

ORDINANCE NO. 5, 2016

AN ORDINANCE AMENDING CHAPTER 52 PERSONNEL AND PERSONNEL PROCEDURES, EMPLOYEE MANUAL, OF THE CODE OF THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Chapter 52, Personnel and Personnel Procedures, Employee Manual, Article II, Employment and Termination, A. Employment, 1. Policy of Equal Employment Opportunity is hereby amended as follows:

a. Americans with Disabilities Act Policy/ New Jersey Pregnant Worker's Fairness Act:

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

It is the policy of the City of Linwood to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and LAD. We will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth or pregnancy related medical condition. We will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities or pregnant, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the City of Linwood.

The City Clerk shall engage in an interactive dialogue with disabled/pregnant employees and prospective disabled/pregnant employees to identify reasonable accommodations or their respective physician. All decisions with regard to reasonable accommodation shall be made by the City Clerk. Employees who are assigned to a new position as a reasonable accommodation will receive the salary for their new position. The Americans with Disabilities Act does not

require the City of Linwood to offer permanent “light duty”, relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

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

SECTION 2: Chapter 52, Personnel and Personnel Procedures, Employee Manual, Article II, Employment and Termination, A. Employment, is hereby amended as follows:

6. Anti-Discrimination Policy:

The City is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination as amended by the New Jersey Pregnant Worker’s Fairness Act (LAD). Under no circumstances will the City of Linwood discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy (including pregnancy related medical condition), childbirth, liability for service in the United States armed forces, gender identity or expression, and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer their Department Head, City Clerk, or Council Chair.

SECTION 3: Chapter 52, Personnel and Personnel Procedures, Employee Manual, is hereby amended to add the following Article:

Article XVI

Communication Media Policy:

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

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

The City of Linwood respects the individual privacy of its employees. However, employee communications transmitted by the City of Linwood's Communication Media are not private to the individual. **All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the City of Linwood. The City of Linwood reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the City of Linwood's Communication Media.** By using the City of Linwood's equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by City of Linwood personnel. The existence of passwords does not restrict or eliminate the City of Linwood's ability or right to access electronic communications. However, the City of Linwood cannot require the employee to provide its password to his/her personal account.

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the City of Linwood are required to use the assigned municipal email account for ALL City of Linwood business and correspondence. The use of private email accounts for ANY City of Linwood business or during business hours is strictly prohibited.

Employees can only use the City of Linwood's Communication Media for legitimate business purposes. Employees may not use City of Linwood's Communication Media in any way that is defamatory, obscene, or harassing or in violation of any City of Linwood rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

All employees who have been granted access to electronically-stored data, must use a logon ID assigned by City of Linwood. Certain data, or applications that process data, may require additional security measures as determined by the City of Linwood. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

All employees may access only data for which the City of Linwood has given permission. All employees must take appropriate actions to ensure that City of Linwood data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.

Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the City of Linwood's computing environment.

Employees may not install *or Modify* ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the City of Linwood. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the City of Linwood, or licensed to the City of Linwood. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

Social Media and its uses in government and daily life are expanding each year however, information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Only those Employees directly authorized by the Department Head may engage in social media activity during work time through the use of the City of Linwood's Communication Media, as it directly relates to their work and it is in compliance with this policy.

Employees must not reveal or publicize confidential City of Linwood information. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.

No City of Linwood employee shall post internal working documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/or actual documents themselves without the prior approval of the Department Head. In addition employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the City of Linwood's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the Department Head. Except in "emergency situations, "Employees are prohibited from taking digital images or photographs with media equipment not owned by the City of Linwood.

For purposes of this section, an “emergency situation” involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the City of Linwood’s Communication Media. If such situation occurs, employee agrees that any images belong to the City of Linwood and agree to release the image to the City of Linwood and ensure its permanent deletion from media device upon direction from the City of Linwood.

No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the City of Linwood or on behalf of the City of Linwood, whether through the use of the City of Linwood’s Communication Media or otherwise, may be issued unless it has first been approved by the Department Head. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the City of Linwood. Such unauthorized communications may result in disciplinary action.

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

All users are personally accountable for messages that they originate or forward using the City of Linwood’s Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user’s identity on any Communication Media is prohibited. “Spoofing” (constructing electronic communications so that it appears to be from someone else without a legitimate authorized purpose and authorized by the Department Head is prohibited

Employees must respect the laws regarding copyrights, trademarks, rights of public City of Linwood and other third-party rights. Any use of the City of Linwood’s name, logos, service marks or trademarks outside the course of the employee’s employment, without the express consent of the City of Linwood, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

To the extent that employees use social media outside of their employment and in so doing employees identify themselves as City of Linwood’s employees, or if they discuss matters related to the City of Linwood on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the City of Linwood, and the employee is expressing only their personal views. For example: “The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer.” Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the City of Linwood or the City of Linwood’s business. Employees must keep in mind that, if they post information on a social media site that is in violation of City of Linwood policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action.

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

SECTION 4: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 5: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 6: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

<i>FIRST READING:</i>	<i>September 14, 2016</i>
<i>PUBLICATION:</i>	<i>September 19, 2016</i>
<i>PASSAGE:</i>	<i>September 28, 2016</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, September 14, 2016 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 28, 2016.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR