

PERSONNEL

Chapter 12

PERSONNEL

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- § 12-10. Indemnification of local public employees, appointees and officials.

[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta 6-28-2000 by Ord. No. 4-2000.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Administration of Government — See Ch. 1A.
Business Administrator — See Ch. 4.
Department of Finance — See Ch. 8A.
Police Department — See Ch. 13.
Salaries and Compensation. — See Ch. 15.

¹ Editor's Note: This ordinance also repealed former Ch. 12, Personnel, consisting of Art. I, Indemnification of Local Public Employees, Appointees and Officials, adopted 10-22-1997 by Ord. No. 15-1997. For provisions on this subject, see now § 12-10.

§ 12-1. Personnel policy.

- A. Abolition or modification of offices. The Borough Council may by ordinance abolish, increase, decrease or modify the terms and compensation of any officer or employee of the borough, except where the terms of office have been or are created or limited by general law. Except where an office is abolished, no modification of its terms shall affect any officer holding such office for the duration of the term for which such officer was appointed nor shall any increase or decrease in compensation affect any officer holding office for the duration of the borough's fiscal year.
- B. Workplace environment. In keeping with the Borough of Helmetta's philosophy of maintaining the highest standards of professionalism in government, sexual harassment or any other form of discrimination, the use of illegal drugs or being under the influence of alcohol or drugs are prohibited during working hours, on borough property, in borough vehicles or while conducting any borough business. In addition, the borough workplace shall conform with principles of equal opportunity employment and affirmative action guidelines as forth in federal, state and local laws and regulations.

§ 12-2. Appointments.

- A. Power of appointment. All officers and department heads of the borough shall be appointed by the Mayor with the advice and consent of the Council except as otherwise provided by this Code or general law. All employees of the borough shall be recommended for hire by department heads of the borough subject to the approval or disapproval of the Mayor and Council.
- B. Qualifications. Original appointments to fill vacancies or for new positions shall be limited to qualified persons who have been interviewed or tested concerning education, experience, aptitude, knowledge, character,

physical and mental fitness or such other factors as required by job description or pursuant to law.

- C. Application for appointment. Applicants for borough employment shall apply on forms provided by the Borough Clerk which have been designed to obtain pertinent information concerning the applicant's education, training, experience, character and other factors necessary to determine a person's fitness and qualification for service to the borough. All applications shall be filed with the Borough Clerk who shall refer them to the appropriate department head who then shall provide copies of all applications for a position to the Business Administrator. The Business Administrator shall provide a copy of an application for employment to the Mayor and Council one week prior to a scheduled meeting when a position is scheduled to be filled.
- D. Processing applications. The Borough Clerk shall be charged with processing all applications for appointment to vacancies or new positions and referring them to the appropriate department head, Business Administrator or the Mayor and Council. Where it appears that an applicant is otherwise qualified for borough employment, the Borough Clerk shall, under the direction of the Business Administrator or Mayor and Council, require that the applicant satisfactorily pass physical and mental examinations to be conducted by a physician of the borough's choosing and furnish evidence that the applicant is physically and mentally fit for the position for which employment is sought.
- E. Drug and alcohol use screening.
- (1) Policy. It shall be the express policy of the Borough of Helmetta to screen all applicants for employment within the Borough of Helmetta for alcohol and drug abuse. Every applicant for a position of employment within the Borough of Helmetta shall be required to submit to a blood or urine test to be conducted by a physician of the borough's choosing. This test shall

be performed concurrently with the physical and mental examinations required by the Borough of Helmetta pursuant to Subsection D. Each test shall screen for alcohol, cocaine, marijuana, amphetamines, barbiturates, steroids and any other illegal drug as the Council shall cause to be included by subsequent ordinance. Each applicant shall be required to notify the Borough of Helmetta in advance if said employee is or shall be using drugs lawfully prescribed by a physician where said drug or substance appears on the list of substances prohibited by the borough.

- (2) Independent testing. Each applicant shall be given the opportunity to have an additional specimen taken at the same time, if the applicant so chooses, and may have it examined by an independent laboratory of the applicant's choice at applicant's own expense. Said additional specimen shall be sealed in the applicant's presence and shall be delivered by the administering physician to the laboratory of the applicant's choice at the applicant's expense. Applicants for employment in the Borough of Helmetta shall be informed prior to the issuance of the test of their right to have said additional specimen taken and analyzed. In addition to being informed of the right to have an independent sample taken, the applicant shall be informed of the right to present the borough with the results of such independently analyzed sample prior to any employment decision being made by the Borough of Helmetta.
- (3) Confidentiality. Any and all records with regard to the blood or urine test shall be kept strictly confidential and shall be protected by nondisclosure of the records to the general public or any persons not directly involved with the program or procedure. The release of any information with regard to the blood or urine testing for the purposes of evidence in

the prosecution or investigation of any crime is strictly prohibited.

F. Preemployment interviews and screening.

- (1) Any department head or Chairperson of an autonomous commission or agency whose personnel is paid through the office of the Treasurer of the Borough of Helmetta shall notify the Business Administrator, in writing, of any position to be created or filled, a description of the duties to be performed in that position and the recommended salary range for the position.
- (2) The department head shall interview an applicant for any vacancy in the Borough of Helmetta. The department head will discuss the position with the applicant and verify that the applicant possesses the necessary job skills, experience and other requirements for the position.
- (3) Following the initial interview by the department head, the department head will notify the Business Administrator, in writing, of the results of the initial interview. If the department head determines that the applicant is satisfactory for the position to be filled, the applicant will be referred to the Borough's physician, upon approval of the Business Administrator, for a physical and mental examination pursuant to Subsection D. In addition, the department head will institute a reference check of former employers. The department head shall request the Business Administrator to refer the application to the chief law enforcement officer for a background check to determine whether the applicant has been convicted of any crime, misdemeanor or disorderly persons offense involving moral turpitude.
- (4) If, following interviews, examinations, reference and background checks, the department head feels that

the applicant is qualified for the position to be filled, the department head will notify the Business Administrator, in writing, of the desire to hire the applicant for the position to be filled. The department head shall indicate any special qualifications and skills of an applicant where appropriate. If following the recommendation by the department head the Business Administrator wishes to interview the applicant, the department head shall then schedule an interview at a time convenient for the applicant and Business Administrator. If, following the interview between the applicant and Business Administrator, the department head still wishes to hire the applicant for the position to be filled, the department head will advise the Business Administrator of this desire.

- (5) The Business Administrator will notify the Mayor and Council of the department head's recommendation. The Mayor and Council will consider the applicant at the next regularly scheduled meeting of the Mayor and Borough Council. The Mayor and Borough Council shall have the sole authority to approve or disapprove the hiring of any employee of the Borough of Helmetta. Each hire shall be designated a classification under § 12-4D of this chapter. The governing body shall by resolution approve the hiring of all employees and set the salary for such employee within a range of salaries set forth for all employees of the Borough in a salary ordinance.¹ All salary increases or modifications thereafter granted to employees either individually or collectively shall be set forth in a resolution of the governing body. [Amended 8-29-2001 by Ord. No. 16-2001]

¹ Editor's Note: Said ordinance is on file in the Borough offices.

G. Grounds for rejection of an applicant. An applicant for Borough employment may be rejected where such person:

- (1) Is not qualified for appointment to the position for which application has been made.
- (2) Is physically, mentally or psychologically unfit to perform the duties of the position applied for.
- (3) Is addicted to the habitual or excessive use of drugs or intoxicants.
- (4) Has been convicted of any crime or offense, including disorderly persons' offenses, involving moral turpitude.
- (5) Has received other than an honorable discharge from the armed services of the United States.
- (6) Has been dismissed from previous employment for delinquency, insubordination or misconduct.
- (7) Has practiced or attempted to practice any deception or fraud in the employment application submitted or in furnishing other evidence of eligibility for appointment.
- (8) Is not within age limits that have been established for the position for which appointment is sought.

§ 12-3. Personnel management.

A. Probation. Except where otherwise provided by law, every person appointed to a new position shall be deemed to be on probation in the position to which appointment has been made for a period of 90 days, but such probation shall not affect the status of any other Borough employment which the employee may have achieved. Prior to completion of the probationary period, the employee or officer shall be evaluated by the Mayor and Council to determine whether the employee shall be granted regular status or dismissed. The Mayor and

Council may require reports and recommendations from immediate superiors and department heads for this purpose.

- B. Personnel file. The Finance Department shall initiate a personnel file for each new employee of the Borough which shall thereafter be maintained by the Personnel Officer, if there shall be one, or Business Administrator. All records of the employee concerning qualification, status, work history, accumulated vacation and sick leave, leave time and the like shall be maintained in the file. The Personnel Officer, if there shall be one, or Business Administrator shall make an employee's file available for inspection by the employee at reasonable times upon reasonable notice. Copies of records which are available by law may be made available to an employee from the employee's file.
- C. Examination to determine fitness. As a continuing condition of employment, all personnel of the Borough shall submit to such physical, mental or psychological testing as may be reasonably required by resolution of the Borough Council. A physician or physicians as may be designated by the Borough Council shall conduct the examination. The receipt of a report from a physician or physicians indicating physical, mental or psychological unfitness to perform the duties of a position may serve as grounds for suspension or termination of any employee from a position, subject to grievance and hearing procedures set forth in this chapter. Failure to comply with a lawful directive to submit to an examination may serve as ground for suspension, termination or other proper discipline. Any employee receiving an adverse medical report shall have the right, within 14 days of notice of such report, to submit a report from a physician or physicians of the employee's own choosing and request that a hearing be held prior to the imposition of any notice of suspension, termination or other disciplinary action.

§ 12-4. Working conditions.

- A. Hours of work. In general, the hours of work for Borough employees are 9:00 a.m. to 3:00 p.m. Particular departments may have different starting and ending times. Each employee should be aware of start and end times of the department. Hours of work will depend upon a particular job classification, which is determined by the Business Administrator. The normal workweek is Monday through Friday.
- B. Breaks and lunch. Each employee shall receive thirty minutes for lunch each day and one fifteen-minute break for each half-day period of work. Morning and afternoon shall each be considered a half-day period of work and equivalent periods of shift work shall also be considered half-day periods of work.
- C. Job titles. All employees of the Borough of Helmetta may only work in a job title whose job description and duties are actually performed. Changing of job titles only occurs where and when an employee performs duties/responsibilities of that new job title. Changing of job titles is not used to obtain pay advancement. Upgrading a job title shall not be used solely or primarily for increasing an employee's compensation.
- D. Classification. The governing body shall make or cause to have made an analysis of the duties and responsibilities of the various positions in the borough and shall assign each position to an appropriate class in accordance with an approved position-classification plan. Employees shall be classified as either: **[Amended 8-29-2001 by Ord. No. 16-2001]**
- (1) Full-time salaried employee.
 - (2) Full-time employee.
 - (3) Part-time salaried employee (A).
 - (4) Part-time employee (A).
 - (5) Part-time salaried employee (B).

- (6) Part-time employee (B).
- (7) Hourly employee.
- (8) Temporary employee.
- (9) Seasonal employee.

E. Separation from service.

- (1) An employee wishing to resign must give two weeks' notice to the respective department head.
- (2) An employee can be terminated from service only by a determination of the entire Borough Council.
- (3) Any conditions or benefits regarding retirement will be implemented/paid according to the rules and regulations of the Public Employment Retirement System (PERS).
- (4) Any accrued sick leave will be paid at a rate of one-half of total value at the time of separation.
- (5) Employees shall receive full compensation for any unused vacation time. Any employee who has used more than earned vacation time shall have that excess time subtracted from the final amount of compensation due the employee.

F. Holidays.

- (1) The Borough recognizes the following holidays:
 - (a) New Year's Day.
 - (b) Martin Luther King's Birthday.
 - (c) Lincoln's Birthday.
 - (d) Washington's Birthday.
 - (e) Good Friday.
 - (f) Memorial Day.
 - (g) Independence Day.
 - (h) Labor Day.

- (i) Columbus Day.
 - (j) Election Day.
 - (k) Veteran's Day.
 - (l) Thanksgiving Day.
 - (m) Friday after Thanksgiving.
 - (n) Christmas Day.
- (2) When a paid holiday falls on a Saturday, it is observed on the preceding Friday. If it falls on a Sunday, it is observed on the following Monday.

G. Vacations, [Amended 8-29-2001 by Ord. No. 16-2001]

- (1) All full-time salaried, full-time, part-time salaried (A) and part-time (A) employees earn vacation leave in accordance with the following schedule:

Step	Length of Service	Amount of Vacation
1	6 months to 12 months	1 day per month not to exceed 5 working days
2	12 months plus 1 day to 60 months	10 working days vacation during each year
3	60 months plus 1 day to 120 months	15 working days vacation during each year
4	120 months plus 1 day to 240 months	20 working days vacation during each year
5	240 months plus 1 day or more	25 working days vacation during each year

- (2) The amount of vacation leave earned is associated with length of employment with the Borough and the hours in a normal workweek. The Borough Council sets the amount of leave earned. Employees may carry overup to one-half of their unused vacation days each year to a maximum accrual of eight weeks. At least twenty-four-hours notice must

be given before using a vacation day when used on a one-day-at-a-time basis. If an employee is unable to use earned vacation time within the year it is earned, the employee may elect to be paid for the unused earned days in which event no unused vacation days shall accrue. Any accrued vacation days shall be forfeited upon retirement.

