual harassment, the Board’s public statement would be: “The Township Secretary/Township Manager recommended the dismissal of John Doe. At Mr. Doe’s request, the Board of Supervisors provided him with an executive session opportunity to explain his point of view. Having heard Mr. Doe’s point of view, it is the conclusion of the Township Board of Supervisors to uphold the decision of the Township Secretary/Township Manager . That is why it was moved, seconded, and why a majority of this body approved, the dismissal, effective \_\_\_\_\_, of Mr. Doe.” However, should the employee or someone on his/her behalf make public comment on the dismissal the Township may respond for the purpose of clarifying its decision to the public. (Such clarification could also occur in regards to a dismissal of an employee by the Secretary/Manager which was not appealed to the Board of Supervisors and where the dismissed employee or someone on his/her behalf made public comment about the dismissal.

ARTICLE 800

LEAVES AND HOLIDAYS

SECTION 801.

PURPOSE: The purpose of this policy is to define the various types of leaves and holidays permitted, the amount of leave and holiday time allowed, and to assign responsibility for leave and holiday administration.

SECTION 802.

RESPONSIBILITY: The Township Secretary/Township Manager shall be responsible for:

- a. Recommending leaves and holiday policy changes;
- b. Approving unpaid medical, educational and caretaking leaves of absence pursuant to this policy manual and other unpaid leaves of absence as appropriate;
- c. Approving vacation leave, sick leave, military leave, holiday leave, bereavement leave and jury duty leave;
- d. Maintaining employee leave records (records relating to medical leaves of absence shall not be maintained in an employee's basic personnel file, and shall not be maintained with records memorializing other aspects of paid or unpaid leave).

SECTION 803.

LEAVES:

- .1 Vacation Leave: Permanent full-time employees shall accrue vacation leave with full pay as follows:

After one (1) year of service	One (1) week/5 days
After two (2) years of service	Two (2) weeks/10 days
After five (5) years of service	Three (3) weeks/15 days
After ten (10) years of service	Four (4) weeks/20 days
After twenty (20) years of service	Five (5) weeks/25 days

- a. An increase in vacation leave shall occur on the day and the month of the calendar year of the anniversary date of an employee's service to the Township.

- b. Employees must submit vacation requests to the Township Secretary/Township Manager . The Township manager shall determine if the vacation time interferes with the operation of the Township based upon the time of year of the proposed leave, or other approved leave requests in the same department, and will deny such request if it unreasonably interferes with the business of the Township.
- c. Vacation leave shall not be accumulated from year to year.
- d. The Township may propose or the employee may request that the Township purchase up to two (2) weeks vacation time per year. The Township Manager must approve a request for purchase vacation time.
- e. In the year of an employee's separation from Township service, the employee shall be paid for any vacation leave entitlement which the employee would have been able to use in the anniversary year in which the employment separation took place. Vacation is earned in the anniversary year proceeding the anniversary year in which the vacation leave may be enjoyed. In addition, it is a precondition to the right to use, or to receive compensation for vacation that the employee is on the payroll of the Township in the first week of the anniversary year in which vacation may be utilized.
- f. Employees may not use more than one (1) week of vacation at a time unless the employee makes the request to use more than one (1) week, not less than thirty (30) days in advance of the first day of the proposed vacation.

.2 Sick Leave: Permanent full-time employees shall earn sick leave as follows:

- a. Sick leave with full pay shall be earned at the rate of six (6) working days annually after one (1) full year of service and thirteen (13) working days annually after three (3) full years of service as a full-time employee of the Township. Once an employee has passed his/her initial one (1) year anniversary date, sick leave entitlement and sick leave accumulation shall be earned and calculated on a calendar year basis. Between an employee's first anniversary date, and December 31 of that same year, the employee will earn sick leave on a pro rata basis. Maximum sick leave accumulation shall be one hundred (100) days. Thus, the maximum sick leave use available to any employee in a calendar year shall be one hundred thirteen (113) days.
- b. Sick leave is available to an employee who has earned sick leave when that employee cannot reasonably report to work as a result of a non-work

related accident or illness. It is also available to an employee disabled by a work related injury to provide compensation to the employee during any statutory waiting period imposed by Worker's Compensation law.

- c. Any employee who separates from employment after a minimum of ten (10) years of service for the Township, who at that time has accumulated sick leave up to a maximum of one hundred (100) days, shall be reimbursed for such sick leave at fifty percent (50%) of the average base rate received by that employee for the last thirty-six (36) months of employment. This benefit shall not apply to employees who were terminated from employment.
- d. Part-time, and per diem, employees are not entitled to sick leave.
- e. Sick leave is not vacation leave, and it is not to be treated as such. Sick leave abuse is a serious disciplinary offense which may subject the abuser to discipline up to and including dismissal. In addition, an employee may be denied a request to use sick leave if the employee cannot meet his burden of demonstrating that the request to use sick leave was appropriate.
- f. An employee with a history of abusing sick leave may be required to justify, at management's discretion, any request to utilize sick leave by providing to management a cogent medical explanation for the absence. Whenever an employee is absent three (3) or more consecutive days, where the employee seeks to be compensated for those days through the sick leave benefit, the employee must provide to management a cogent medical explanation of the basis for the absence. A cogent medical explanation is one which comes from a competent medical practitioner, who demonstrates knowledge of the essential functions of the employee's job, and who provides a rational basis for the absence. A conclusory statement that the employee was unable to report to work due to illness will not be satisfactory. This information will be maintained in the employee medical file and will available only to those with a legitimate "need to know."
- g. All absences to be charged to sick leave must be immediately reported to the Township Secretary/Township Manager who shall keep an accurate record of the sick leave annually taken by each employee, or shall cause such record to be maintained.
- h. Employees who exhaust sick leave, and who cannot report to work due to a non-work related accident or illness, must exhaust other paid leave, including short term disability leave, if available.

- .3 Bereavement Leave: All permanent full-time employees shall be granted a maximum of three (3) days off with full pay for absence of work due to a death in the immediate family. Immediate family shall be defined as employee's spouse, parent, child, brother, sister, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandparent, or grandchild. All full-time employees shall be granted a maximum of one (1) working day off with full pay for absence from work due to the death of the following: employee's uncle, aunt, niece, nephew, brother-in-law or sister-in-law.
- .4 Worker's Compensation: The Township carries insurance to protect employees who are injured on the job. If an employee is injured at work, it shall be reported to the Township Secretary/Township Manager as soon as practical. All job-related injuries must be reported to the Township, on forms provided by the Township for that purpose, immediately. Employees in need of medical care must choose from the panel of physicians posted in the foyer area and in the Department of Public Works notice board.

All workers' compensation claims will be administrated, and if necessary investigated, by the insurance carrier. The carrier, following state law, will determine the amount of compensation, if any, to the employee.
- .5 Disability Leave: Full-time employees are eligible to apply for short term disability leave in accordance with the terms of the disability policy and Section 902.
- .6 Jury Leave: Permanent full-time employees shall be granted leave with pay if they are called for jury duty. The employee will be expected to do his/her job if reasonable, both before the daily court session begins, and after it ends. An employee is expected to notify the Township Secretary/Township Manager, immediately upon receipt of notice that the employee is expected to report for jury duty.
- .7 Military Leave: Employees will be granted military leave in strict accordance with the legal requirements of applicable federal and state law.
- .8 Family Care Leave: Employees are entitled to three (3) days of paid family care leave, to care for a family member with serious health condition. Family member shall be defined to include: a spouse, child, parent, person with whom you have resided for a minimum period of five years, or a person for whom you have legal custody or responsibility. A serious health condition includes an illness, injury,

impairment, or physical or mental condition that involves hospitalization, a period of incapacity that requires treatment by a healthcare provider, or a chronic health condition that requires periodic or continuous treatment by a healthcare provider. Family care leave must be taken in a minimum of four hour blocks of time. The Township Secretary/Township Manager must be given one week notice of an employee's intent to take family care leave, unless the basis for the leave arises from an unforeseeable emergency, in which case, notice should be provided to the Township Secretary/Township Manager at the first practical opportunity after the emergency situation has been addressed. Family care leave does not accumulate from year to year. Family care leave may not be used for any other leave purpose.

**F.N.1**

**F.N. 1-**Because of the size (i.e. number of employees) the Township employees are not eligible for the benefits provided under the federal Family and Medical Leave Act.

.9 Miscellaneous, Unpaid Leaves of Absence: From time-to-time, an employee may desire a leave of absence for the purpose of caring for a dependent and ill child, or dependent and ill parent. Additionally, an employee may desire a leave of absence for the purpose of concentrating on the completion of some formal education requirement. It is within the discretion of the Township Secretary/Township Manager to grant such requests for leaves of absence. Such requests will not be granted unless, as a precondition to granting the request, the employee has exhausted available paid leave. (Note: Sick leave is not available for use in such circumstances.) Such leave shall not be available to employees other than regular full-time employees, and shall not be available to regular full-time employees with less than five (5) years Township seniority. Such employees with five (5) or more years of Township seniority, but less than ten (10) years of such seniority, may be eligible for three (3) months of such leave. Employees with ten (10), or more years of seniority, shall be eligible for six (6) months of such leave. An employee who has received such leave is not eligible for another round of such leave unless and until a minimum of two (2) years has passed since the employee last received such leave. During such leave, the employee may continue healthcare and insured benefits by paying the monthly costs for such coverage.

.10 During approved leave of absence the employees will continue to accrue seniority.

.11 During approved leave of absence other than as provided in .9 above, the Township shall continue to cover the employee and his family with Township-provided healthcare or insured benefits so long as the employee continues to contribute any relevant employee premium share. (See Military leave exception below)

- .12 An employee on an approved leave of absence shall be automatically dismissed from Township employment upon accepting work during the Leave of Absence from another employer.
- .13 Where required by law to maintain insurance coverage on an employee called to active military duty the Township will do so. In other "Activation" circumstances the Township will maintain insurance coverage until the coverage supplies by the Military is available as detailed in statutory law.
- .14 An employee who does not timely return from a Leave of Absence provided per .5 or .9 above automatically forfeits his/her employment.

#### SECTION 804.

#### HOLIDAYS

- .1 Holidays: Permanent full-time employee, and probationary employees of the Township shall enjoy, as paid time off, certain holidays. Those holidays are as follows:
  1. New Year's Day
  2. Martin Luther King Day
  3. President's Day
  4. Good Friday
  5. Memorial Day
  6. July Fourth
  7. Labor Day
  8. Columbus Day
  9. General Election Day
  10. Veteran's Day
  11. Thanksgiving Day
  12. Day after Thanksgiving Day
  13. Christmas Eve
  14. Christmas Day
  15. New Year's Eve

Should an employee be required to work on one of these designated holidays, the employee shall receive time and one-half compensation for each hour worked on said holiday. Alternately, upon the mutual agreement of the Township Secretary/Township Manager and the employee, the employee shall have like, paid, time off work. Such time must be scheduled within ninety (90) working days of the day on which such time was accrued. Should any designated holiday occur on a day when Township Employees would not ordinarily work, such employees shall receive like time off, with regular pay, as soon as possible. If an employee is required to work on one of the designated holidays on a called out basis, the employee shall be entitled to a minimum call-out time of two (2)

hours. In calling employees out in such circumstances, the Township shall follow Procedure A 800.

Part-time and per diem employees shall not be entitled to paid holidays, but shall be paid at the rate of one and one-half times their normal rate of pay for hours worked on a designated Township holiday.

#### SECTION 805.

PERSONAL DAYS: Permanent full-time employees shall, annually, be entitled to two (2) personal days. Except for unanticipated emergency situations, personal days should be scheduled at least two (2) workdays in advance of the day requested by the employee. If such notice is not provided, granting or denying a request to use personal leave is at management's discretion. An employee should schedule personal day use with his/her immediate supervisor. This request should be made on the Personal Day Request form created by the Township Secretary/Township Manager. With the approval of the Township Secretary/Manager, personal days may be utilized on a full day or half day basis. If one or more employees, from the same department or section of the Township, request use of a personal day on the same day, the Township may, in its discretion, deny the second requesting employee the opportunity to use a personal day on the day requested. Such a denial would be appropriate where the absence of more than one employee would unreasonably interfere with the Township's ability to get its work done or create overtime. Part-time and per diem employees are not entitled to personal days.



## ARTICLE 900

### INSURANCE AND HEALTHCARE BENEFITS

#### SECTION 901.

HEALTH CARE BENEFITS: Pursuant to the terms of the applicable plans, regular full-time Township employees shall be enrolled in medical benefits plans selected to provide healthcare coverage for Township employees and their families. From time-to-time, these plans may change. These plans contain definitions of benefits, coverage levels, deductibles, co-pays, dependents, etc., which control application of the plan. Employees are urged to read these plans, and/or plan summaries, carefully. Employees who need clarification regarding the contents or application of these plans should seek such clarification, first, from the office of the Township Secretary/Township Manager. In the event that the office of the Township Secretary/Township Manager cannot provide such clarification, that office will work with the employee to obtain the appropriate clarification from the insurance carrier. Employees who can demonstrate that they enjoy hospital-medical-surgical coverage from a source other than the Township may opt out of the Township's basic health care coverage. As an incentive to encourage such employees to do this, beginning effective 7/1/99, the Township is prepared to pay to the employee, in January of a year following a year in which an employee has exercised his opt out option, twenty-five percent (25%) of the monies the Township has saved as a result of the employee's decision to opt out. An employee, who opts out and then ceases to have access to alternative basic health insurance, may come back into the program, on the terms and conditions for such entry or re-entry as are stated in the applicable Plan.

Details of the healthcare coverage can be found in the summary plan descriptions. When issues arise regarding health care coverage, and health care benefits, those issues are resolved by reference to the plans. The Township does not make or resolve coverage or benefit decisions or issues; however, the Township will work with any employee having a coverage or benefit dispute with one of the Township's plans in an effort to achieve the best possible result for the employee.

Regular full-time employees (hired prior to 9-13-2004) shall be enrolled in healthcare coverage plans selected to provide coverage for themselves and their families. For all employees hired after 9-13-2004, it is the policy of the Township to pay one hundred percent (100%) of the health care premium necessary to purchase the coverage for its individual employees and to pay fifty percent (50%) of the difference between the cost of other levels of coverage as selected by the employee (i.e., employee and spouse, employee and child family level coverage).

#### SECTION 902.

DISABILITY INSURANCE: The Township has purchased, for the protection of its regular full-time employees, an insurance plan providing for income continuation in the event that the employee suffers a non-work related disability. Employee eligibility for this coverage requires that the employee be a regular full-time employee; who has passed out of his probationary period; and who has exhausted all available paid leave. The employee must also meet the

definition of disability contained in the plan of insurance. In the event that the employee has no available paid leave, but is otherwise eligible for coverage within the terms of the insurance policy, the employee shall be entitled to receive disability income commencing the eighth (8<sup>th</sup>) day of a disabling illness, or the first (1<sup>st</sup>) day of hospitalization, whichever first occurs. Such first day coverage is also applicable in the event that the employee suffers a non-work related, accidental, disabling, bodily injury. Once benefits commence, they continue, so long as the disability continues, for a maximum period of thirty-five (35) weeks. During the period of time the employee is eligible, the weekly benefit is Two Hundred Forty-Eight Dollars (\$248.00).

### SECTION 903.

LIFE INSURANCE: Regular full-time Township employees shall be enrolled, pursuant to the terms of the insurance policy, in the Township life insurance plan, as may be changed from time-to-time. Should a covered employee leave employment, this benefit automatically terminates but provides for certain conversion privileges. The insurance purchased by the Township is term life insurance. A more complete description of this insurance can be found in the summary description booklet for the term life insurance benefit purchased by the Township. The basic plan for active employees provides for a \$50,000 life insurance policy, with double indemnity for accidental death and dismemberment. Benefits are not payable for death, including accidental death, under certain circumstances. Those circumstances, which are not of frequent occurrence, are described in the plan of insurance, and in the booklet summarizing plan benefits. Employees who wish to develop a thorough understanding of such exclusions should study the plan and/or the plan benefit summary.

ARTICLE 1000

[Reserved for Future Use]

ARTICLE 1100

PURCHASING

SECTION 1101:

PURPOSE: It is the purpose of this policy to require that Township funds, used in the purchase of material or supplies, be used prudently, in accord with the Second Class Township Code, other laws, and the requirements of the Township.

SECTION 1102:

SCOPE: The Purchasing Policy shall govern all purchasing, including, but not limited to, all supplies and equipment for the agencies, boards, departments and office of the Township, as well as the purchase of services for such entities, as authorized by the Board of Supervisors in their annual operating budget.

SECTION 1103:

AUTHORITY: Responsibility and authority shall be as hereinafter provided:

- .1 The Township of Tobyhanna PURCHASING OFFICER DULY APPOINTED BY THE BOARD OF SUPERVISORS shall be the Purchasing -AGENT.
- .2 The Township of Tobyhanna Treasurer shall be the Petty Cash Officer.
- .3 The Petty Cash Officer shall maintain a petty cash journal and reconcile petty cash each and every month.
- .4 The petty cash funds shall be used solely for small disbursements such as postage, express charges and the shipment of goods, etc., and not for the expenditure of funds for the day-to-day operations of the Township. Employees and elected officials may not utilize the petty cash fund, even temporarily, and with intent to subsequently reimburse the fund, as a source of cash, or to facilitate financial transactions, on personal matters as opposed to Township matters.
- .5 Purchases needed for the day-to-day operations of the Township shall be made through the use of Township Purchase Orders signed by the PURCHASING AGENT or his OR HIS/HER designee, with the approval of the resulting bills being made by the Board of Supervisors at a public meeting prior to their being paid.

- .6 Purchases made without a Tobyhanna Township Purchase Order bearing the signature of the PURCHASING AGENT or his OR HIS/HER designee shall be considered unauthorized and will not be honored by the Township; therefore, the responsibility for payment of the bill associated with an unauthorized purchase shall rest with the purchaser.
- .7 The PURCHASING AGENT shall administer and enforce the purchasing policy. Violations of the purchasing policy shall be grounds for discipline up to and including dismissal.

ARTICLE 1200

EXPENSE REIMBURSEMENT POLICY

SECTION 1201.

PURPOSE: It is the purpose of this policy to establish a set of procedures for the reimbursement of out-of-pocket expenses appropriately incurred by Township employee on behalf of the Township or while those employees were performing approved Township work.

SECTION 1202.

SCOPE: This policy shall apply to all Township employees, employees of Township boards, commissions, authorities, agencies and any individual(s) who has been granted authority by the Township to incur expenses at cost to the Township, in accordance with Section 1203 and 1204.

SECTION 1203.

AUTHORITY: The Township Board of Supervisors or the Township Manager/Secretary shall approve or disapprove requests for cost reimbursement.

SECTION 1204.

RESPONSIBILITY:

- .1 It shall be the responsibility of the Township Manager/Secretary to create and maintain such forms as are necessary for the proper and efficient administration of this policy.
- .2 It shall be the responsibility of any person authorized by Section 1202 to incur expenses on behalf of the Township to comply with the procedure for reimbursement set forth in Section 1205.

SECTION 1205.

PROCEDURE: The following procedure is to be followed by any employee or other relevant person seeking to be reimbursed by the Township for out-of-pocket expenses incurred by that individual on behalf of the Township.

- .1 All requests for reimbursement must be in writing and submitted to the Township Manager/Secretary ;
- .2 The Township Manager/Secretary will authorize or disapprove the request in writing;
- .3 Upon approval and incurrence of expense, the Township Expense Reimbursement Form is to be completed and forwarded to the Township Treasurer for payment.

SECTION 1206.

MILEAGE: The Township shall reimburse employees for approved personal vehicle use, on behalf of the Township, by the employee at the mileage rate approved by the Internal Revenue Service for mileage reimbursement which does not have to be reported as income.

SECTION 1207.

VIOLATION OF POLICY: Any employee violating this Policy shall be subject to disciplinary action in accordance with the disciplinary sections of this manual.

ARTICLE 1300

MOBILE COMMUNICATION POLICY

SECTION 1301.

The Township believes that the use of cellular telephones, personal data assistant (PDA) or other mobile communication devices while driving is a safety hazard. There is no position within the Township that cannot be effectively performed upon the elimination of the use of such devices while driving. The use of such devices for business or personal calls, texting, receipt of messages or any other purpose while driving on Township business is strictly prohibited. Such devices may be used after the vehicle is safely pulled off the road and has come to a complete stop. Failure to follow this policy will result in discipline up to and including termination.

Section 1302.

Pagers: Employees in the Department of Public Works are assigned pagers so that the employees may be contacted in times of emergency (e.g. snow storm). Employees assigned a pager will be advised by their Department supervisor when pagers must be activated. During these times, typically the winter months, employees must keep the pager on their person and activated at all times. When paged employees must respond by telephone within 15 minutes of the page, and must be able to respond to the Township Building within 30 minutes after making telephone contact with the supervisor. Employees who have pre-approved time off during their regularly scheduled work time will not be required to activate their pager until the evening of the next regularly scheduled shift. By example:

*John Doe Works Thursday 8am-4:30pm. He must activate his pager after work on Thursday through the start of work on Friday.*

*John Doe has Thursday 8am-4:30pm scheduled off. He does not have to activate his pager until the end of his work shift on Friday.*

Employees who want to be excused from having their pager on active status must make this request to the Department supervisor. The request will be reasonably granted if staffing and weather permit.

ARTICLE 1400

COMPUTER HARDWARE, SOFTWARE, E-MAIL, INTERNET AND SOCIAL MEDIA  
POLICY

SECTION 1401.

STATEMENT OF THE POLICY: Tobyhanna Township is committed to providing an environment that encourages the use of computers and electronic information, where appropriate, as essential tools to support the effective and efficient conduct of the Township's business. It is the responsibility of each employee to ensure that this technology is used for proper Township purposes and in a manner that does not compromise the confidentiality of protected and/or sensitive information.

Township employees who are given access to one or more Township computers are responsible and accountable for the legal, proper and prudent use of all Township licensed software installed on the Township computers which have been made available to them. Any breach of the licensing agreements by users has the potential to result in the imposition of punishment.

SECTION 1402.

SOFTWARE and HARDWARE USE and MAINTENANCE

Any software purchased by the Township and installed on Township owned or leased PC's is not to be copied or removed for personal use. All software is licensed to the Township and is **NOT** authorized for personal use except as further explained below.

Absolutely **NO** software from home, friends, family, etc., shall be loaded on Township PC's without specific authorization from the relevant department head (this item includes but is not exclusive to: third-party utilities, games, calculators, e-mail games, word processors, paint programs, graphics, any browsers, screen-savers, etc.). Utilization/installation on Township computers of non-approved software may result in discipline.

No utilities are authorized to be loaded, manipulated or used on Township PC's except those used by Township technicians or Township assigned vendors.

No peripheral hardware (i.e., sound cards, receiver cards, scanners, CD-ROM's, tape drives, jazz or zip drives, cameras, printers, etc.) shall be installed, attached or used with or on a Township PC without specific authorization from the appropriate department head.

SECTION 1403.

E-MAIL PROCEDURES

All work place e-mail correspondence is the property of the Township. Township employees have no expectation of privacy relative to their personal e-mails sent utilizing Township computers.



Employee personal e-mail communications are not considered private despite any such designation either by the sender or the recipient. E-mail is not the place for discussing sensitive issues, such as suspicions, employee performance, hiring or firing. When using e-mail, always consider it a formal and permanent form of communication. E-mail is not a toy. Employee e-mail should not be used for personal communications you would not want an unintended recipient to read.

The Township reserves the right to monitor its e-mail system, including an employee's mailbox, at its discretion in the ordinary course of business. Please note that in certain situations, which do not constitute the ordinary course of business, (i.e., when legal action is taken against the Township), the Township may be compelled to access and disclose messages sent over its e-mail system.

The existence of passwords and "message delete" functions will not have the effect of restricting or eliminating the Township's ability or right to access electronic communications. This also applies to persons or entities who/which by subpoena or court order, have obtained a right to access our electronic communications.

Employees shall not share an e-mail password, provide e-mail access to an unauthorized user, or access another user's e-mail box without supervisory authorization.

Employees shall not, for general "consumption" post, display or make easily available any Township-provided e-mail access information, including, but not limited to, passwords.

Offensive, demeaning or disruptive messages and e-mail messages that violate the Township's sexual harassment, EEO or other applicable policies may not be sent from or to Township P.C.'s or other Township computing devices.

Transmission of confidential information by e-mail is prohibited unless authorized by a supervisor.

Non-business related e-mail transmissions (i.e., including but not limited to: spam, chain letters, solicitations of political, religious, or other personal causes or personal business ventures) during worktime is prohibited.

E-mail subscriptions to news groups and mailing lists are permitted when the subscription is for a work-related purpose. Any other subscriptions are prohibited. Any work-related subscriptions which require payment from the Township are permitted only with prior appropriate supervisory approval. If in doubt about whether a subscription can be seen as work-related, you should consult with supervision.

The general rule is that personal e-mail should not be sent, or responded to, while the employee is on "Township" time. Abuse of e-mail access to engage in personal communications (whether sending or receiving), of a non-emergency nature, on Township time is unacceptable conduct. It reduces the effectiveness and efficiency of Township government and may justify the imposition of discipline.

Carelessly opening e-mail, especially from an unfamiliar or unknown source, is the most common method through which computer viruses infect a system. Do not open an e-mail unless you know the sender. Delete such e-mail without opening it. If you suspect the e-mail is legitimately “business-related” but the sender is not known to you, consult with the appropriate supervisor.

#### SECTION 1404.

#### INTERNET PROCEDURES

The Township’s network including its connection to the Internet, is to be used for Township-related purposes only and not for personal use, except as may be permitted in this Policy. Any unauthorized use of the Internet is strictly prohibited. Unauthorized use includes, but is not limited to: connecting to the Internet without an authorized account; posting, downloading or viewing pornographic or sexually explicit material; engaging in computer “hacking” and other related activities; and compromising or attempting to disable or compromise the security of information contained on the Township’s computer and electronic systems. The Internet may be accessed for personal use **only** before or after work hours and during breaks and lunch time, and only so long as such use is consistent with this policy and with other applicable policies of the Township.

Internet postings relating to the Township, and made from a Township worksite on Township time must be approved, in advance, by the appropriate supervisor. Because postings placed on the Internet may display the Township’s address, make certain before posting information on the Internet that the information reflects the standards and policies of the Township. Under no circumstances shall Township employees place workplace information of a confidential nature on the Internet.

Information posted or viewed on the Internet may constitute published material. Therefore, reproduction and distribution of information posted or otherwise available over the Internet should be undertaken only after the Township employee who desires to distribute the information has confirmed that doing so will not violate copyright laws.

Users may not establish Internet or other external network connections that could allow unauthorized persons to gain access to Township systems and information. These connections include the establishment of hosts with public modem dial-ins, World Wide Web [www] home pages and File Transfer Protocol (FTP).

All files downloaded from the Internet must be checked for possible computer viruses. If uncertain whether your virus-checking software is current, you must check with an appropriate supervisor before downloading.

As is the case with e-mail, Township employees have no reasonable expectation of privacy when accessing the Internet utilizing Township equipment including but not limited to: Township-leased software. The Township reserves the right to review employee Internet usage from

Township workstations including Township laptops or similar computing devices, and the Township has access to the technology which permits this review.

Employees are **never** to access sexually provocative sites or web pages using a Township computer. They are not to shop or browse or otherwise engage in personal activity, using the Township's access to the Internet, on Township time.

## SECTION 1405

### SOCIAL MEDIA POLICY

“Social Media” includes all forms of public, web-based communication, whether existing at the time of this Policy's adoption or created at a future date, including, but not limited to, the following:

- Social networking sites (e.g., Facebook, MySpace, Friendster, LinkedIn);
- Video and photo-sharing websites (e.g., YouTube);
- Micro-blogging sites (e.g., Twitter);
- Blogs;
- Forums and discussion boards (e.g., Yahoo groups, Google groups);
- Collaborative publishing (e.g., Wikipedia).

Except as provided below, employees shall not use Township electronic or computer equipment to maintain, amend, view, access, download, contribute to, or post entries on any internet or Social Media site, unless the employee has written permission from the Township to do so. Employees shall not blog, tweet, or post entries on any internet or Social Media site during the employee's work hours (regardless of whether Township electronic or computer equipment is used) unless the employee has written permission from the Township to do so.

#### **A. Exceptions.**

Employees may use Township electronic or computer equipment for legitimate work-related purposes and to access the internet for legitimate work-related purposes.

#### **B. Private Use of Social Media.**

Employees are reminded that their use of Social Media (even when not during working hours or while using Township electronic or computer equipment) may impact Township operations. No employee is authorized to represent the Township, its positions or views via the private use of social media. Accordingly, the following conduct by Township employees is prohibited when using the internet and/or Social Media:

- i. Disclosing confidential business information of the Township;
- ii. Using or displaying the logo, graphics or trademarks of the Township;
- iii. Providing confidential, false, or misleading information about Township

employees or operations;

- iv. Displaying any content that purports to represent a position, viewpoint, statement, opinion or conclusion of the Township or that violates any law, such as laws that prohibit defamation, harassment, discrimination or retaliation.

ARTICLE 1500

EQUAL EMPLOYMENT OPPORTUNITY POLICY

SECTION 1501.

STATEMENT OF THE POLICY: Tobyhanna Township is committed to a policy of equal employment opportunity and does not discriminate in the terms, conditions, or privileges of employment based upon race, religion, color, sex, age, national origin, disability, or any other protected status and/or condition specified in federal or Pennsylvania civil rights laws.

Employment and advancement in the job at the Township is dependent upon the applicable federal and state laws and the merits of the applicant. Supervisors strive to achieve the best match between an applicant's job-related qualifications and the requirements of any open position. You are urged to prepare yourself for promotional opportunities by accepting additional responsibilities and training opportunities. By doing so, you will better prepare yourself should an opening occur for which you may be qualified.

Employees who believe or suspect they have been denied an equal opportunity relative to their employment, or who perceive another employee has been so denied, or who believe that they, or another employee have been subjected to retaliation for having raised such a concern, are encouraged to promptly bring their belief or suspicion to the attention of their immediate supervisor, or the Township Manager/Secretary .

Tobyhanna Township will investigate all such complaints promptly to determine whether discrimination has occurred. The Manager/Secretary or his designee will supervise the investigative process and report findings and recommendations to the Manager. In the event the supervisor is the person accused of violating the EEO policy, the Manager/Secretary will conduct the investigation of the complaint and make all decisions relating to the resolution of the complaint.

Any employee, supervisor or manager who is found, after appropriate investigation, to have engaged in equal employment violations will be subject to disciplinary action, depending upon the circumstances, up to and including termination of employment

ARTICLE 1600

SEXUAL HARASSMENT POLICY

SECTION 1601.

STATEMENT OF THE POLICY

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, sex, age or national origin. Sexual harassment is included among the prohibitions.

Sexual harassment, according to the Federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex based nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or, (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

It is also unlawful to retaliate or take reprisal in any way against anyone who has articulated any concern about sexual harassment or discrimination, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in the Statement of Prohibited Conduct which follows. These examples are provided to illustrate the kind of conduct prescribed by this policy; the list is not exhaustive.

Sexual harassment is unlawful, and such prohibited conduct exposes not only the Township, but individuals involved in such conduct, to significant liability under the law. Employees at all times should treat other employees and the public respectfully and with dignity in a manner so as not to offend the sensibilities of a co-worker. Accordingly, the Township is committed to vigorously enforcing its sexual harassment policy at all levels.

SECTION 1602.

STATEMENT OF PROHIBITED CONDUCT

The Township considers the following conduct to represent some of the type of acts which violate the sexual harassment policy:

- A. Physical assaults of a sexual nature, such as:
  - 1. Rape, sexual battery, molestation or attempts to commit these assaults; and
  - 2. Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.

B. Unwanted sexual advances, propositions or other sexual comments such as:

1. Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way, that such conduct in his or her presence is unwelcome;
2. Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;
3. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

C. Sexual or discriminatory displays of publications in the work place, such as:

1. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work at the Township and who has posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.

2. Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place, other than restrooms and similar semi-private lockers/changing rooms.
3. It is worth noting that conduct not overtly sexual can violate our policy. An employee golf or bowling league cannot exclude women. Making/getting coffee is not a women's job, nor is cleaning up a table, or taking meeting notes.

