



CITY OF
**SOUTH
PORTLAND**

PERSONNEL POLICY

Adopted by the South Portland City Council on June 3, 2025.

June 3, 2025

Dear Employee,

This Personnel Policy manual is an overview and summary of the City of South Portland's personnel policies and procedures currently in effect as adopted by the South Portland City Council on June 3, 2025. As policies and benefits are revised, changes will be communicated to you through updated sections of the Personnel Policy. Any new policy or manual supersedes previously issued written or verbal policies or manuals.

The policies and procedures contained in this manual constitute guiding principles intended to determine a course of action. They do not constitute an employment contract.

Please be aware that depending upon your position, you may also be covered by the provisions of specific city department work rules and regulations, collective bargaining agreements and/or the Civil Service Ordinance.

If you have any questions, or wish to have further information about any guideline in this manual, please contact the Human Resources Office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Morelli', with a long horizontal flourish extending to the right.

Scott Morelli
City Manager

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CITY OF SOUTH PORTLAND PERSONNEL POLICY

I. INTRODUCTION

The City of South Portland is a municipal corporation organized pursuant to the laws of the State of Maine. The Charter establishes a City Council elected by the voters and an appointed City Manager as the City's chief executive and administrative officer. The appointing authority for all City employees other than the Corporation Counsel and the City Clerk is the City Manager. However, the City Manager may delegate appointing authority to department heads.

In accordance with the City Charter and the Code of Ordinances, the City Council hereby adopts the following Personnel Policy for utilization by the City Manager, the City Manager's designees and the Human Resources Director, as specified herein, in the administration of personnel activities of the City.

The personnel policies contained in this manual do not constitute an employment contract.

II. GENERAL PRINCIPLES

A. Applicability of the Policy

This Policy shall apply to all employees of the City appointed by the City Manager or the City Manager's designee, unless otherwise provided in collective bargaining agreements, or a different standard or procedure is established by Council Order, the Code of Ordinances, the Charter, or State or Federal law.

The Chiefs and Deputy Chiefs of the Police and Fire Departments shall receive the same vacation, holiday and sick leave benefits and pay-out provisions as members of the command rank union employees within their respective departments as provided by the respective collective bargaining agreements. Any pay-out of leave may be in installments or as a lump sum as determined by the City and as permitted by law.

Unless otherwise written in a contract, the Policy shall also apply to the two Council appointees (City Manager and City Clerk) in regard to insurance, retirement and similar benefits (Art. VII), employment leaves (Art. IX) and conditions of employment (Art. X), except to the extent that Council orders and City Charter state otherwise. For Council appointees, the City Council shall make the decisions otherwise delegated to the City Manager.

B. Management Rights

Except as explicitly limited by a specific provision of this Policy, ordinance or statute, the City Manager shall have authority to take appropriate action in the operation of City departments, in the implementation of the directives of the City Council and in the direction of the work of employees under the City Manager's appointing authority. The City Manager may modify or waive the application of these policies regarding starting pay plan step for new hires or pay increases for promotions when deemed by the City Manager to be in the best interest of the City.

The City Council recognizes that certain positions once vacated may be difficult to fill at the prior incumbent's wages, and in order to attract and retain talented professionals the City may need to offer higher compensation than what has been budgeted. Therefore, on rare occasions, the City Manager is authorized to approve a higher wage than has been budgeted in order to fill a non-union position with a qualified candidate. Such a wage must be within the grade and range for the position. The manager shall report each instance of this occurring to the City Council via email within 30 days of the date of hire. The authorization must be used conservatively and should not be used to subvert the normal budget request process by a department.

C. EEO/Anti-Discrimination Policy

It is the policy of the City not to discriminate against any applicant or employee on the basis of race, color, age, sex, sexual orientation, gender identity or expression, national origin or ancestry, religion, genetic information, physical or mental disability, workers' compensation history, retaliation or whistleblower status, veteran status, use of tobacco products outside the course of employment, previous or present union activities, union membership, or any other legally protected category. See also Article XIII.

The City is committed to providing equal employment opportunities (EEO) to all persons in the selection, placement, compensation, access to benefits, training and advancement of employees.

D. Merit Principle

It is the City's goal to provide efficient and competent public service to the citizens of South Portland through personnel administration based upon merit. The City is committed to the recruitment, selection, retention and promotion of employees on the basis of their relative abilities, knowledge and skills, with open consideration of all qualified applicants.

The City is committed to the compensation of employees in an adequate and equitable basis commensurate with wages and benefits for comparable work in similar sized municipalities and the area labor market.

III. TYPES OF EMPLOYMENT

A. Full-time Employment

Appointment to a position to work a standard work week of no less than 35 hours per week, as set forth in the pertinent job description, on a continuing basis (i.e., with no pre-set termination date). Such an employee will be referred to in this Policy as a “regular” employee or a “regular” full-time employee. Such full-time employees receive all benefits as provided herein upon the effective date of employment unless otherwise specifically provided for in this policy.

Whenever an employee’s total hours worked are consistently equal to or exceed 35 hours per week, that employee shall be considered a full-time employee, and be eligible for all of the benefits of a full-time employee. To determine whether an employee’s total hours are consistently equal to or exceed 35 hours per week, the City will consider the employee’s total scheduled hours or, if the total scheduled hours do not equal 35 hours or more, the average hours actually worked per week over a full one-year period.

K.

B. Part-time Employment - at least 20 hours per week

Appointment to a position to work less than the standard work week, but on a continuing basis as above. Such an employee will be referred to in this Policy as a “regular” employee or a “regular” part-time employee. Part-time employees who are regularly scheduled to work at least 20 hours but less than 35 hours per week shall receive the benefits as described herein. For the purposes of calculating vacation and sick time benefits, a pro-rated accrual (based on 40 hours per week) will be applied to determine the annual accruals.

Whenever an employee’s total hours worked are consistently equal to or exceed 20 hours per week but less than 35 hours per week, that employee shall be considered a part-time employee – at least 20 hours per week, and be eligible for all of the benefits of a part-time employee – at least 20 hours per week. To determine whether an employee’s total hours are consistently equal to or exceed 20 hours per week, the City will consider the employee’s total scheduled hours or, if the total scheduled hours do not equal 20 hours or more, the average hours actually worked per week over a full one-year period.

C. Part-time Employment - less than 20 hours per week

Appointment to a position to work less than the standard work week, but on a continuing basis. Part-time employees who are regularly scheduled to work less than 20 hours per week are ineligible for vacation, sick, MainePERS and deferred compensation benefits and shall only receive the benefits as described herein.

D. Temporary Employment

Appointment to work a standard workweek or less on a regular basis but for a limited period of time, usually not to exceed six months. Extensions may be granted by the City Manager or the Human Resources Director for up to three additional months. All temporary appointments require the prior approval of the City Manager or the Human Resources Director. Temporary employees are paid for hours worked and receive no other benefits except those mandated by State or Federal law. (Example: an appointment to temporarily fill the position of a full-time or part-time employee on an approved leave of absence.)

E. Seasonal Employment

Appointment to a position in an industry designated by the State of Maine as a seasonal industry. Employees are terminated at the end of the applicable season. They are paid only for hours actually worked and are not eligible for any other benefits except those mandated by State or Federal law.

F. On-call Employment

Appointment to work on an intermittent and as-needed basis. Employees who are on-call do not have a regular schedule but work as available and as needed. Such employees are paid only for hours worked or by annual stipend and are not eligible for any other benefits except those mandated by State or Federal law.

G. Project Employment

Appointment to work on a special project of limited duration. Project employees may work a standard workweek or less and are eligible for the same benefits provided as described in the appointment agreement. Project employees will be terminated upon completion of the special project for which they were hired.

H. Contract Employment

Employment under a written personal services contract between the City and an individual. Such an individual receives compensation and benefits pursuant to the negotiated contract and has no claim to the benefits of this Policy, except as specifically negotiated or as required by law. Contract employment shall be permitted only in unique and limited circumstances and shall not be used to avoid membership in a collective bargaining unit, applicability of this Policy, or workers' compensation coverage.

I. Student Employment

Employment of students during their enrollment in schools, including summer employment, as part of special internship or apprentice programs, work-study programs or similar arrangements involving the school of enrollment. Student employees and/or interns will be paid as determined by the Human Resources Director in accordance with applicable state and/or federal laws, as may be amended from time to time. Student employees and interns are not eligible for benefits other than those mandated by State and Federal law, except an intern may be eligible to use certain City facilities, such as the Library, City Transit Bus service or City swimming pool, without charge during normal operating hours. Unpaid internships in the public sector, where the intern volunteers without expectation of pay/compensation, are generally permissible.

Students not employed in such programs may be employed as temporary, seasonal, on-call or project employees and are governed by the applicable provisions of the Policy and State and Federal law.

J. Employment Contract Disclaimer

All employees, except for the City Manager and City Clerk, shall have no employment contract with the City, written, verbal, implied or otherwise, except as otherwise authorized by the City Manager pursuant to Section III(H) above. Employment is at will, and terminable at will by either the employee or the City at any time, for any lawful reasons, without cause and without advance notice. Any verbal statements of any person of the City to the contrary are void.

Employees may be discharged for reasons of performance or conduct under the provisions of Article XI, Disciplinary Action.

Employees may be laid off from employment for economic or budgetary reasons at any time.

IV. RECRUITMENT, SELECTION, ORIGINAL APPOINTMENTS

A. Application for Employment

Application for employment, except for Civil Service positions, shall be made on a standard application form provided by the City or such other forms as may be prescribed by the Human Resources Director, and may be submitted on-line. The City may require the submission of resumes in lieu of, or in addition to, the standard application form.

The recruitment, advertising and application for Civil Service positions shall be

governed by the Civil Service Ordinance.

B. Application Period

For vacant positions, an application period shall be determined by the Human Resources Director, or their designee, in collaboration with the authorized designee from the hiring department. Applications and resumes may be submitted in person, by e-mail, on-line or by postal mail during the application period. Applications and resumes may be delivered in person to the Human Resources Department during regular business hours. The City reserves the right to re-advertise a position if it is deemed in the best interests of the City to do so.

Applications for employment shall only be accepted by the City's Human Resources Department for positions in which there are posted vacancies, other than Civil Service applications, which are governed by the Civil Service Ordinance.

C. Recruitment Procedures

When a full-time or part-time position is vacant or newly created, announcements of the position shall be sent to all department heads in the City and posted, except as provided by V(F)(3). The Human Resources Director, or their designee, shall have the authority to determine the advertising strategy and appropriate medium that would attract an adequate number of qualified applicants.