H. Longevity pay. [Amended 8-29-2001 by Ord. No. 16-2001]

- (1) Each employee who has completed a specified length of continuous service with the Borough of Helmetta shall receive a specified percentage of the employee's base pay commencing after completion of a length of service set forth hereafter and in each subsequent year while said employee is in continuous service. Longevity pay shall be included in and paid with base pay compensation except for hourly employees who shall receive longevity pay in a lump sum at the first pay period in December. The length of service and the percentage of base pay shall be as follows: [Amended 12-4-2002 by Ord. No. 23-2002]
 - (a) After five consecutive years: 2%.
 - (b) After 10 consecutive years: 3%.
 - (c) After 16 consecutive years: 4%.
 - (d) After 20 consecutive years: 5%.
- (2) For the purpose of determining continuous service, absences without pay for a period not to exceed three months at one time or in any calendar year shall not be considered as a break in the continuity of service and shall not be used in computing the length of service.
- (3) Base pay for hourly employees shall be computed by multiplying the employee's base hourly rate by hours worked in the previous year to obtain an annual base salary.

I. Overtime.

- (1) Employees may be compensated for overtime work when such compensation has been recommended by the department head, approved by the committee Chairperson and certified by the Business Administrator.
- (2) In all instances, overtime compensation shall commence only after the employee has worked eight hours in any one workday or 40 hours in any workweek. Authorized overtime shall be computed at an hourly rate equal to 1½ times the normal hourly rate of pay prescribed in the salary ordinance. In cases where an option exists for receiving time off instead of pay for overtime worked, time off is earned at the rate of 1½ times the hours of overtime actually worked.
- (3) When an employee works a prescribed workday of less than eight hours, overtime pay shall be computed at the normal equivalent hourly rate up to eight hours, after which the time-and-one-half provisions would take effect. When an employee works a prescribed workweek of less than 40 hours, overtime pay shall be computed at the normal hourly rate up to 40 hours, after which the time-and-one-half provisions would take effect.
- (4) Employees required to work on a holiday shall be entitled to time off with pay equal to the amount of time actually worked on a holiday. Hours worked on a holiday shall be included in calculations for the purpose of determining overtime. Time off which shall be earned due to an employee working on a holiday shall be taken within one year of the holiday worked.

J. Personal days. [Amended 8-29-2001 by Ord. No. 16-2001]

- (1) All full-time salaried, full-time, part-time salaried (A) and part-time (A) employees receive three personal days, which are days off with pay. The scheduling of these days will be based on consideration of the department's manpower needs and the needs of employees. Each department will make every reasonable effort to grant an employee days off when so requested.
- (2) An employee must give 24 hours notice in order to use personal days, except in the case of an emergency.
- (3) Personal days must be used in the current year and may not be carried over to the following year.

K. Medical leave. [Amended 8-29-2001 by Ord. No. 16-2001]

- (1) Medical leave is provided to full-time salaried, full-time, part-time salaried (A) and part-time (A) employees for use when, and only when, an employee is unable to perform the employee's work due to personal illness, accident, or exposure to contagious disease in accordance with the provisions of this section.
- (2) To ensure that no employee poses a health threat to other employees, any employee using medical leave for five or more consecutive days must submit medical verification such as a physician's note or memo substantiating the duration of the illness or injury and that the employee can return to work.
- (3) All full-time salaried and full-time employees shall be entitled to medical leave of 10 days for each year of employment. All part-time salaried (A) and part-time (A) employees shall be entitled to medical leave of five days for each year of employment. Medical leave may be carried over to subsequent years up to a cap of 120 days for full-time salaried and full-time employees and up to a cap of 60 days for part-time

salaried (A) and part-time (A) employees. Upon retirement an employee shall be entitled up to one half (1/2) of all accrued sick days up to a maximum of \$12,000.

- (4) Employees must inform their supervisor at the earliest opportunity in order to utilize sick time. Every effort must be made by the employee to notify the supervisor prior to starting time to avoid the absence being charged as an unauthorized absence.

L. Health and disability benefits. Full-time salaried, full-time, part-time salaried (A) and part-time (A) employees working over 1,000 hours per year shall be enrolled in the New Jersey State Health Plan. In addition all Borough employees will be enrolled in the New Jersey Temporary Disability Plan. Deductions will be made from the employee's earnings and will be matched by the Borough. All employees of the Borough working 12 hours or more per week shall be entitled to enroll in a dental plan in which the Borough participates by contributing a monthly sum as determined from time to time by the governing body. **[Amended 8-29-2001 by Ord. No. 16-2001]**

M. Reimbursement. Employees shall be entitled to be reimbursed for certain expenses incurred in the performance of business on behalf of the Borough. Among these shall be: mileage at the accepted rate for IRS purposes; tolls, with receipts; and meals at a maximum rate of \$8 for breakfast, \$10 for lunch, and \$20 for dinner.

N. Bereavement leave. **[Amended 8-29-2001 by Ord. No. 16-2001]**

- (1) All full-time salaried, full time, part-time salaried (A), and part-time (A) employees are eligible to receive a maximum of three working days leave in the event of the death of the employee's spouse, domestic partner, child, brother, sister, son-in-law, daughter-in-law, parent, mother-in-law, father-in-

law, grandparent, grandchild, and one day for all other relatives, such leave being separate and distinct from any other leave time.

- (2) The need for bereavement leave should be communicated to the employee's supervisor or the Business Administrator by the employee. The employee will be compensated for time lost during said period from regularly scheduled work, not to exceed three days.
- O. Jury time. Should an employee be called to serve as a juror, the employee shall receive the employee's regular pay from the Borough for time spent on jury duty. Any remuneration received by the employee from the courts for serving as a juror, excluding travel allowance, shall be returned to the Borough Treasurer.
- P. Smoke-free workplace. To protect the health and rights of nonsmoking employees and the general public, smoking is restricted as follows:
- (1) Due to the fact that smoking is a major cause of disease, disability, public nuisance and irritation to smokers and nonsmokers alike, smoking shall be prohibited at all meetings of the Borough Council, all board meetings in which the Borough Council takes part and all meetings of Borough boards, agencies, commissions and other bodies to which the public has been invited. Notices shall be posted at all such meetings and on announcements of such meetings indicating the following: "Smoking is not permitted during meetings of Helmetta boards, commissions and agencies."
 - (2) Any violation of this subsection shall result in a fine of not more than \$25.
- Q. Outside employment.

- (1) Employees are permitted to obtain secondary employment, provided that their obligation to employment with the Borough is not compromised. In addition, no Borough employee may ever use a position as a Borough employee for profit or advantage.
- (2) If an employee seeks secondary employment, the Business Administrator must be notified and approve such employment to ensure no conflict will occur.
- (3) Outside employment must be in full compliance with state and/or federal law.

§ 12-5. Disciplinary action.

- A. Disciplinary actions enumerated. An employee may be disciplined by any of the following actions, stated in order of severity, for the causes stated in this section. Disciplinary action may be taken by a department head or the Borough Council, except that no employee shall be suspended or dismissed without the approval of the Borough Council:
- (1) Informal, verbal reprimand.
 - (2) Written reprimand.
 - (3) Suspension from duty.
 - (4) Dismissal.
- B. Causes of disciplinary action. The causes for which disciplinary action may be taken are the following:
- (1) Neglect of duty.
 - (2) Absence without leave or failure to report after authorized leave has expired or after such leave has been disapproved or revoked.
 - (3) Incompetency, inefficiency or incapacity due to mental or physical disability.

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- (4) Insubordination or serious breach of discipline.
- (5) Intoxication or use of drugs while on duty.
- (6) Commission of a criminal act.
- (7) Disobedience of a rule or regulation of the Borough.

(Cont'd on page 1217)

(8) Conduct unbecoming a public employee.

- C. Hearing. Any employee disciplined under the provisions of this section shall, upon request, be granted a hearing. A reasonable opportunity for such hearing shall be granted before the imposition of disciplinary action, if possible, except that an employee may be summarily suspended if it is deemed that egregious circumstances so warrant. If in such case, after hearing, it appears that the suspension was not proper, the Borough Council may order reinstatement with pay.

§ 12-6. Meritorious action.

It is hereby declared to be the policy of the borough to recognize and encourage meritorious actions on the part of its officers and employees. To this end, letters of commendation concerning borough employees from their superiors and from members of the public with whom they deal shall be directed to the attention of the Council and then recorded in the employee's personnel file. In addition, the Council may, of its own motion, commend the work of a particular officer or employee and cause such commendation to be inserted in his personnel file.

§ 12-7. Bonding of officers and employees.

- A. Every officer or employee of the borough who, by virtue of office or position held, is entrusted with the receipt, custody or expenditure of public moneys or funds, and any other officer or employee who may be required so to do by the Mayor and Council shall, before entering upon the duties of such office or position, execute and deliver a surety bond in such amount as may be fixed by the Mayor and Council, binding such person to the borough in its corporate name and conditioned upon the true and faithful performance of the officer or employee's duty. Each officer or employee required by law to give bond shall execute such bond with sufficient surety and deliver it to the Clerk, except that the Clerk shall deliver

said bond to the Treasurer before the employee enters upon the discharge of the duties of the position.

- B. If any officer or employee shall neglect to execute and deliver such a bond within 30 days after due notification of such person's election or appointment, the office or position may be declared vacant and the officer or employee terminated, subject to law.
- C. In every case in which any person is required by the laws of the state or by any ordinance of the borough to give bond for the faithful performance of the duties required of such employee, such bond shall be secured by a corporate surety authorized to do business in the state, and the premium shall be paid by the borough. Each bond shall be approved by the Borough Attorney as to form and sufficiency, and nothing in this section shall be construed to prevent the use of one or more blanket bonds when so approved.

§ 12-8. Code of Ethics; Ethics Board.

- A. Findings, declarations. The Borough Council finds and declares that:
 - (1) Public office and employment are a public trust.
 - (2) The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives.
 - (3) Whenever the public perceives a conflict between the private interest and the public duties of a government officer or employee, that confidence is imperiled.
 - (4) Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed or to apprise their officers and employees

of the behavior which is expected of them while conducting their public duties.

- (5) It is the purpose of this section to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for borough officers and employees shall be clear, consistent, uniform in their application and enforceable on a borough-wide basis and to provide borough officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AGENCY — Any agency, board, governing body, including the Mayor and Council, bureau, division, office, commission or other instrumentality within the borough and any independent local authority, including any entity created jointly with another municipality, which performs functions other than of a purely advisory nature, but shall not include the school board.

BUSINESS ORGANIZATION — Any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

EMPLOYEE — Any person, whether compensated or not, whether part-time or full-time, employed by or serving on a borough agency who is not a local officer, but shall not mean any employee of the school district.

INTEREST — The ownership or control of more than 10% percent of the profits, assets or stock of a business organization but shall not include the control of assets in a nonprofit entity or labor union.

MEMBER OF IMMEDIATE FAMILY — The spouse or dependent child of a Borough officer or employee residing in the same household.

OFFICER— Any person, whether compensated or not, whether part-time or full-time, elected or appointed to an office of a borough agency; serving on a borough agency which has the authority to enact ordinances, approve development applications or grant zoning variances; who is a member of an independent municipal authority; or who is a managerial executive or confidential employee of a Borough agency, as defined in N.J.S.A. 34:13A-3, but shall not mean any employee of the borough school district or member of a school board.

- C. Ethics Board. The Local Finance Board in the Division of the Local Government Services in the Department of Community Affairs shall constitute the Ethics Board for the Borough of Helmetta in accordance with the provisions of N.J.S.A. 40A:9-22.4 et seq.
- D. Code of Ethics. All municipal officers and employees of the Borough of Helmetta, as defined hereunder, shall comply with the following Code of Ethics provisions of N.J.S.A. 40A:9-22.5:
- (1) No local government officer or employee or member of that person's immediate family shall have an interest in a business organization or engage in any business, transaction or professional activity which is in substantial conflict with the proper discharge of that person's duties in the public interest.
 - (2) No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority, award any contract which is not publicly bid to a former member of the authority; allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority. The restrictions contained in this

subsection shall also apply to any business organization in which the former authority member holds an interest.

- (3) No local government officer or employee shall use or attempt to use an official position to secure unwarranted privileges or advantages for such person or others.
- (4) No local government officer or employee shall act in an official capacity in any matter where such person, a member of his immediate family or a business organization in which such person has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair that person's objectivity or independence of judgment.
- (5) No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice such person's independence of judgment in the exercise of official duties.
- (6) No local government officer or employee, member of such person's immediate family or business organization in which such person has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise or other thing of value was given or offered for the purpose of influencing such person, directly or indirectly, in the discharge of official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the

local government officer in the discharge of official duties.