D. Retaliation for sexual harassment complaints, such as:

1. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained about, or resisted harassment, discrimination or retaliation; and

2. Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct.
3. Typically, retaliation is proved by the timing of events. That being the case the township will, as part of any retaliation investigation, give consideration to the timing of key events.
4. This policy is designed to encourage lawful behavior and to discourage unlawful behavior. Supervisors who fail to act so as to deal promptly with unlawful sexually harassment can expect significant punishment.

E. Other acts:

1. The above is not to be construed as an all inclusive list of prohibited acts under this policy;
2. Sexual harassment is unlawful and hurts other employees. Any of the prohibited conduct described here is sexual harassment of any one at whom it is directed or who is otherwise subjected to it. Each incident of harassment, moreover, contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex based conduct have no legitimate business purpose; accordingly, the employee who engages in such conduct should be and will be made to bear the full responsibility for such unlawful conduct.

SECTION 1603.

PENALTIES FOR MISCONDUCT

Any employee's commission of acts of sexual harassment or retaliation against a sexual harassment complainant will result in appropriate sanctions, up to and including dismissal, against the offending employee, depending upon the nature and severity of the misconduct.

A written record of each action taken pursuant to this policy will be placed in the offending employee's personnel file. The record will reflect the conduct, or alleged conduct, and the warning given, or other discipline imposed.

SECTION 1604.



## PROCEDURES FOR MAKING, INVESTIGATING, AND RESOLVING SEXUAL HARASSMENT AND RETALIATION COMPLAINTS

### A. Complaints.

Complaints of acts of sexual harassment and retaliation that are in violation of the sexual harassment policy will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. A complaint need not be originated only by someone who was the target of harassment or retaliation. Anyone who has observed sexual harassment or retaliation should report it to their immediate supervisor. In the event that it would be inappropriate to report such concerns to one's immediate supervisors, the report may be made to the Township Manager/ Secretary, Administrative Assistant, or any member of the Board of Supervisors. In the event that a female employee would prefer to report a concern about sexual discrimination or harassment to another female, such a person will be DESIGNATED FROM TIME TO TIME BY RESOLUTION OF THE BOARD OF SUPERVIORS as the proper person to receive such communications.

Sexually harassment investigations will be performed discreetly. However, the very nature of an investigation tends to make perfect confidentiality impossible and unrealistic. The township is pledged to respond quickly and effectively against any retaliation (Note: All sexual harassment reports as a matter of law must and will be investigated and remediated (fixed) if harassment or retaliation is found. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint or who has provided evidence in connection with a complaint, is a separate actionable offense and subject to discipline under this policy.

### B. Cooperation.

An effective sexual harassment policy requires the support and example of personnel in positions of authority. Township agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with Township sponsored investigations of sexual harassment or retaliation may be severely sanctioned by suspension or dismissal. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other Township employees, and/or retaliate against sexual harassment complainants or witnesses may be immediately sanctioned by suspension or dismissal.

## SECTION 1605.

## OTHER TYPES OF HARASSMENT

As stated in the beginning of this policy, the law prohibits harassment based upon a number of protected characteristics (race, color, creed, national origin, religion or disability). The Township will not tolerate harassment based upon any protected characteristic. Employees of the Township can expect that other types of harassment will be handled in a manner similar to this policy.

ARTICLE 1700

AMERICANS WITH DISABILITIES ACT POLICY

SECTION 1701.

STATEMENT OF POLICY

It is the policy of Tobyhanna Township (the “Township”) to be in compliance with the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA) and the Pennsylvania Human Relations Act. In regard to non-employment matters, it is the policy of the Township to ensure that Township work sites are appropriately accessible to job applicants, employees and other visitors. In regard to job applicants and employees, it is the policy of the Township to ensure that a disabled person (as defined in the ADAAA), is qualified to perform the essential functions of a relevant position, with or without reasonable accommodation, and receives fair treatment regarding that position. It is the general policy of the Township not to assume that an applicant or employee has a disability, or needs a reasonable accommodation. However, the Township does not require the use of any particular “magic” words by an applicant or employee, to initiate the process of discussing a reasonable accommodation. When considering what might constitute a reasonable accommodation for a disabled applicant or employee otherwise qualified to perform the essential functions of a position, the Township will actively discuss that accommodation issue with the applicant or employee.

SECTION 1702.

ADA/ADAAA COMPLIANCE

In order to assure ADA/ADAAA compliance, the Township will take, or has taken, the following steps:

It has posted and maintained at all work site locations a notice of its ADA/ADAAA duty to provide, to applicants and employees, reasonable accommodation.

The Township strives to maintain its physical facilities in a way that provides reasonable access to its facilities by persons with disabilities, including job applicants and employees.

It has named the Township Manager/Secretary as its ADA compliance officer. Concerns about ADA compliance issues should be addressed, immediately upon perception of those concerns, to the Township Manager/Secretary.

The Township strives to create and maintain job descriptions for each position, to emphasize and focus on the essential functions of a job.

The Township's job application form, hiring process, performance evaluation program, and internal job notice/promotion programs have been reviewed to ensure that they do not create inappropriate employment barriers for disabled persons. Pennsylvania Job Centers will be provided notices of job openings and applications to ensure that the community at large has access to notices of job opportunities at the Township. In addition, the Township has access, to equipment and persons to aid the Township in causing the employment process itself to be accessible to disabled individuals.

The Township will, unless it creates an undue hardship, reasonably accommodate a successful applicant or employee with a disability who is otherwise qualified to perform the essential functions of the relevant position. In making employment decisions, it is the policy of the Township that the existence of a disability in an applicant or employee who is otherwise qualified to perform the essential functions of a position, where that individual can perform those essential functions with or without reasonable accommodation, will not be a factor in the employment decision.

The Township has a continuing commitment to fair employment practices, and will continue to provide ADA training for its supervisory and human resources staff.

### SECTION 1703.

#### DETERMINING THE EXISTENCE OF AN ADA DISABILITY AND RELATED MATTERS

The Township recognizes that this crucial determination is a difficult and complex one. When an applicant or employee signals a belief that he or she has a disability, the Township will discuss and analyze that issue with the applicant or employee.

It is the policy of the Township to follow the contents of the ADA/ADAAA, its regulations, and interpretive court decisions as to what constitutes a disability.

An accommodation which would not allow an otherwise qualified individual to perform all of the essential functions of a job is not a reasonable accommodation. Ultimately, as between various possible reasonable accommodations, the Township will make the determination as to which will be utilized. In reaching this determination, the Township will thoroughly discuss the issues with the applicant or employee. An accommodation which would impose upon the Township an undue hardship is not a reasonable accommodation. An undue hardship is an action that would put the Township to significant difficulty or significant expense in light of specific factors set forth in the ADA/ADAAA itself, and in its implementing regulations.

In order to reasonably accommodate applicants and employees the Township has access to qualified interpreters, and other effective methods, of making aurally delivered materials available to individuals with hearing impairments. The Township has access to qualified readers, is able to tape text, and has access to other effective methods of making visually delivered materials available to individuals with visual impairments. The Township will, in appropriate cases, consider job restructuring, part-time or modified work schedules, reassignments to vacant positions, acquisition or modifications of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, and the provision of qualified

readers or interpreters, (or other similar accommodations) for applicants or employees with disabilities.

Job applicants will not be required to undergo pre-employment offer medical or psychological testing, though they may be required to undergo job-specific skills testing. Job applicants who are offered positions with the Township may be required, subsequent to the job offer, to participate in a medical examination. This medical examination may involve either or both physical or psychological analyses. In such an event, the employment offer will be made contingent upon the results of the medical examination. The Township will not withdraw the tentative job offer, based upon this examination, unless a determination has been made that the applicant is unable to perform the essential functions of the position with or without reasonable accommodation or without significant risk of injury to the applicant or others. Such a determination will not be made without engaging in a discussion with the applicant for the purpose of determining whether there is a reasonable accommodation that would allow the applicant to perform all of the essential functions of the job.

An applicant's or employee's medical condition or history will be maintained in a file separate from the basic personnel file maintained on that applicant or employee. This separate medical file will be maintained as a confidential medical record. The only persons who will have access to this separate medical record will be those with a "legitimate need-to-know". This may include informing managers and supervisors regarding necessary restrictions on the work or duties of the employee and necessary accommodations. It may also include informing, where appropriate, first aid and safety personnel regarding any medical condition that may require emergency treatment.

It is the policy of the Township not to create permanent, "light-duty" positions. From time-to-time, when dealing with employees entitled to receive Workers' Compensation, the Township may create, specifically, so such an employee may return to work, as part of a "work hardening" or similar program, a temporary, light-duty position. The creation of such a position is not a precedent for creating permanent, light-duty positions, or for eliminating legitimate, essential functions of a particular job.

Please note: Under the law, and this policy, "a test to determine the illegal use of drugs shall not be considered a medical examination".

#### SECTION 1704.

#### COMPLAINT PROCEDURE AND MEDICAL EXAMINATIONS

Because the ADA is driven by a highly technical set of definitions, the Township has determined that ADA questions and complaints are best addressed to the Township Manager/Township Secretary or her designee. This will ensure that informed decisions and responses are made in regard to such inquiries/complaints. It will also ensure consistent application of this policy. Therefore, any individual, whether applicant or employee, is

requested to address their concerns to the Township Manager/Township Secretary, designated ADA officer.

Any complaints of harassment or discrimination against a disabled individual, an individual who has asserted a disability, or an individual who is or has sought to aid or support a disabled applicant or employee, will be promptly and thoroughly investigated. In the event that it is determined the accusation(s) has merit, this finding will result in remediation. The remedial activity could include counseling, training, discipline and other remedial activities. Similarly, allegations of retaliation for having raised an ADA reasonable accommodation issue, or for having encouraged or supported the raising of such an issue, will be promptly and thoroughly investigated and remediated, if appropriate.

Any such investigation, or response to an ADA inquiry, will be directed by the Township Manager/Township Secretary, the ADA officer, who is fully empowered to conduct such investigations and to recommend, directly to the Township's Board of Council, appropriate remedial action.

Medical examinations of current employees.

When an employee asserts the existence of an ADA disability, the Township may, at its own cost, have that assertion analyzed by medical authorities of its choice. The scope of the examination would be limited to the issues at hand: i.e., is there medical evidence of an ADA disability given the essential functions of the relevant job?

When an employee seeks to return to work from a lengthy medical leave of absence, the employer may, in the exercise of reasonable discretion, and at its own cost, have the employee medically examined. Again, the scope of the examination shall be limited to the issues which created the need for a medical leave in the first place, as those medical issues might relate to the employee's ability to perform the essential functions of the relevant job.

In the event that an examination, conducted pursuant to either paragraphs 1 or 2 immediately above, produces the conclusion that the employee does have an ADA Disability impacting the examined individual's ability to perform all of the essential functions of the relevant job, then the Township Manager/Secretary and the employee shall engage in a thorough discussion of the possibilities of reasonable accommodation.

## SECTION 1705.

### REASONABLE ACCOMODATION FOR DISABILITIES

A qualified employee with disabilities may be afforded reasonable accommodations in order to allow the employee to perform the essential functions of the employee's job. Requests for reasonable accommodation should be made to the Township Manager/Township Secretary. The Township Manager/Township Secretary may request such medical/psychological documentation

as may be necessary to assess and make a determination as to the request. Any medical/psychological documentation obtained through this process shall be maintained as a confidential medical record.

## APPENDIX “A”

### TOBYHANNA TOWNSHIP RULES AND DISCIPLINARY PROCEDURES

The reason for setting forth rules and disciplinary procedures is to provide a guide to employees so that their actions will not interfere with orderly and professional delivery of Township services. The purpose of disciplinary action is to discourage conduct that is not conducive to orderly and professional delivery of Township services. Since the violation of some rules is more serious than the violation of others, the rules have been divided into two groups, governed by the seriousness of the offense. The rules listed below, not excluding others, are designed to fairly and impartially regulate an employee’s actions. It is not possible to draft rules of conduct so that every potential inappropriate action is met with a specific rule. An employee will not be immune to disciplinary action simply because he/she engages in improper conduct not specifically governed by one of the below listed rules. Employees are expected to take their work seriously; to adhere, at all times, to an “adult” standard of behavior, to conform to an extremely high standard of conduct; and to function with care and diligence when performing township work.

#### GROUP I

First violation of these rules – written reprimand.

Second violation of these rules – written reprimand or one day suspension.

Third violation of these rules – suspension for three (3) days.

Fourth violation of these rules – discharge.

An employee who works one (1) year since the last violation of any rule in “Group I” shall have all previous violations in Group I Rules disregarded for the purposes of progressive discipline.

1. Lack of application on the job.
2. Repeated tardiness or absenteeism. (Regular, timely attendance is an essential function of all Township jobs. See the attached Township Sick Leave Monitoring Program.)
3. Failure to report accident or injury to supervisor when it occurs.
4. Leaving the job during working hours without permission.
5. Reporting for duty under the influence of liquor or narcotics.
6. Defacing bulletin boards or material thereon.



7. Inefficiency on the job. [In an extreme case, or in the case of a probationary employee, the process may be accelerated.]
8. Posting, distributing or circulating unauthorized notices, posters, billboards, etc., on Township premises at a time when the employee is being paid to do Township work.
9. Failure to properly report off work when absent from work. If an employee fails to give the Township prior notice of an anticipated absence (normally an employee should report off work at least thirty (30) minutes prior to the start of his/her scheduled starting time), the employee must present a reasonable excuse for not giving a proper notice in order to avoid discipline.
10. Failure to use safety equipment furnished by the Township, to comply with reasonable safety rules or standards, or to use "common sense" where a safety matter is concerned.
11. Continued use of unsatisfactory practices after being cautioned about such practices.
12. Failure to punch or sign time in or out.
13. Horseplay.
14. Unauthorized or improper use or care of Township property and equipment.
15. Failure to follow good housekeeping practices.
16. Smoking in designated non-smoking areas or in areas which are clearly inappropriate for smoking because of a safety hazard. Taking smoke breaks outside the two fifteen minute break periods and thirty minute meal period provided the employee.
17. Negligent conduct which endangers others, which results in damage to Township property, or which had the potential for doing either of these things.
18. Neglect of duty or failure to maintain reasonable work standards. This includes, but is not limited to, such matters as extending meal and break periods, failure to focus on work, etc. (See Rule #1)
19. Reading on duty except when required by work.
20. Inadvertently sleeping on duty.
21. Failure to give a satisfactory reason for being absent from work.

22. Gambling on Township property.
23. Unnecessarily wasting Township materials, supplies, etc.
24. Unlawful workplace harassment (see the attached policy against sexual harassment) which does not merit immediate discharge.
25. Applicable to supervisors: Failure to effectively or meaningfully evaluate, discipline, or direct the work of subordinates.
26. Responding “in kind” to a member of the public who initiates, in a rude manner, work related discussion with the employee.
27. Failure to obtain prior approval to work for a secondary employer.

First violation of any rule – discharge.

1. Punching, signing or recording the time of another employee.
2. Making unfounded claims of occupational injury, illness or disability.
3. Bringing intoxicants or narcotics into or on to Township premises or consuming same on Township premises.
4. Carrying concealed weapons while at work.
5. Offering or taking a bribe of any kind in connection with work.
6. Deliberate destruction or removal of property belonging to the Township of a fellow employee.
7. Willful waste of materials, supplies, etc. Reckless conduct which endangers others, which results in damage to Township property, or which had the potential for doing either of those things.
8. Refusal to perform a necessary service connected with the efficient operation of the Township as required by a supervisor, or refusal to obey and reasonable order given by a supervisor. (i.e. insubordination)
9. Intentionally falsifying or altering time, production or other records.
10. Giving false information in making applications for employment.
11. Being the aggressor in a fight.

12. Engaging in quid pro quo sexual harassment (See the attached policy on sexual harassment); or otherwise engaging in unlawful discrimination or harassment of any kind (gender-based, religious, racial, etc.) to a degree clearly incompatible with public employment.
13. Rude or otherwise inappropriate workplace conduct towards a member of the public initiated by the employee.
14. Any inappropriate workplace action or inaction which threatens the financial integrity of the Township's operation and/or which creates possible significant legal liability for the Township.
15. Absence for three (3) consecutive working days without notice to the Township and where the employee can give no reasonable basis for the failure to provide, either through himself or another, such notice.
16. Working for another employer while on an approved leave of absence.
17. Deliberate sleeping on duty.
18. Failure to timely return from an approved leave of absence.
19. Unavailability for Township work due to work for a secondary employer in the face of a Township decision to disapprove such work (or to a level which exceed, the approved number of permitted "secondary" hours); or work for a secondary employer where the nature of the work brings disrepute on the Township. (This can be avoided by obtaining informed Township approval, as required, before beginning the secondary work).
20. Loss of a "regular" or CDL license or any technical license where having such a license is an essential function of the job.
21. Failure, without any reasonable explanation, to remain current on federal, state and local taxes and governmental fees.
22. Commission of a crime, by the employee, which can be rationally viewed as relating to the employee's job.
23. The refusal or failure of a supervisor to take reasonable steps to "deal with" and eliminate unlawful workplace related harassment/discrimination observed by him or reported to him.
24. Calling off sick and then engaging in activity incompatible with that sick leave call off. (For example, going hunting, fishing, etc.)

APPENDIX "B"

SICK LEAVE MONITORING PROGRAM

Statement of Principles: The Township adopts the following principles regarding sick leave use.

1. Employees who are sick to the point of impacting their ability to work should not report to work and, if at work when the illness occurs, should not remain at work.
2. Sick leave is not intended to be a form of vacation. It is only to be used when the employee is ill and because of that illness should not be at work.
3. Curbing sick leave abuse is a valid Township interest. All employees share this interest because such abuse threatens a valuable benefit and imposes unfair work burdens on those who do not abuse the benefit.
4. An individual who abuses sick leave is properly subject to discipline. This discipline will typically be progressive.
5. Efforts to identify and halt sick leave abuse should, if possible, focus on individual sick leave usage and should try to avoid imposing penalties on the innocent many because of the actions of a few individuals in abusing sick leave.

The Program:

1. Any employee off sick in excess of three (3) consecutive days must, as a precondition of returning to work, provide the Township with a physician's verification that he/she has been unable to work due to an illness or injury and that the illness/injury, the nature of which the physician should specify, is now resolved.
2. Sick leave abuse is best determined by patterns of absence due to alleged illness or injury. The most common patterns are listed below, though other patterns are possible.
  - (a) Frequent one (1) or two (2) day absences, as opposed to absences which exceed two (2) consecutive workdays.
  - (b) Consistently high utilization of sick leave from year to year.
  - (c) Use of sick days clustered around scheduled time off (holidays, weekends, etc.)
  - (d) Use of sick days clustered around certain kinds of work.

(e) Use of sick leave when that use can be related to certain features of an employee's schedule.

Any employee with one (1) or more of these patterns, or with some other identifiable pattern of sick leave use, is an employee who is abusing the sick leave benefit unless that employee can affirmatively demonstrate a legitimate basis for the pattern.

3. Employees disciplined for sick leave abuse shall be placed in the progressive disciplinary system described in "Group I" of Appendix "A".
4. An employee on the second step of the progressive discipline ladder may be required to produce a physician's verification of illness/injury as a precondition to receiving payment for any additional sick leave.
5. Employees with patterns of sick leave abuse and who are also frequently tardy or who frequently leave work early may be subject to progressive discipline in a way which reflects the related nature of these two problems. Proper attendance is an essential function of all Township jobs.