All positions (including promotions) except for those governed by the Civil Service ordinance shall be opened to both internal and external candidates. This provision may be waived at the request of the Department Head and with the approval of both the Human Resources Director and City Manager.

D. Job Descriptions

Job descriptions shall be developed and maintained for all City positions.

Job descriptions shall be on file in the Human Resources Office and available to all interested persons without charge. The position shall be described as to classification, whether full-time or part-time, or some other category, whether exempt or non-exempt, and identify essential duties and other necessary special requirements.

Job descriptions shall be utilized in all postings and advertisements for job openings and shall be the basis for employee evaluations.

Any changes to an employee's duties that are intended to be permanent in nature shall be reflected in the job description. To the extent such changes qualify the position for

a higher pay classification, those changes must first be approved by the Human Resources Director and then the City Manager.

Job descriptions shall be reviewed by the Human Resources Director and department heads on a periodic basis and recommendations made to the City Manager for modifications as needed.

V. PERSONNEL ACTIONS

A. Original Appointments

Full-time or part-time non-union employees originally appointed to any full-time or part-time position shall be compensated at no lower than the first step of the assigned pay range. The City Manager or the Human Resources Director may approve initial compensation at a rate above the first step of the range for an individual in recognition of prior experience and expertise.

Once an employee has begun work at a new position, they shall have up to ninety (90) days from their start date to request a review of their step placement within their pay range and must do so in writing to their department head and the Human Resources Director. The Human Resources Director shall review the request and either: (1) deny the request, in which case the decision is final, or (2) recommend the request to the City Manager with an amended step placement. If the City Manager disagrees with the recommendation, the request is denied and the decision is final. If the City Manager agrees with the recommendation, the employee shall be moved to the new step amount and be paid retroactive pay for the difference in pay effective with their start date. All decisions must be made within fifteen (15) business days of receipt of the original request. Requests received after ninety (90) days after the start date will not be considered by the City. This review process described in this paragraph shall apply to new hires, reclassifications and promotions. In each offer letter, HR will add language indicating to the employee that they may review step placement with HR.

The City reserves the right to offer an applicant employment conditioned on the applicant's passing a post job offer physical examination, a drug and alcohol screening (as allowed or required by law and policy), and driver's license, reference and criminal conviction background checks. The City shall assume the cost of such examinations.

B. Promotions

Promotional opportunities are available to City employees through the normal selection process. In no case shall a promotion be made where the position has not been advertised to both internal and external candidates, unless otherwise requested

by the Department Head and with the approval of both the Human Resources Director and City Manager. When a non-union employee is promoted to another non- union position of a higher classification (to a different grade), the employee will be placed at the step in that range that provides an increase in pay of at least nine percent (9%) to allow for rounding and market considerations.

C. Probationary Period

Full-time and part-time non-union employees appointed, promoted, or transferred within the City shall serve a probationary period of six months. The probationary period shall be considered an extension of the selection process, and shall be used for observing an employee's work habits, skills, competency, attitudes and other pertinent characteristics for successful job performance. At any time during the probationary period, the City may terminate employment or demote the probationary employee for any lawful reason(s) without the burden of a just cause standard, and the employee shall have no right to file a grievance. The Department Head or Manager shall consult with the Human Resources Director in advance of a probationary employee being terminated or demoted.

An evaluation of the probationary employee shall be completed by the Department Head or designee, or the City Manager if a new Department Head, prior to expiration of the probationary period. The Department Head shall, if appointing authority has been delegated by the City Manager, make a determination as to whether the employee has successfully completed the probationary period. If the Department Head has not been delegated appointing authority, the Department Head shall make a recommendation to the City Manager regarding continued employment and the City Manager shall act prior to the expiration of the six-month probationary period.

Employees may not use vacation time during the probationary period without the prior approval of the Department Head. Accrued sick time and compensatory time may be used during an employee's probationary period.

Leaves of absences for employees within their six month probationary period may not be granted for more than six weeks' duration. The exception is military leave and Federal law will apply. Leaves must be requested in writing at least thirty (30) days in advance when the need for the leave is foreseeable. If the leave is not foreseeable, an employee must give notice "as soon as practicable", defined as one to two business days of learning of the need to take leave except in the case of an emergency. Medical documentation/certification of the need for the leave shall be provided using Health Care Provider Certificate Forms provided by or accepted by the City. The employee's Department Head, or Designee, in conjunction with the Human Resources Director shall review and either approve or disapprove all leave requests.

Each employee shall be advised of the probationary period at the time of hiring.

D. Performance Evaluations

A performance evaluation shall be completed according to evaluation forms developed by the Human Resources Director. An employee's performance shall be measured against and based upon a job description.

Department Heads or designees shall complete annual evaluations of employees under their supervision and the City Manager shall complete annual evaluations of all Department Heads. Probationary employees shall receive a performance evaluation upon six (6) months of employment.

Additional evaluations of employees may be performed by Department Heads or the City Manager. Evaluations shall be scheduled for either July 1 or January 1, dependent on Date of Hire, and may take place on or near the scheduled date. If a step increase is earned, it shall be retroactive to the July 1 or January 1 schedule date.

E. Employment of Relatives

The City prohibits the employment of full-time or part-time employees to work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family. Immediate family shall include: spouse, domestic partner (registered or not), parents, children, domestic partner's children (registered or not), siblings, grandparents and grandchildren, whether by natural heritage or law. "Direct or indirect line of supervision" includes authority to assign and evaluate work, grant benefits such as vacation leave, hear grievances and/or discipline an employee, or review such assignments, evaluations, benefit determinations, grievances and/or discipline. Notwithstanding the foregoing, in the event an employee's proposed hiring or promotion within the City would violate this provision, the Director of Human Resource shall condition such hiring or promotion upon development and implementation of a written plan for assignment, evaluation, granting of benefits, hearing grievances and discipline which avoids the conflict of interest. The foregoing conditions shall also be applied in the event of a change in family status between two employees, e.g. marriage. No officer or employee of the City shall be involved in the hiring process for any position if it involves a member of his or her immediate family.

The City will discourage the employment of temporary employees to work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family as described above.

Prior to hiring any immediate family member, the hiring department head shall furnish to the City Manager and Human Resources Director a written description of why that

person was the best qualified candidate. Both the City Manager and Human Resources Director must sign-off on such a hire prior to an offer being made and that relative becoming employed by the City.

Immediate family (as defined above) of current City Councilors shall be eligible for positions. If selected, a written description as to why they were the best qualified candidate must be given to the City Manager and Human Resources Director and receive both of their sign-offs prior to an offer being made and that relative becoming employed by the City.

F. Job Reductions; Lay-off of Regular Personnel.

1. Principles governing lay-off of regular employees.

Whenever there is a lack of funds or work, as determined by the City Manager, requiring a reduction in the number of employees in a department or division, the required reductions shall be made as the Manager may designate. Seniority and/or employee performance may be considered but do not necessarily have to be the absolute or sole criteria in determining who shall be laid off.

2. Notice of termination.

Any regular full-time or part-time employee who is laid off as a result of a reduction in force shall receive a minimum of a two week notice or pay in lieu of notice. The employee will be entitled to pay for all accrued vacation leave and unused sick leave as specified in Art. IX (A)(4). In addition, employees shall receive severance pay based upon the following schedule:

One week for every two years or part thereof of employment with the City.

3. Recall rights.

Any full-time and part-time (20 hours or more per week) non- union employee who is laid off shall have (12) twelve months of recall rights from their last day of work to the classification in the Department from which they were laid off, unless the employee:

- a. Waives recall rights in writing; or
- b. Resigns or retires.
- c. Fails to respond within seven (7) days upon receiving a recall notice mailed to the last known address on file. Employees are responsible to notify the Human

Resources Department of changes in mailing address and other such contact information.

Should an employee be recalled to the same classification, the employee shall be placed at his or her previous pay grade and step. Employees will be recalled to the same classification in order of seniority.

Laid off, non-union employees shall retain the status of "in-house" applicants for all other non-union position vacancies for a period of twelve months from the date of layoff.

In the event that a laid off employee is appointed to a position, the employee must serve a probationary period, as described in Section V(C), but the employee will be granted prior service credit in determining vacation and severance benefits.

G. Workplace Romance

The City respects the private relationships of its employees. However, in an effort to avoid actual or potential conflicts, favoritism, sexual harassment, and other adverse impacts on the work environment that may result from romantic and/or physical relationships within the workplace, the City prohibits supervisory employees from becoming romantically or physically involved with employees directly under their supervision. Supervision includes authority to assign and evaluate work, grant benefits such as vacation leave, hear grievances, discipline an employee, or review assignments, evaluations, and benefit determinations.

Any romantic, physical relationship between a supervisory employee and any employee directly under his or her supervision that adversely impacts either the employee's ability to perform his or her job or the general productivity and environment of the workplace may be addressed by reassignment and/or discipline, up to and including termination from employment, even for a first offense. Adverse impacts include, but are not limited to, decreased productivity, unprofessional work behavior, favoritism, conflicts of interest, decreased morale, negative or hostile work environment and sexual harassment. Any situation that arises, such as hiring, promotion or transfer, that would cause an employee to be either the supervisor of, or under the supervision of another employee with whom he or she is involved in a romantic and/or physical relationship, shall be communicated to the Human Resources Director for review and appropriate action taken.

H. Reorganizations and/or Transfers of Duties

Any department wishing to reorganize must receive the approval of the City Manager prior to enacting any such reorganization. Any department wishing to transfer duties to

another department must first receive approval of the City Manager. Any such reorganization or transfer of duties must be consistent with the City Charter and any other applicable provisions of the City Code.

VI. COMPENSATION PLAN FOR EMPLOYEES

A. Compensation Plan

It is the goal of the City to compensate employees in an adequate and equitable basis commensurate with wages and benefits for comparable work in similarly sized municipalities and the area labor market.

The City Manager shall develop a classification and compensation plan (Pay Plan) for regular, non-union employees allocating positions according to the knowledge, skills, abilities and responsibilities of each position. The Pay Plan shall be developed by the City Manager, subject to the approval of the City Council, as the basis for compensation of all regular full-time and part-time non-union employees. As part of the Pay Plan, the City Manager shall develop an implementation plan which specifies, in further detail, the principles of implementation. The Pay Plan shall be kept on file in the Human Resources Office and is available upon request.

The City Manager may adjust the pay for certain non-union supervisory employees when the pay of one or more of a supervisor's subordinates – less overtime and stipends – would exceed that supervisor's base pay.