- (7) No local government officer or employee shall use or allow to be used in such person's public office or employment any information not generally available to the members of the public which such person receives or acquires in the course of and by reason of such person's office or employment for the purpose of securing financial gain for such officer or employee, any member of such employee's immediate family or any business organization with which such employee is associated.
- (8) No local government officer or employee or business organization in which such person has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which such person serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representation responsibilities.
- (9) No local government officer shall be deemed in conflict with these provisions if by reason of participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to such person as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

- (10) No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of such person's immediate family, whether directly or indirectly, in return thereof.
- (11) Nothing shall prohibit any local government officer or employee or members of such person's immediate family from representing such person or immediate family members in negotiations or proceedings concerning the interests of such person or such person's family.

E. Annual financial disclosure statement.

- (1) Borough officers, as defined hereunder, shall annually file a financial disclosure statement. All financial disclosure statements filed pursuant to this subsection shall include the following information which shall specify, where applicable, the name and address of each source and the officer's job title:
- (a) Each source of income, earned or unearned, exceeding \$2,000 received by the Borough officer or a member of such person's immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the Borough officer or member of such person's immediate family has an interest in the business organization.
- (b) Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances,

speeches or writings received by the Borough officer or a member of such person's immediate family during the preceding calendar year.

- (c) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by such Borough officer or a member of such person's immediate family during the preceding calendar year.
 - (d) The name and address of all business organizations in which the Borough officer or a member of such officer's immediate family had an interest during the preceding calendar year.
 - (e) The address and brief description of all real property in the state in which the Borough officer or a member of such officer's immediate family held an interest during the preceding calendar year.
- (2) On receipt from the Local Finance Board of the financial disclosure statement form prescribed by it, the Ethics Board shall make the forms available to the officers serving the Borough.
 - (3) Officers serving the Borough shall file the original financial disclosure statement with the Borough Clerk. A copy of the statement shall be filed with the Local Finance Board. Borough officers shall file the initial financial disclosure statement within 90 days following the effective date of P.L. 1991, c. 29, in accordance with the provision of N.J.S.A. 40A:9-22.1 et seq. Thereafter statements shall be filed on or before April 30 each year.
 - (4) All financial disclosure statements filed shall be public records.
 - (5) Statement of family members employed by governmental entities.

- (a) All officers of the Borough of Helmetta who are required to file a financial disclosure statement in accordance with this section shall also file in accordance with the provisions of this subsection, under oath, within 30 days of their taking office, a statement listing the names of all members of their immediate family employed on a full-time or part-time basis, by the following governmental entities:
- [1] The State of New Jersey;
 - [2] Any county in the State of New Jersey;
 - [3] The Borough of Helmetta; and
 - [4] Spotswood Board of Education.
- (b) "Members of the immediate family" as used in this subsection, shall mean the spouse, parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, or child of the Borough Officer.
- (c) The disclosure statement required under this Ordinance shall be filed annually with the Borough Clerk, but no later than the 30th day of January.
- (d) Violations and penalties. Failure to file a disclosure statement in accordance with the terms of this subsection within 30 days of taking office or within 30 days of the date upon which the annual statement must be filed; or any willful and knowing misrepresentation or concealment of the required and relevant information, if made with the intent to conceal or misrepresent the information required to be disclosed under this subsection, shall result in a fine of not more than \$500.
- (e) The Borough Clerk shall have the exclusive authority to institute and file a complaint in the

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Municipal Court of Helmetta against any person found violating any provision of this subsection.

- F. Request for advisory opinion authorized. An officer or employee serving the Borough may request and obtain from the Local Finance Board an advisory opinion as to whether any proposed activity or conduct would in its

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opinion constitute a violation of the Code of Ethics or any financial disclosure requirements in accordance with the provisions of N.J.S.A. 40A:922.8.

- G. Ethics complaints. A signed written complaint by any person alleging that the conduct of any officer or employee serving the borough is in conflict with the Code of Ethics or financial disclosure requirements shall be filed with the Local Finance Board of the Division of Local Government Services of the Department of Community Affairs and acted upon in accordance with the provisions of N.J.S.A. 40A:9-22.9 et seq.
- H. Records to be preserved. All statements, complaints, requests or other written materials filed pursuant to this section and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant hereto shall be preserved for a period of at least five years from the date of filing or preparation, as the case may be.

§ 12-9. Salaries.

- A. Mayor. The salaries of the Mayor and members of the Borough Council shall be as set in the annual Salary Ordinance, to be paid at the same time and in the same manner as borough employees are paid or in such manner as may be established by the Council.
- B. Officials, officers and employees. The annual salaries of the officials, officers and employees shall be fixed and determined in accordance with the annual Salary Ordinance.
- C. Nonsalaried employees. Wages paid on an hourly basis for nonsalaried employees shall be fixed and determined by the annual Salary Ordinance.
- D. Credit for previous service. In calculating minimum and maximum compensation to be paid an employee upon promotion, full credit shall be given to the employee for all previous service in the borough.

- E. Salaries in lieu of statutory fees. All annual salaries shall be in lieu of all statutory fees provided for such office and shall be paid in 26 biweekly installments.
- F. Additional compensation in certain instances. Compensation for services of a professional or specialized nature, such as engineering or legal services, beyond the regular or routine duties of any office or employment may be paid, provided that the work is authorized or funds are provided by ordinance, resolution, professional service agreement or as may be otherwise authorized or provided for by law.

§ 12-10. Indemnification of local public employees, appointees and officials.

- A. Purpose. The purpose of this section is for the borough to authorize and provide indemnification to its employees, appointees and officials in accordance with the indemnification provisions applicable to all state employees and consistent with N.J.S.A. 59:10-1, et. seq.
- B. Definitions. For the purposes of this section, unless the context clearly indicates a different meaning, the following words or phrases shall have the meanings set forth:

INSURANCE — Coverage afforded by insurance policies of every kind whether the premiums are paid by the borough, the municipal official, or someone on such official's behalf.

MUNICIPAL OFFICIAL — Any officer, employee, board or committee member appointed or hired by the Mayor, Borough Council, or Business Administrator, whether part-time or full-time. The term shall also include any person elected by the voters to fill any official position in the borough or any person subsequently appointed to fill such position.

- C. Indemnification. Subject to the provisions of this section, the borough shall reimburse a municipal official for all expenses incurred (specifically including reasonable attorney fees and court costs) and all monetary judgments imposed upon such official in any action or legal proceedings of a noncriminal nature arising out of or incidental to the performance of the duties of the position or office held by such municipal official. The borough shall indemnify a municipal official for exemplary or punitive damages resulting from the municipal official's civil violation of state or federal law if, in the opinion of the Borough Council, the acts committed by the municipal official upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.
- D. Exceptions. The borough shall not be obliged to provide reimbursement in the following instances:
- (1) Where the legal proceeding is instigated or brought by the municipal official.
 - (2) Where the legal proceeding involved a claim of misfeasance or malfeasance in office, or a claim of fraud, theft or misappropriation of public funds, and the municipal official is found liable for the charge.
 - (3) Where the legal proceeding is instigated or brought by the borough against the municipal official.
 - (4) Where the legal proceeding involves a question concerning the election laws.
- E. Reduction of reimbursement. The amount the borough is obliged to reimburse the municipal official shall be reduced by any insurance coverage payable to the municipal official and by the net amount (recovery less attorney fees, disbursements and court costs) of any money received by the municipal official in any counteraction against the person or persons bringing the action against him.

- F. Notification of borough; cooperation with borough. A municipal officer shall not be entitled to indemnification or reimbursement pursuant to this section unless, within 10 calendar days of the time such official is served with any summons, complaint, process, notice, demand or pleading, the official delivers the original or a copy thereof to the Borough Clerk. The municipal official shall be obliged to cooperate with the borough in the conduct of a defense. Whenever competent and disinterested legal counsel is available to the borough through any insurance coverage, the municipal official shall be obliged to be represented by such counsel. The refusal of the municipal official to cooperate with the borough shall terminate the borough's obligation to reimburse the municipal official.
- G. Approval of settlements. If the legal proceeding is terminated by an agreement among the parties, then the borough shall not be obligated to reimburse the municipal official unless the borough approves the settlement agreement.
- H. Costs attributable to counteraction. If the municipal official files a counteraction in the legal proceedings, the municipality shall not be obligated to reimburse the official for any attorney fees or court costs attributable to such counteraction.
- I. Time of payment. The borough may reimburse a municipal official for a portion of expenses incurred prior to a final decision in a legal proceeding, but the borough shall be entitled to wait for a final determination before being obligated to make any payments.
- J. Precedence of statute applying to police. To the extent N.J.S.A. 40A:14-155 provides broader indemnification to members of the municipality's Police Department, the statute shall supersede this Section.