B. Principles of Compensation

1. Pay equity. All regular full-time and part-time employees shall be paid according to the same compensation plan, with part-time employees paid the same hourly rate as a fulltime employee in a similar classification.
2. Annual adjustment. The City Council may grant an annual adjustment in the compensation plan, taking into consideration such items as the City staffing patterns, the relevant labor market, the rate of inflation, adjustments to compensation packages in bargaining agreements and financial and budgetary considerations.
3. Step increases. The Pay Plan classifies positions as noted above. Classified positions are grouped into different grades based on certain criteria. Each grade has a pay range for compensation. The Pay Plan shall provide a series of steps (increases in pay) within an established pay range. Employees shall be eligible for a step increase based upon the annual evaluations of their performance, which may include step increases based solely on merit.

4. Merit Increases. The Pay Plan shall provide for a merit increase of up to 1.5% for employees who are at the highest step within their established pay range. Employees shall be eligible for a merit increase based upon the annual evaluations of their performance. Employees may be entitled to this merit increase although it may place them outside of their current grade. This increase shall be at the sole discretion of the City Manager.
5. Performance Bonus Program. The City Manager may each year at his/her discretion establish a Performance Bonus Program in order to recognize the positive performance of non-union employees. The Performance Bonus Program will follow the pay equity of this section and the Merit Principle of section II. B, and the program will be dependent on available funding.

C. Payroll

The City shall make payment on a weekly or bi-weekly basis to every employee for salary or wages earned.

In the event that the City overcompensates an employee through employer error, pursuant to State law, the City may withhold up to five percent [5%] of the net amount of the overcompensation during subsequent pay periods without the employee's written permission until the overcompensation error is corrected in full. See, MRSA Section 635(2). If the employee voluntarily terminates employment before the total amount of overcompensation has been recovered, the City may deduct the full amount or remaining balance of overcompensation from final wages and benefits accrual pay-out. The City may deduct more than five percent [5%] of net pay if:

- a. The employee agrees in writing;
- b. The employee voluntarily quits, or
- c. The employee "knowingly accepts" the overcompensation.

"Net pay" means the amount of money due an employee as compensation after any deductions or withholdings other than an employer's withholding for the purpose of recovering any overcompensation.

D. Direct Deposit.

L.

M. Beginning with the payroll after the effective date of this policy the City shall pay all employees' wages and salaries through an electronic funds transfer system. All wages and salaries of City employees must be transferred by means of electronic funds transfer directly into an employee's account in an accredited financial institution designated by the employee, and each City employee shall complete a direct deposit application on such forms as the City shall prescribe. Seasonal employees may opt out of direct deposit.

E. Hours of Work.

1. Exempt employees. Positions exempt from the Fair Labor Standards Act [FLSA] shall be identified in the Pay Plan as salaried positions. Salaried employees are compensated on a salaried basis for their regularly scheduled work week, as defined in the job descriptions. Such employees are expected to be flexible about working hours other than their regular schedule and are not entitled to overtime compensation. At the discretion of the Department Head, such employees may be granted exempt employee leave; or, in the case of Department Heads, at the discretion of the City Manager.

The City will make deductions from salary in accordance with FLSA standards for absences from work of one or more full days for personal reasons, sickness, or disability. For absences from work of less than one full day, the City will substitute the employee's regular salary pay with accrued paid leave as designated by the employee in an amount equal to the hours during which the employee was absent from work.

Safe Harbor Policy:

It is the City's policy to comply with the salary basis requirements of the Fair Labor Standards Act (FLSA). Therefore, the City prohibits the making of improper deductions from the salaries of exempt employees that violate the FLSA. The City's Safe Harbor Policy is located in Appendix F. If you believe an improper deduction has been made to your salary, you should immediately report this information to your direct supervisor, Department Head, or Human Resources Director. Reports of improper deductions will be promptly investigated.

2. Non-exempt employees. Positions defined in the FLSA as "covered" employees shall be specified in the Pay Plan as hourly positions. These employees will be entitled to overtime pay for hours worked in excess of forty (40) hours per week, at the rate of one and one-half times the employee's regular rate or, in lieu thereof, compensatory time-off at a time and one-half rate. Compensatory time may not accumulate beyond forty (40) hours; beyond that, overtime must be

paid in cash, or compensatory time off scheduled when any employee exceeds the 40-hour cap.

For purposes of overtime eligibility, "hours worked" shall mean only the following and does not include call in pay, use of sick leave, or use of compensatory time taken off:

- a. hours actually worked for the City;**
- b. hours compensated by holiday base pay;**
- c. compensated by vacation leave pay;**
- d. hours compensated by personal leave pay**

3. Non-exempt employees. Hours of Work Determined. The hours of work for all non-union employees shall be determined by the relevant department head, subject to approval by the City Manager. Non-exempt employees shall receive overtime pay at a rate of time and one half for time worked in excess of forty hours in one week or compensatory time as described above. Non-exempt employees shall have at least a thirty (30) minute unpaid meal/rest break when they work a shift of more than six hours (except in cases of emergency in which there is danger to property, life, public safety, or public health); this meal/rest break's actual length will be determined on a department-by-department basis and is scheduled by, or with the approval of, the employee's supervisor.

Non-exempt employees may not work outside of their regularly scheduled working hours, or during unpaid meal/rest periods, without the prior authorization of a supervisor. This includes volunteered work not requested but performed at the work site, or away from the premises. Employees shall record all hours worked on their timesheets. It is misconduct for an employee to fail to record all time worked and for a supervisor to discourage an employee from recording all time worked. Employees and/or supervisors shall notify the Human Resources Director of any violations of this rule, which may result in disciplinary action, up to and including termination from employment, even if a first offense.

Employees regularly scheduled to work less than forty hours will be paid at their regular hourly rate of pay for all time worked up to forty hours in any one work week. Such employees authorized to work beyond forty hours shall be paid time and one half, or receive compensatory time-off as provided in subsection 2 above and section E below, for all hours worked in excess of forty hours.

4. Work from Home.
- a. Working remotely from an employee's home (Work From Home, or WFH) regularly as part of an approved schedule plan is allowed for up to five and one half (5.5) hours per week for certain nonunion employees based on the nature of their position and with the approval in advance of the City Manager. Each

department will work with Human Resources to ensure appropriate guidance is followed for this type of work upon approval.

b. WFH is allowed on a case-by-case basis with the approval of the City Manager for up to one half day/per day of the employee's regularly scheduled hours when an employee cannot work due to illness or injury, such as for surgery recovery when the employee cannot drive, or when an employee must be home due to family illness but can still work part time.

c. When there is inclement weather and the City has to close certain facilities, WFH may be required of certain positions by order of the City Manager in his/her discretion in order to keep critical or essential City functions, such as Payroll, Accounts Payable, General Assistance calls, etc., on schedule. Nothing in this provision shall abrogate a Department Director's decision to require WFH to meet a department's operational needs and/or applicable job descriptions.

N.

F. Compensatory Time

Upon the mutual agreement of the employee(s) and their Department Head or Supervisor prior to the performance of any overtime work, non-exempt employees who work in excess of forty (40) hours per week shall be entitled to receive compensatory time-off ("CTO") in lieu of overtime pay for hours worked in excess of forty (40) hours per week. CTO shall be calculated at the rate of one and one-half times the number of hours worked in excess of forty (40) for that work week.

If either the employee or Department Head or Supervisor do not agree on compensation in the form of compensatory time off for overtime hours worked in excess of forty (40) hours in a work week then the employee shall be paid for any overtime hours worked (i.e. each party has a veto).

Compensatory time may not accumulate beyond forty (40) hours; beyond that, overtime must be paid in cash, or CTO scheduled when an employee exceeds the 40- hour cap. Employees are entitled to be paid upon separation of employment for all unused, accrued compensatory time.

Compensatory time off (CTO) is subject to the following:

Management Approval. The City may approve, schedule, pay off, reschedule or deny CTO depending on available personnel so as to not unduly disrupt normal workflow requirements. Under normal circumstances, employees requesting to use accumulated CTO shall be granted approval to use such CTO within a reasonable period after making the request if the use of the CTO does not unduly disrupt the operations of the Department and/or City.

Employees shall request CTO within at least forty-eight (48) hours of the requested time off.

CTO shall be approved or used on a first come, first serve basis.

Compensatory time off is not considered as "hours worked" for the purposes of overtime eligibility.

O. Call-In Pay

Non-exempt employees called in for emergency work after they have completed their regular shift and have left the work site shall be paid two hours of call-in pay at a straight time rate plus the time worked under the provisions of Section VI(D). Call in pay shall not be paid for regularly scheduled overtime. Call in pay is not considered as "hours worked" for the purposes of overtime eligibility.

Non-exempt employees required to attend evening Board meetings shall be guaranteed a minimum of two hours of pay at a rate prescribed by Section 2 above.

P.

G. Work Outside of Classification

1. Short-term work: For a period not to exceed six (6) months, employees may be assigned to perform work out of their job classification on a short-term basis by the Department Head or the City Manager. If such an assignment extends beyond ten (10) consecutive work days, the employee will be compensated for the work performed at the entry level rate of pay for the higher classification or the step closest to a four and one-half percent (4.5%) increase above the current pay step, whichever is higher, commencing with the fourth day. Non-productive time (i.e., sick leave, holidays, personal leave, bereavement leave, compensatory time and vacation leave) shall be paid during the short-term work assignment at the higher classification rate except termination pay upon termination of employment.
2. Acting Capacity of Department/Division Heads: Employees who are appointed in an "acting capacity" by the City Manager during the period of the acting capacity shall be compensated at the lowest step of the higher classification or the step closest to a nine percent (9%) increase above the current base weekly rate, whichever is higher, except upon termination of employment and termination pay.

H. Amendments to Pay Plan

The Pay Plan may be revised periodically by the City Council upon the recommendation of the City Manager commensurate with wages and benefits of comparable work in similar sized municipalities and area labor market.

I. Reclassifications

Reclassification is the procedure of assigning or reassigning a non-union position to a classification and pay range because the assigned range is significantly different from a comparable position in the current labor market, hampering recruitment and retention of qualified employees; the relationship to other positions within the pay range; or when substantive changes are made in the responsibilities of a non-union position and the job description is amended. A reclassification will only occur upon the recommendation of the Director of Human Resources with the approval of the City Manager.

When substantive changes are made in the responsibilities of a non-union position, a new job description, and a narrative describing the changes and justification for why a new classification change should be approved must be completed by the Department Head and submitted to the Human Resources Department during the month of January. The proposed reclassification will be reviewed and evaluated during the budget review process. The City Manager will make the final decision regarding the request. When a reclassification request to a higher pay grade is approved, the employee will be placed at the lowest step in the higher pay grade or at the step closest to a four and one-half percent (4.5%) increase, whichever is greater. The effective date of the approved reclassification and pay increase will begin the first pay period at the start of the new fiscal year in July. The City Manager may authorize an earlier effective date of reclassification based upon individual circumstances such as, but not limited to, employee retention, area labor market, budgetary, staffing, and operational needs. Reclassified employees annual performance review date will be adjusted accordingly to coincide with the effective date.

VII. INSURANCE, RETIREMENT AND OTHER BENEFITS

A. Health Insurance

1. Health insurance plans for regular employees working twenty (20) hours or more per week.

Employees working twenty (20) hours or more per week on a regular basis are eligible to enroll in the City's health and hospitalization benefit coverage, as described in separate plan documents, offered through the Maine Municipal Employee's Health Trust (MMEHT), including the Comprehensive Point of Service

Plan C (POS C) and Preferred Provider (PPO 500) Plan. Health and Hospitalization coverage shall commence on the first day of the next month following the date of employment for eligible employees who enroll in a plan, as described by the provisions of this section.

Employees eligible for health insurance may change plans during any open enrollment period.

2. Payment of health insurance premiums.

- a) Regular full-time employees. Regular full-time employees working 35 or more hours per week may elect to purchase family coverage, including Domestic Partner coverage as allowed by the plan for a registered Domestic Partner, or dependent child coverage, including coverage for a registered Domestic Partner's dependent children as allowed by the plan, through the City's group plan with contributions by employees as follows.

PPO 500 Plan: The City shall pay 100% of the single level premium for all full- enrolled in the MMEHT PPO 500 Plan. Employee share of premium for dependent coverage is 10%; family coverage is 15%.

POS-C Plans: Employees who have family or dependent children coverage shall, as a condition of receiving benefits under this section, contribute through weekly payroll deduction one half of all future premium rate increases beginning January 1, 1991 above the single person rate not to exceed an annual increase of more than eleven (\$11.00) dollars per week for employees with family coverage or nine (\$9.00) dollars per week for employees with dependent only coverage.

Effective January 1, 2017, employees enrolled in the MMEHT POS-C plan shall pay 2.5% of the premium for single coverage.

- b) Regular part-time employees. The City shall pay a prorated share of the single premium level for all regular part-time employees working twenty hours or more per week but less than thirty-five per week. The City's share of the premium contribution shall be calculated by multiplying the ratio of the number of hours per week budgeted for the regular part time position divided by forty hours times the total annual premium. The City shall make such calculation by January first. All employees who elect to participate in the single coverage option, shall, as a condition of receiving benefits under this section, contribute through weekly payroll deduction the employee's share of the premium.

Regular part-time employees working 20 or more hours per week but less than 35 hours may elect to purchase family or dependent child coverage, including coverage for a registered domestic partner and/or their dependent children as allowed by the plan, through the City's group plan, without a City contribution to the cost of the family or dependent child coverage.

3. Premium contributions for health plan participants

Employees shall have the choice to make premium contributions on a pre-tax or after-tax basis.

The Agreement authorizing payroll deductions for single/family/dependent health insurance premium sharing shall remain in effect until the first to occur of:

- (1) the employee revokes the election to have health insurance coverage;
- (2) the employee cancels or modifies the election during the annual enrollment period;
- (3) the employee's employment with the City of South Portland terminates;
- (4) the City of South Portland terminates, suspends, or modifies the plan; or
- (5) the employee has a qualifying change in family status.

A "qualifying change in family status" for purposes of modifying or ending payroll deductions shall be defined as a marriage, divorce, death of an employee's spouse, birth or adoption of a child, the switching from part-time to full-time employment status or from full-time to part-time status by the employee or employee's spouse, the taking of an unpaid leave of absence or a significant change in the health coverage attributable to the employment of the employee's spouse.

Employees have thirty (30) days from the date of the "qualifying change in family status" to notify the Human Resources Department of the qualifying change. Should the employee fail to notify the Human Resources Department within this 30-day period they will be required to wait until the next open enrollment period to make the change(s).

4. Section 125 Cafeteria Plan

The City may offer a cafeteria plan as set forth in Section 125 of the Internal Revenue Code to allow full-time and benefit-eligible part-time employees the

ability to select and pay for City offered health benefits through pre-tax (gross income) payroll deduction. Some of the qualified health benefits include health insurance, flexible spending accounts, dental insurance, vision insurance, life insurance, and a retirement plan.

Employees may choose not to make such premium contributions on a pre-tax basis.

5. Flexible Spending Account (FSA)

The City may offer to eligible employees a flexible spending account (FSA) through a provider selected by the City. A FSA allows employees to annually set aside through payroll deduction pre-tax dollars up to an established maximum amount to reimburse themselves for a variety of out-of-pocket medical and/or dependent care expenses throughout the year. Employees may use this money to pay for health expenses that are not covered as part of a medical insurance plan, such as co-pays and deductibles. Eligible expenses may include additional medical, dental, vision, prescription and dependent care costs. Money set aside in a FSA has to be used in the same calendar year. Remaining balances do not roll over to the next calendar year.

6. Continuation of Health Insurance.

Pursuant to a Federal law, commonly referred to as (COBRA), as may be amended from time to time, employees and their dependents who are covered under the City's group health plan can elect to continue medical coverage up to 18 months at their own cost if they lose coverage because of the termination of employment (other than for gross misconduct), change in status from full-time to part-time, or other qualifying life event. Employees and their qualified beneficiaries who no longer qualify for the City's group health insurance coverage shall be notified in writing from the Maine Municipal Employees Health Trust (MMEHT) of their health insurance continuation (COBRA) rights. The City reserves the right to charge up to two percent of premium administrative handling fee during the applicable COBRA coverage period.

COBRA establishes required periods of coverage for continuation of health benefits. COBRA beneficiaries generally are eligible for group coverage during a maximum period of 18 months for a qualifying event of employment termination or reduction of employment hours. Other qualifying events may entitle a spouse and dependent children to a total of 36 months of COBRA coverage.

COBRA Continuation Coverage		
Qualifying Event	Beneficiary	Coverage

Employee termination (other than by reason of "gross" misconduct) or reduced employment hours	Employee, Spouse, Dependent child	18 months
Employee enrolled in Medicare	Spouse / Dependent child	36 months
Divorce or legal separation	Spouse / Dependent child	36 months
Death of covered employee	Spouse / Dependent child	36 months
Loss of "Dependent child" status	Dependent child	36 months

Also, events that occur during a period of COBRA coverage may extend or reduce the coverage period. See also Military FMLA in Section IX (D) (2). Coverage and benefits are all determined by Federal law.

The employee with family member coverage has the responsibility to inform the City within 60 days of a divorce, legal separation, or of a child losing dependent status.

COBRA coverage may be terminated for any of the following reasons:

- (1) Failure to pay any required premium;
- (2) Coverage under another group health plan;
- (3) Entitlement to Medicare;
- (4) Expiration of the 18 to 36 - month period, as applicable;
- (5) The City no longer provides group health coverage for employees.

7. Health Insurance Premium Buy-Out Program.

Full-time employees who are eligible for health insurance coverage under a non-City plan may elect no medical coverage or reduced medical coverage. If such an employee elects no medical coverage or reduced coverage from the coverage the employee is eligible to receive under the terms of the City's health insurance plan, and provides proof each year prior to January 1st, that he or she (or applicable

dependents) is covered under a non-City plan, the City will reimburse the employee an amount based upon the level of coverage the employee is eligible for in relation to the level of coverage the employee elects; either no coverage or reduced coverage. By law, coverage under Medicare is excluded from eligibility for this program. Part-time employees who are eligible to enroll in the health insurance plan do not qualify for this program. Full-time employees with a registered Domestic Partner eligible to enroll in the health insurance plan and/or full-time employees with registered Domestic Partner's children eligible to enroll in the health insurance plan do not qualify for this program on the basis of electing reduced coverage.

Annual health insurance buy-out amounts paid to non-union employees are as follows effective January 1, 2023.

<u>From Family to:</u>	<u>Annual</u>
No Coverage	\$7,600
Single Coverage	\$3,435
Employee & Dependent	\$1,690
 <u>From Employee & Dependent to:</u>	
No Coverage	\$5,460
Single Coverage	\$1,665
 <u>From Single to:</u>	
No Coverage	\$3796

The cash payment under this provision is taxable income and shall be paid as an additional amount to the employee's regular paycheck.

Q.

B. Employee Assistance Program

1. Philosophy

Full-time and part-time employees working twenty (20) hours or more per week are eligible for the City of South Portland's Employee Assistance Program (EAP) with Anthem EAP. Anthem EAP is provided at no cost to employees and members of their household by the Maine Municipal Employees Health Trust (MMEHT.) Anthem EAP offers help from caring, experienced professionals who can offer information, resources and advice to help you resolve and cope with a wide range of personal problems which can have an effect on an employee's job performance, everything from relationship and family concerns to anxiety, depression, alcohol and drug abuse, stress, grief, and even financial or legal issues.

2. Policies

- a. Utilization of the Anthem EAP and the EAP counselors' records are confidentially protected and maintained.
- b. Employees are encouraged to seek counseling and information voluntarily on a self-referral basis.
- c. It will be the decision of the employee whether to voluntarily accept or decline the Department Head or Supervisor referral to EAP. The employee is not required to comply with an EAP referral. Any decision to accept or decline an EAP referral made by their supervisor(s) may not be used as grounds for discipline or dismissal. However, the behavior, misconduct or work performance which triggered the EAP referral may be grounds for disciplinary action, up to and including termination from employment, even for a first offense.
- d. Anthem EAP services are provided at no cost for up to three visits for each issue an employee or household member is facing. Any subsequent visits or ongoing assistance will be the financial responsibility of the employee. The cost may be an eligible expense under the provisions of the Employees' Health Insurance Program, which includes responsibility for deductible(s) and co-insurance.
- e. Employees may use accrued sick time for EAP appointments.

3. Procedures

- a. Employees may independently and confidentially contact the City's EAP provider 24 hours a day, every day of the year, by calling Anthem EAP at 1-800-647-9151; or www.anthemEAP.com (login MMEHT.) After an employee or household member makes the first contact, Anthem EAP will refer them to a licensed counselor in their area. Appointments are scheduled at the convenience of employees.
- b. Employees do not need to sign up for Anthem EAP services. Employees and their household members are automatically enrolled.

C. Life Insurance

1. Group life insurance - MainePERS

The City participates in the Maine Public Employees Retirement System (also referred to as "MainePERS") Group Life Insurance Program. Full-time and part-time employees working at least twenty (20) hours per week are eligible, at their own cost, for Basic Group Life Insurance as provided by State statute, through payroll deduction. Employees who hold Basic Group Life Insurance are also eligible for Supplemental and/or Dependent Life Insurance through payroll deduction. Coverage, costs and benefits are determined by State law. Employees need not be members of the MainePERS pension program to purchase the Life Insurance.

2. Basic life insurance - MMEHT

Participants in the City's health insurance plan (Maine Municipal Employees Health Trust) will receive basic life insurance equal to one year's salary, not to exceed \$100,000, at no cost. Participants shall be eligible to purchase, through payroll deduction, additional life insurance coverage equal to one, two, or three times their annual salary. Employees who do not participate in the City's health insurance plan may purchase life insurance coverage through MMEHT and/or through MePERS (see above), at their own expense.

R.

D. Retirement Plans

1. Social Security

All employees of the City, other than employees in the positions of Firefighter, Lieutenant, Captain, Deputy Chief or Fire Chief in the South Portland Fire Department shall participate in Social Security and Medicare. The fire employees in the positions named participate in a special firefighter retirement plan through Maine Public Employees Retirement System. Firefighters hired after July 1, 1986 shall participate in Medicare only. The rate(s) of contribution for Social Security for both the City and the employee shall be determined by Federal law.

2. Maine Public Employees Retirement System (MainePERS)

In addition to Social Security, effective July 1, 1995, all full-time employees (other than firefighters as provided above) are eligible to participate in the Maine Public Employees Retirement System Participating Local District Consolidation Plan (Plan A, 1/50, COLA), except as noted in subsection D.4 below, entitling employees to a pension benefit, with all service accrued through July 1, 1995 to be calculated on the 1/60, COLA basis, and all service after July 1, 1995 to be calculated on 1/50, COLA basis, in accordance with and subject to the provisions of the statutes of the State of Maine and the rules of

MainePERS now applicable or as they may be amended. The employee's rate of contribution shall be established by the statutes of the State of Maine. Employee contributions are exempt from federal withholding tax.

There is a five (5) year vesting period for MainePERS participants. Employees terminating employment with the City may withdraw their own contributions by filing proper application to MainePERS.

Election to participate in MainePERS must be made within seven (7) days of the date of hire and is effective from the date of hire, except for additional elections as allowed by MainePERS.

Effective December 15, 2010, regular part-time employees working twenty (20) hours or more per week may participate in MainePERS on the same terms as full-time employees, except as noted in subsection D.4 below. Part-time employees employed by the City as of December 15, 2010 may join MainePERS to the extent permitted by MainePERS within thirty (30) days of December 15, 2010, except as noted in subsection D.4 below. This provision shall be applied prospectively only from its effective date of December 15, 2010.

An employee's decision whether to participate in MainePERS is irrevocable.

Employees' participation in MainePERS is subject to all applicable MainePERS rules, regulations and governing statutes.

A long-term disability benefit is provided at no cost to MainePERS plan participants, with eligibility and benefits as determined by MainePERS.

3. Deferred Compensation

Regular employees working at least twenty (20) hours per week who do not participate in MainePERS are eligible to participate in the City's deferred compensation plans, except as noted in subsection D.4 below, which are defined contribution plans under Sections 457 and 401(a) of the Internal Revenue Code. These plans allow qualified employees to authorize the City to withhold portions of their wages on a pre-tax and/or post-tax basis and to forward such funds to the appropriate plan administrators for investing. The earnings on these investments are not subject to current State or Federal taxes. However, any pre-tax investments and all earnings are subject to State and Federal taxes upon withdrawal.

The City's Deferred Compensation Plans are governed by the Deferred

Compensation Plan documents, City Personnel Policies and administrative practices, all or any of which may be amended from time to time by the City Council, and by Federal law. A Deferred Compensation Committee comprised of City Management and elected employee representatives meets periodically to review the objectives and performance of the plan administrators and to adopt rules and make changes. A policy on committee membership, nomination and election process is available from the Human Resource Department. Copies of Plan Documents are available from the Human Resources Department.

- a. Employer match 457/401(a) plan with discretionary employee contribution rate and employer match of up to 8%. Effective December 15, 2010, regular employees working twenty (20) hours or more per week who do not participate in MainePERS are eligible to participate in the City's 457/401(a) Deferred Compensation Plan, except as noted in subsection D.4 below, which has no mandatory employee contribution rate. The City will match the employee's contribution up to eight percent (8%).
- b. Vesting. After three (3) years of continuous City employment, an employee participating in the 457/401(a) plan becomes 100% vested in all past and future City matching contributions and its earnings. Employees moved from another plan will not have to serve a new vesting period. If an employee retires or leaves City employment before the three (3) year vesting period is complete, the employee has no rights to any of the City's matching contribution or its earnings.
- c. Members of MainePERS may also participate in the City's 457 Deferred Compensation Plan but there are no employer matching contributions to the 401(a) Plan.
- d. A long-term disability benefit (LTD) is provided by the City at no cost to the employees participating in the matched deferred compensation plan. A description of the LTD plan is available in the Human Resources Office.
- e. Each employee participating in a deferred compensation plan decides how much to contribute each year, providing that the contributions do not exceed the maximum dollar limit as allowed by IRS code and as adjusted periodically by the Secretary of the Treasury. Participants may discontinue contributions at any time, but can only adjust or restart contributions at specific times each year.

4. Retiree Returning to Work

A regular full-time, or regular part-time employee working twenty (20) hours or more per week, who is hired by the City after Oct 1, 2018, and is collecting a pension benefit from MainePERS from any prior employment, will be considered a Retiree Returning to Work (RRTW).

A RRTW hired from outside of previous City employment, or hired by the City into a position with the City that they had not previously held during prior employment with the City, is subject to the following:

- a. Upon hire with the City of South Portland, or rehire by the City into a different City position from the position with the City they held prior to retirement, for which they are eligible to collect a pension benefit from MainePERS, an eligible RRTW may continue to collect their MainePERS pension benefit from their prior employment and shall be subject to pay a contribution to MainePERS as required under the rules of MainePERS for a RRTW. This MainePERS required contribution for a RRTW is called the aggregate unfunded actuarial liability or "AUAL".

The AUAL contribution rate is set annually by MainePERS and not by the City. The AUAL for FY24 and FY25 is 5% of earnable compensation (as defined by MainePERS). To fund the RRTW's AUAL, the City will reduce the RRTW's wages by the amount required by Maine PERS. The AUAL must be submitted on behalf of the RRTW to MainePERS by the City through normal payroll processing and so will be treated as a separate deduction.

Any AUAL payment made by the City on behalf of the RRTW to MainePERS that is due because of the employment by the City will not add any service time credit to or in any other respect impact the RRTW's pension benefit from their prior employment, nor will it create a separate pension benefit for the RRTW.

A RRTW subject to pay the AUAL may opt to have a separate ICMA retirement plan with a contribution made by the City to ICMA subject to the terms outlined in Section D subsection 3 above, except that Section D.3.d will not apply.

- b. Upon rehire by the City into the same City position that they held prior to retirement for which they are now eligible to collect a pension benefit from MainePERS, an eligible RRTW in this case will be rehired by the City as a Contract Employee, as defined in Section III. Types of Employment,

subsection H. Contract Employment, of this Policy. All terms and conditions of employment will be as negotiated between the City and the eligible RRTW on a case by case basis and memorialized in a signed contract agreement between the parties.

- c. Under MainePERS requirements, any regular full-time, or regular part-time employee working twenty (20) hours or more per week, who is hired by the City before Oct 1, 2018, and is collecting a pension benefit from MainePERS from any prior employment (“Legacy Employee”), is subject to the AUAL contribution with respect to any amounts earned by that employee on or after July 1, 2021. The City shall pay the AUAL contributions on behalf of any Legacy Employee.

S.

E. Unemployment Compensation

Unemployment benefits are governed by Federal and State law. The City provides such benefits as are mandated under these laws.

F. Workers’ Compensation

Workers’ compensation benefits are governed by State law and the City provides such benefits as are mandated under the Maine Workers’ Compensation Act of 1992.

1. If an employee suffers an injury which he or she believes arises out of and in the course of employment or becomes disabled by occupational disease, the employee shall notify the Department Head or the Department Head’s designee within 24 hours of the injury or awareness of the occupational disease, or as soon as possible thereafter, but in no event shall the notice be later than 30 days after the date of injury for injuries that occurred prior to January 1, 2010 and 60 days after the date of injury for injuries that occur after January 1, 2020. The notice must include the name and address of the injured employee and the time, place, cause and nature of the injury.
2. The City shall select an occupational health care provider to treat the employee upon receiving notice of a work-related injury and the Human Resources Department, or the employee's Department Head or designee in extenuating circumstances, may schedule an appointment for the evaluation and treatment of the employee with the City's designated occupational health care provider(s). In the event of a serious injury that requires immediate medical attention, the employee should go to the nearest hospital or emergency room for treatment. The employee may elect to be seen by their own physician after ten (10) days from the initial treatment by the City's designated occupational health care provider(s), however the City is not responsible for payment of such services unless the employee has first notified the City in writing of their intention to be

treated by another health care provider and the City has not objected to the same. The employee shall provide the City with a complete copy of any medical reports or statements relating to the treatment or examination under this section within seven (7) days of such treatment. Employees must make reasonable efforts to schedule leave for related medical follow-up treatment so as not to unduly disrupt the City's operations. Appointments made during scheduled time off will not be covered as hours worked.

3. Full and regular part-time employees who have suffered an occupational illness or injury and who are receiving workers' compensation benefits may use accumulated sick leave to supplement workers' compensation payments up to the equivalent of their net pay. *Net pay*, for purposes of this section shall be defined as an employee's gross base regular weekly wages less Federal and State taxes. Such supplementary pay and leave under this section is to be made only to the extent that accumulated sick leave is available. Employees will be entitled to all benefit coverage as described in this policy while absent from work due to a work-related injury, however employees shall remain responsible for their share of benefits premium during such absence. In addition, employees will be placed on Family Medical Leave for any work-related injury that results in an absence of six (6) or more days from work, assuming the injury or illness qualifies for Family Medical Leave. (Also see *Workers Compensation Leave*, Article IX, Section B.)

4. Light Duty / Transitional Work

In the event that a full time or regular part time employee suffers a compensable work-related injury under the Maine Workers' Compensation Act, the City shall attempt to accommodate the medical restrictions as directed by the health care provider and assign the employee to meaningful light duty / transitional work as available. The light duty/transitional work may consist of one particular job or a series of different jobs and may be in a department other than the employee's regularly assigned department. The schedule for the light duty/transitional work shall be determined in consultation with the employee's health care provider and subject to availability in the City's departments. Light duty/transitional work may or may not be at the employee's regular hourly rate of pay depending on the nature of the work. Employees may be required to undergo additional medical review at the option of the City prior to assignment or start of light duty or transitional work under this section. Light duty/transitional work is intended to be provided for a duration of time not to exceed thirty (30) days. In the event that light duty/transitional work is not available or not possible, or in the event the employee's absence is for an extended or indefinite time period, the City will evaluate the continued employment status of the employee based on the employee's available leave

benefits and perceived recovery process and length of absence.

5. An employee with a work-related injury may be entitled, upon request to the Workers' Compensation Board, to reinstatement to the employee's former position if the position is available and suitable to the employee's physical condition. If the former position is not available or suitable, the employee may be entitled to be reinstated to another available, suitable position. The City agrees to reasonably accommodate the physical condition and needs of the returning employee provided a reasonable accommodation exists and such accommodation does not impose an undue hardship on the City.
6. Employees who continue to be out on a work-related injury six (6) consecutive months after the date of injury shall not continue to earn or accrue holiday, vacation, or sick leave.

T.

G. Medical and Dependent Care Reimbursement Program

Full-time and regular part-time non-union employees working twenty (20) hours or more per week are eligible to participate in a Medical Reimbursement Program and/or Dependent Care Reimbursement Program under Section 125 of the Internal Revenue Service Code as amended from time to time. These plans are designed to assist eligible employees in saving money on uninsured medical and dependent care expenses. Under a Section 125 plan, employees may voluntarily make pre-tax payroll deductions for the purpose of receiving reimbursements for unreimbursed medical, dental or eye care expenditures and dependent care expenditures, not to exceed the designated contributions.

Prior to the commencement of each plan year (January first of each year), participating employees shall determine the amount of payroll deduction necessary to cover unreimbursed medical expenses and/or dependent care expenses for their family. Employees may withhold up to the maximum amount allowed by law annually for medical and dental reimbursements and dependent care reimbursements. The Dependent Care Plan may be used for child daycare expenses as well as care for an adult dependent who is mentally or physically incapable of caring for themselves.

Employees should plan carefully to avoid withholding more money in the account than is needed. Under the rules of the Internal Revenue Service any remaining dollars in the account at the end of the year plan year will be forfeited.

This benefit is governed by the Medical Reimbursement Plan Document and the Dependent Care Reimbursement Plan Document as adopted by the City Council and amended from time to time. Copies of each Plan Document are available in the Human Resources Office.

U.

H. VSP Vision Care Plan (through Maine Municipal Employees Health Trust)

Full-time and regular part-time non-union employees working twenty (20) hours or more per week are eligible to participate in a Vision Care Plan under Section 125 of the Internal Revenue Service Code, as amended from time to time.

The VSP Vision Care Plan is offered through the Maine Municipal Employees Health Trust (MMEHT) and offers employees personalized eye care, eye wear and choice of providers, both in and out-of-network. Employees receive discounts and savings on eye exams, frames, lenses, contacts, prescription sunglasses, second pair of glasses and laser vision correction surgery. Enrollment in the plan is voluntary with 100% employee contribution through pre-tax weekly premiums for a variety of coverage options; employee only, employee and spouse or registered domestic partner, employee and children, and family. Each November-December there will be an open enrollment for the following January 1st effective date. If an employee elects not to enroll during a designated open enrollment period in Nov./Dec., they can opt in, or opt out of the Plan, during the next open enrollment period the following November-December. The network is mostly optometrists, not ophthalmologists.

Plan information, including weekly premium rates, savings and discounts is available in the Human Resources Office.

V.

I. Dental Insurance Plan

Full-time and regular part-time non-union employees working twenty (20) hours or more per week may participate in any Dental Insurance Plan offered by the City through a provider of its choosing. Participation is voluntary with 100% employee premium contributions through payroll deduction. Eligible employees may enroll a spouse, registered domestic partner and dependent children. The City is not required to offer dental insurance to employees. Participation is regulated in accordance with the plan documents.

Annual enrollment is held in November-December of each year for a January 1st effective date.

Plan information, including coverage, benefits and weekly premium rates is available in the Human Resources Office.

W.

J. Income Protection Plan / Short-term Disability

Full-time and part-time employees working twenty (20) hours or more per week on a

year round basis are eligible to participate in an Income Protection Plan offered by the Maine Municipal Employees Health Trust (MMEHT). The MMEHT Income Protection Plan is a short-term disability plan that provides income benefits to employees to replace a portion of the employee's weekly salary up to a maximum of \$1,000 per week during an extended absence from work caused by a non-work related accident, injury or illness. Enrollment in the Plan is voluntary with 100% employee paid premiums through payroll deduction. Eligible employees may select income replacement benefits at 40%, 55% or 70% of their weekly salary. Weekly benefits begin on the 1st day of an accident and 8th day of an illness. Benefits are payable for a maximum of 52 weeks for each separate period of disability. Eligible employees are responsible for application and enrollment in the Plan and payment of all costs associated with the Plan. Costs of the Plan are dependent on the level of salary replacement selected and the employee's income.

Employees receiving weekly income replacement benefits through the Plan at either the 40%, 55% or 70% of salary level are required to use accrued sick, vacation or personal leave, to the extent available, to equal 100% of the employee's regular pre-tax weekly earnings. Income Protection Plan information, including eligibility requirements, terms and conditions, benefit rates and premiums are available in the Human Resources Office.

VIII. HOLIDAYS/VACATIONS

A. Holidays

Full-time and regular part-time non-union employees working at least twenty hours per week shall receive time off without loss of pay for the following holidays:

New Year's Day	Labor Day
Martin Luther King Day	Indigenous Peoples Day
Presidents' Day	Veterans' Day
Patriots' Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas
Juneteenth (June 19)	

In addition, non-critical City facilities may close at noon on Christmas Eve. Employees at work that day shall receive the remainder of the day off without loss of pay. Employees not at work that day shall not be entitled to additional time off or compensation.

If the holiday falls on a Saturday, the preceding Friday shall be the observed holiday. If a holiday falls on a Sunday, the following Monday shall be the observed holiday.

Employees who work in City facilities and departments that operate on a Monday through Thursday operating schedule and whose regular schedule includes no hours worked on Fridays shall not receive paid time off for a holiday that is observed on a Friday and the facility is closed. Employees who work in City facilities and departments that operate on a Monday through Thursday operating schedule and whose regular schedule include some hours worked on Fridays shall receive those regularly scheduled hours on Friday as paid time off when a holiday is observed on a Friday and the facility is closed. This policy is intended to address these employees who are realizing greater paid time off hours whenever holidays fall on all other workdays.

If an exempt employee is required to work on a holiday, he/she shall be given an equal amount of time off on another day, such time to be mutually agreeable to the Department Head and the employee. In the event that non-exempt employees, other than an operator within the Water Resource Protection Department or employee of the Transportation Department, are required to work on any of the aforementioned holidays, the employee shall be paid at a rate of straight time of their regular hourly rate plus holiday pay (for impact, if any, on hours worked for calculating overtime, please see Section VI. Compensation Plan for Employees, D. Hours of Work, 2. Non-exempt Employees). The employee, with the permission of the Department Head, may substitute holiday pay for an equal amount of time off on another day.

In the event that a Water Resource Protection Operator or Transportation Department employee is required to work on a holiday, the employee shall be given an equivalent of a full day's pay as holiday pay and receive compensation for the hours worked on that holiday.

Except as stated above regarding employees working at buildings only open Monday through Thursday, when an observed Holiday above falls outside their regular schedule, full-time and regular part-time employees who work at least 20 hours per week and work a non-traditional (other than Monday through Friday) schedule shall take equivalent time off on a different day in the same week. In special circumstances, and with prior approval of the relevant department head, the employee may take equivalent time off at a later time.

For certain holidays, a non-critical City department with facilities that regularly operate on either or both weekend days may adjust operations to match the actual holiday date rather than the City-observed date.

B. Personal Time

Full-time and regular part-time non-union employees working at least twenty hours per week shall receive personal time equal to two (2) paid personal days per calendar year

based on their scheduled hours worked each week divided by five (5); personal time may be prorated based on date of hire. Personal time is 15 hours for employees who work 37.5 hours per week, or 16 hours for employees working a 40-hour schedule per calendar year. To determine the length of a personal day equivalent for regular part-time employees working at least twenty (20) hours per week, divide the total number of hours the employee works each week on a regular basis by five (5). For example: 22.5 hours per week / 5 = 4.5 hours. Personal time off shall be scheduled at a time mutually agreeable to the employee and his or her Department Head or Division head. Personal time must be used in the calendar year in which it was earned. Personal time will be paid out upon resignation or retirement from employment if the employee has been employed by the City for more than twelve (12) months and if the employee provides at least two (2) weeks' notice. Employees terminated for cause shall not be eligible for any personal time payouts.

C. Vacations

1. Applicability

Paid vacation time is available to all non-union full-time and regular part-time employees working twenty (20) hours per week or more. For the purposes of this section, "day" shall be defined as one-fifth (1/5) of the total regular hours worked by an employee on a weekly basis.

2. Creditable Service

Months of Creditable Service shall be used to determine the amount of paid vacation time an employee accrues. For the purposes of this section, "Creditable Service" shall be defined as: 1) current years of service with the City (uninterrupted), and 2) Qualifying Years of Relevant Service with another organization. "Qualifying Years of Relevant Service" shall be defined and calculated as follows:

- Those with no prior work experience or with experience unrelated to the essential functions of the position held with the City shall receive no Creditable Service time toward vacation accrual;
- Those with prior work experience that is 100 % related to the essential functions of the position held with the City but not with a local, state, or federal government shall have 50% of their prior years of service in these positions deemed Creditable Service toward vacation accrual (see example 1);
- Those with prior work experience that is 100% related to the essential functions of the position held with the City and with a local, state, or

federal government shall receive 75% of their prior years of service in these positions as Creditable Service toward vacation accrual. This shall include years of prior service with the City for those who have previously left employment from the City and wish to return, regardless of the length of break in service (see example 2 & 4);

- Part time work that qualifies as related Creditable Service about will be prorated and calculated based on average hours worked per week.
- Work (full or part-time) that is partially but not 100% related will be prorated accordingly, with HR making the final determination of the percent allowed after consulting with the employee and supervisor.

Example 1: A mechanic who worked 10 years for a private car dealership and is hired by the City to be a fleet mechanic would receive 5 years of Creditable Service toward vacation accrual. This would place him/her at 3 weeks to start and then in six years, once s/he reaches 11 years of Creditable Service, s/he would begin receiving 4 weeks of vacation.

Example 2: A mechanic who worked 10 years as a fleet mechanic for the Maine DOT and is hired by the City to be a fleet mechanic would receive 7.5 years of Creditable Service toward vacation accrual. This would place him/her at 3 weeks to start and then in 3.5 years, once s/he reached 11 years of Creditable Service, s/he would begin receiving 4 weeks of vacation.

Example 3: A person who worked for 10 years as a mechanic at a car dealership and then 10 years as a fleet mechanic at Maine DOT would receive 12.5 years of Creditable Service toward vacation accrual. This would place him/her at 4 weeks to start and then in 6.5 years, once s/he reached 19 years of Creditable Service, s/he would begin receiving 5 weeks of vacation.

Example 4: A person who worked 12 years for the City as a mechanic and then worked as a carpenter for 6 years for a private business would receive 9 years of Creditable Service for their previous time with the City and no years of Creditable Service for their time as a carpenter. This would place him/her at 3 weeks to start and then in 5 years, once s/he reaches 11 years of Creditable Service, s/he would begin receiving 4 weeks of vacation.

The Human Resources Director and City Manager must approve of all determinations of Creditable Service to help ensure consistency and equity across departments. Their decisions on Creditable Service amounts are final.

No new hire shall start at more than 4 weeks of vacation.

Creditable Service shall only apply to vacation accrual. It shall not apply to any other years of service accruals or benefits and shall be separate from actual years of service with the City.

Effective April 1, 2020, current employees may request that their prior service be considered by the City for Creditable Service and, if deemed warranted, shall be credited with additional years of service going forward based on the formulas above, not to exceed five weeks total vacation. Such requests must be made by June 30, 2020; requests made after this date will not be honored. This policy is prospective - in no instance shall any employee be due additional vacation time for previous years in which they may have qualified for more time under this formula. No employees shall lose accrued vacation time as a result of this policy.

3. Accrual

Each employee shall earn vacation with pay on the following basis:

- a. **0.834** of a vacation day shall be earned for each completed full month of Creditable Service from their date of hire until they reach their fourth (4) anniversary. (2 weeks per year)
- b. **1.250** vacation days shall be earned for each completed full month of Creditable Service from the fourth (4) anniversary of their date of hire until they reach their eleventh (11) anniversary. (3 weeks per year)
- c. **1.667** vacation days shall be earned for each completed full month of Creditable Service from the eleventh (11) anniversary of their date of hire until they reach their nineteenth (19) anniversary. (4 weeks per year)
- d. On the nineteenth (19) anniversary of their date of hire, **2.083** vacation days for each completed full month of Creditable Service shall be earned. (5 weeks per year)

Employees may accrue more than one year's allotment of vacation time provided that as of June 30th of each year, an employee may not have more than the equivalent of one year's accrual rate (e.g. two weeks of vacation for those earning two weeks per year) of vacation time on the books unless specifically authorized in writing by the Human Resources Director. Such approval shall be given only for unusual circumstances such as inability of the employee to use their vacation time in a given year because of the needs of the department or the employee's particular projects or duties that year.

4. Scheduling of Vacations

Vacation time shall be granted after the successful completion of the probationary period (unless granted for special circumstances during the probationary period – see Section V(C) above) and at such time or times as requested by the employee and pre-approved by his/her Division/Department Head, or in the case of a Department Head, by the City Manager.

5. Finance Department Employees

For the purpose of internal audit/control procedures, all Finance Department personnel in Accounting and Treasury shall be required to take at least five consecutive vacation days each year.

6. Use of Vacation Leave as "Sick Leave"

- a. Accumulated vacation days may be utilized like "sick leave" days in the event that an employee has a disability and has exhausted all accrued sick leave.
- b. An employee on pre-approved vacation leave may not convert a single day or consecutive days to sick leave.
- c. An employee on a pre-approved vacation leave of five (5) or more consecutive days who becomes seriously ill and/or hospitalized may upon presentation of verifying medical documentation to the Department Head and Human Resources Director, have the vacation leave converted to sick leave and reschedule the vacation leave at a future time as requested by the employee and pre-approved by the Department Head, or his/her Designee.

7. Termination

Accrued vacation leave shall be paid to an employee upon termination of employment or to his or her estate upon the death of the employee. Payment of accrued vacation leave shall be at the employee's rate of pay at the time of termination or death. The City shall deduct all applicable state and federal income taxes.

IX EMPLOYEE LEAVES

A. Sick Leave

1. Purpose of sick leave.

Sick leave without loss of pay is provided to full-time and regular part-time (twenty (20) hours a week or more) employees. It is designed to encourage employees to accumulate sick leave hours and to use them only when necessary. When so used, accumulated paid sick leave provides an employee with substantial income protection in the event of an extended leave of absence or major medical problem. Sick leave is available to be used only for the purposes specified below in section A (3), and for the Sick Leave Bank Program (see Appendix H).

Sick leave abuse, frequent tardiness, and excessive absenteeism are grounds for discipline up to and including termination from employment, even for a first offense.

2. Accrual of sick leave.

Full-time and regular part-time (twenty (20) hours or more per week) employees are granted one and one quarter (1.25) day of paid sick leave for each month of continuous service. The month in which employment begins or ends is counted as a month of service if employment begins before the 16th or ends after the 15th day of the month.

Full-time and part-time employees hired on or after January 1, 2017, working a minimum of twenty (20) hours per week on a year round basis, shall not accrue more than one hundred twenty (120) days of sick leave.

For the purposes of this section, "day" shall be defined as one-fifth (1/5) of the total regular hours worked by an employee on a weekly basis.

3. Use of sick leave.

Sick leave may be used only in the following instances:

- a. Personal illness or physical incapacity of such a degree as to render the employee unable to perform the work of the assigned position or other work in the department, if the employee has a contagious disease or illness, or for the employee's medical or dental appointments or utilization of the Employee Assistance Program or Counselors. Employees must make reasonable efforts to schedule leave for planned medical appointments so

as not to unduly disrupt the City's operations. After five (5) consecutive days or work shifts of using sick leave, an employee may be required to apply for leave through the Family Medical Leave Act.

- b. Family Care: Provide care to members of the employee's "immediate family" or others living in the employee's household who are ill. For purposes of this subparagraph, "immediate family" shall mean parent, spouse, registered domestic partner, child, registered domestic partner's child, step-parent, or step-child. Sick leave used for this purpose may not exceed forty-eight (48) hours per calendar year. Additional family sick leave may be granted by the Human Resources Director through the Family Medical Leave Act.

An employee who is unable to work because of the reasons stated above in 3(a) and (b) shall notify his or her Supervisor, Department Head, or designee, as promptly as possible of the employee's intent to utilize sick leave and the type of sick leave to be used whether it is for personal illness or incapacity, or family care. Department Heads shall develop department procedures regarding notification of sick leave utilization.

For non-exempt employees, absence for a portion of a day that is chargeable to sick leave is charged proportionately to the amount of time absent from work. The amount of time absent from work for which an employee can use sick leave does not count toward weekly hours worked for calculating overtime (or earned compensatory time) for that week (please see Section VI Compensation Plan for Employees, D. Hours of Work, 2. Non-exempt Employees, and see Section VI. Compensation Plan for Permanent Employees, E. Compensatory Time).

For exempt employees, the City shall make deductions from salary in accordance with FLSA standards for absences from work of one or more full days due to sickness, or disability. For absences from work of less than one full day, the City will substitute the employee's regular salary pay with accrued sick leave in an amount equal to the hours during which the employee was absent from work provided that the following exception will apply: In the event a salaried employee has worked or will actually work all scheduled hours in a week (either 37.5 or 40 as applicable) and the employee has a need to leave during the workday for an appointment such as a doctor's appointment, the salaried employee may attend the appointment with advance supervisor approval without substituting accrued sick time for regular salary pay and provided further that the total time of the employee absence(s) from work is no more than two hours in the applicable week.

The City has the right to request a written statement from an employee's attending physician or send the employee to a physician selected by the City to confirm the need for sick leave and whether the employee has any work restrictions upon his/her return. The City shall assume the cost of requiring such a written statement. When requested, such a written statement must be provided before the employee may return to work. An employee who is required to provide a note from a medical provider to verify their absence due to illness and/or ability to return to work will be required to use their available Personal, Vacation or Compensatory paid time off for any period of time they are waiting to receive medical authorization to return to work following their absence. An employee may not use sick leave after providing notice of intent to end employment without medical verification of the need for leave; the City will not assume the cost of requiring such a statement in this circumstance or for this purpose.

Employees who are on extended Sick Leave or an extended Medical Leave of Absence shall not continue to earn or accrue sick leave, Personal Time, Holiday or Vacation benefits after they have taken a Sick Leave of 6 consecutive months.

Except in unusual circumstances, employees shall be expected to return to full duty upon conclusion of a non-work related sick leave absence. Light duty work may be available if recommended by a physician, available in the department and approved by the City Manager.

The City's Pandemic Flu Policy is referenced in Appendix B.

4. Payment for unused sick leave.

Employees leaving City service shall be paid for accumulated sick leave in accordance with this section.

- a. An employee who, with at least four year's continuous employment with the City, has a minimum of one hundred (100) hours accrued and unused, and having provided two weeks' notice to the Department Head and Human Resources Director, resigns, retires or is laid off from City service, shall receive payment for accrued sick leave as follows:

Employees with more than four years but less than 10 years of service: One-half of accumulated sick leave up to 30 days, with the maximum hours to be paid out calculated based on their weekly scheduled hours divided by 5.

Maximum number of hours to be paid out: 225 hours for

employees working a 37.5 hour a week schedule and 240 hours for employees working a 40 hour a week schedule.

Employees with 10 or more years, but less than 20 years of service: One-half of accumulated sick leave up to 45 days, with the maximum hours to be paid out calculated based on their weekly scheduled hours divided by 5.

Maximum number of hours to be paid out: 337.5 hours for employees working a 37.5 hour a week schedule and 360 hours for employees working a 40 hour a week schedule.

Employees with 20 years of service or more:
One-half of accumulated sick leave up to 60 days, with the maximum hours to be paid out calculated based on their weekly scheduled hours divided by 5.

Maximum number of hours to be paid out: 450 hours for employees working a 37.5 hour a week schedule and 480 hours for employees working a 40 hour a week schedule.

For employees working more than 20 but less than 37.5 a week, the maximum hours to be paid out also will be calculated based years of service and on their weekly scheduled hours divided by 5.

For Example:

<u>Weekly Scheduled Hours:</u>	<u>20</u>	<u>22.5</u>	<u>25</u>
More than 4 and less than 10	120	135	150
More than 10 and less than 20	180	202.5	225
20 years of service or more	240	270	300

- b. For purposes of this Section, years of service will be recognized as the total number of calendar years of service including employment as a regular part-time employee working twenty (20) or more hours per week.
- c. If an employee dies while in City service, including being on authorized leave, the City shall make payment as described above under Subsection (a) to the employee's estate.
- d. An employee who is laid off will receive pay for accrued sick leave in

accordance with Section 4(a) above. If the employee accepts a recall back to work in accordance with section V (F)(3), they shall not receive credit for portions of accrued sick leave they did not receive separation payment for as outlined in section IX (A)(4).

- e. No unused sick leave payments will be made under this provision to any employee who is discharged for disciplinary reasons.
- f. No unused sick leave payment will be made if an employee uses accrued sick leave after providing notice unless they provide medical certification verifying they were unable to work. Any use of sick leave following notice under an Early Out provision in a collective bargaining agreement is not subject to this requirement.

X.

B. Workers' Compensation Leave

This benefit is governed by State law in accordance with the Maine Workers' Compensation Act and administered by the Maine Workers' Compensation Board. Any future amendments or modifications to the law or regulations will be automatically incorporated as part of the Personnel Policy. [See Article VII (F) for the City's policy regarding Workers' Compensation Leave.]

C. Bereavement Leave

Paid bereavement leave shall be available to full-time and regular part time (twenty (20) hours or more per week) non-union employees as specified in this section. In the case of a death in an employee's immediate family an employee shall be entitled to a paid leave of absence of up to three (3) working days following the death.

For the purposes of this section, immediate family is defined as spouse, registered domestic partner (in accordance with Maine Revised Statutes; Title 22, §2710), child, registered domestic partner's child, brother, sister, parent, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandparent-in-law, grandchild, step parent, step child, the commensurate in-laws of the registered domestic partner, or other person residing in the household of the employee.

An employee may request additional bereavement leave in writing from the Human Resources Director for an extension of the time period or attendance at a funeral for an immediate family member as defined above or other person residing in the household of the employee. An employee may also request bereavement leave in writing from the Human Resources Director for another family member. Any bereavement leave granted under this paragraph by the Human Resources Director shall be charged to sick leave.

If the funeral occurs during an employee's vacation, contact Human Resources to determine if Bereavement Leave can be accessed as paid time off.

Bereavement leave will be paid only if the employee is scheduled to work on the days lost.

An employee must furnish reasonable proof of the family relationship and/or of the timing of time off needs of the deceased if such proof is requested.

D. Family Medical Leave

Family medical leave is governed by the requirements of Maine's Family Medical Leave law and the federal Family Medical Leave Act, as they may apply. (Use of the term FMLA herein shall mean the federal Family Medical Leave Act.) If the requirements, benefits, definitions and/or scope of either the federal or state laws related to family medical leave change from the date of this revised Policy, such changes are automatically incorporated into this Section.

The City of South Portland qualifies as an employer under both Maine law and the federal FMLA. Where there are conflicting provisions between the state and federal laws, the more generous provision may be applied, provided that the employee is otherwise covered under that law. However, where eligibility is covered by both federal law and state law, leave taken under state and federal laws may not be combined and will run concurrently.

1. Basic Leave Entitlement

Federal FMLA provides up to twelve (12) weeks of unpaid, job-protected leave per 12 month period to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement of a child with the employee for adoption or foster care;
- To care for the employee's spouse, child, or parent who has a serious health condition;
- Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or

parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces; or

For a serious health condition that makes the employee unable to perform the essential functions of the employee's job.

Maine's family medical leave law provides up to 10 weeks of unpaid leave in a 2-year period to eligible employees for the reasons listed above as well as the following reasons:

- The birth of the employee's domestic partner's child;
- The placement of a child with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
- A domestic partner's child, a grandchild, a domestic partner's grandchild, a domestic partner, or a sibling with a serious health condition;
- The death or serious health condition of the employee's domestic partner or sibling if the domestic partner or sibling, as a member of the state military forces, or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty; or
- For incapacity due to the employee's donation of an organ for transplant.

2. Military Family Leave Entitlements

The federal FMLA provides that eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Employees whose parent, spouse, son or daughter is a military member may also take leave to care for the parent of that military member who is incapable of self-care. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post- deployment re- integration briefings.

Federal FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a parent, child or spouse who is a covered service member or covered veteran during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who incurred or aggravated a serious injury or illness in the line of duty on active duty that may

render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Maine's family medical leave law entitles employees to take up to 10 weeks of leave for a spouse, domestic partner, child, parent, or sibling with shared living and financial arrangements who died or incurred a serious health condition while serving in active military duty, including as a member of the National Guard or Reserves.

3. Leave for Victims of Violence

Pursuant to Maine law (26 M.R.S.A. 850), the City grants reasonable and necessary leave from work to an employee who is a victim or whose child, parent or spouse is a victim of violence, assault, sexual assault, stalking or any act that would warrant an order for protection under Maine law. Such leave will be granted without pay, however the employee is entitled to use accrued paid leave. The leave must be communicated to the City within a reasonable time under the circumstances. If the leave is deemed in the City's sole discretion based on the information available impractical, unreasonable or unnecessary, or would create an undue hardship on the City, such leave may be denied. Leave may be granted under this section for the following purposes:

- a) To prepare for and attend court proceedings;
- b) to receive medical treatment or attend medical treatment for a victim who is the employee's daughter, son, parent or spouse, or;
- c) To obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

4. Benefits and Protections

During federal FMLA leave, the City will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. During family medical leave covered under Maine law, the City is not required to pay the cost of the employee's health insurance premium, but will maintain coverage if the employee agrees to pay the full cost of any premiums while on leave.

Upon return from family medical leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of family medical leave will not result in the loss of any employment benefits that accrued prior to the start of an employee's leave.

5. Eligibility Requirements

Employees are eligible for federal FMLA coverage if they have worked for the City for at least 12 months total, which do not need to be consecutive, and for at least 1,250 hours over the 12 months prior to leave. Employees are eligible for

Maine family medical leave coverage if they have worked for the City for at least 12 consecutive months, regardless of the number of hours worked in the period prior to the leave.

Per the Department of Labor, the City may not delay designating FMLA- qualifying leave as FMLA Leave, and the employer must count all leave that is covered by FMLA as FMLA leave.

The twelve (12) month period during which federal FMLA entitlement may occur is a rolling twelve (12) month period measured backward from the date an employee last used any FMLA leave.

6. Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employer's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

7. Intermittent Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary as demonstrated by a health care provider's certification that includes the anticipated dates and duration of leave. Employees must make reasonable efforts

to schedule leave for planned medical treatment so as not to unduly disrupt the City's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

8. Substitution of Paid Leave for Unpaid Leave

The City requires use of accrued paid benefit leave, including sick leave, vacation leave, earned paid leave (EPL, see Section L below), personal leave and compensatory leave to the extent that it is available, generally in that order, including under the Sick Leave Bank Program, and per the available medical information, prior to unpaid leave while on covered family medical leave. Employees must comply with the City's normal paid leave policies. The City Manager may make a written exception to this requirement in certain circumstances, such as when the amount of time for leave needed is expected to exceed the available paid leave.

9. Employee Responsibilities

Employees must provide 30 days advance notice to the Human Resources Director of the need to take family medical leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the City's normal call-in procedures.

Employees must provide sufficient information for the City to determine if the leave may qualify for family medical leave protection under the federal or state laws and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform the essential functions of his/her job, the employee's covered family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must inform the City if the requested leave is for a reason for which family medical leave was previously taken or certified. Employees may be required to provide medical certification from a physician and periodic re-certification supporting the need for leave.

Employees who are temporarily out of work on a family medical leave, disability leave, or other such qualifying leave, are responsible for making payment for their portion of weekly benefits premiums, including, but not limited to: health insurance, dental insurance, retirement, vision care, etc. after accrued benefit time such as vacation and sick leave being used to pay for said premiums has been exhausted. Failure of the employee to keep current with weekly benefits premiums as applicable may result in termination of benefits/coverage. Employees on an approved leave of absence shall inform the Human Resources Department

as to how they wish to pay for their portion of benefits premiums.

10. Return to service.

As allowed by law, an employee may be required to provide medical certification from their treating provider of their ability to return to work following their medical leave. The City may require, at its own cost, the employee also obtain clearance from a City provider to return to work, once released by their own provider, so long as having the final clearance is consistent with business needs and is job related. Upon the end of the family medical leave, an employee will be restored to the position he/she occupied immediately prior to the commencement of the leave or to an equivalent position with the same employee benefits and pay as existed immediately prior to commencing the leave, except in the event of financial, budgetary or other conditions unrelated to the employee's taking of a leave which prevent the restoration to the same or equivalent position.

An employee shall return to work from a family medical leave no later than the first working day following the expiration of the leave. Failure on the part of the employee to return to work after the expiration of an approved leave is deemed a resignation from City service.

If an employee fails to return to work following their family medical leave, the City will seek repayment from the employee of the total of the employer portion of premiums paid during the related leave, as allowed by law, unless the employee is medically unable to return to work. The employee must return to work for at least a period equal to the amount of leave taken or they will be subject to the repayment obligation. An employee who does not return to work following their leave is not eligible for any pay-out of sick or personal time accrued, unless the employee is medically unable to return to work.

Y.

E. Paid Family Medical Leave

Paid family medical leave is governed by the requirements of Maine's Paid Family Medical Leave law. (Use of the term PFML herein shall mean the state Paid Family Medical Leave program.) If the requirements, benefits, definitions and/or scope of the state laws related to paid family medical leave change from the date of this revised Policy, such changes are automatically incorporated into this Section.

The City of South Portland qualifies as an employer under Maine law. The Maine Department of Labor is responsible for the administration and determination of benefits. Eligible Employees must apply for benefits through the Maine Department of Labor. Please visit <https://www.maine.gov/paidleave/> for additional information regarding PFML.

1. Payment of Premiums

PFML is funded through the withholding and payment of payroll premiums by Maine employers. As an employer, the City is required to remit one percent (1%) of wages as a premium to the Maine Department of Labor. Beginning January 1, 2025, the City will deduct one-half percent (0.5%) of all employees wages from the employee's weekly payroll as payment for payroll premiums, as allowed under Maine law. The remaining one half percent (0.5%) will be paid by the City. In the event the amount of the premium is increased pursuant to state law or regulation, that premium amount shall be split evenly between the employee and the City.

Z.

F. Extended Medical Leaves of Absence and Reasonable Accommodations under the ADA

Pursuant to the Americans with Disabilities Act (the "ADA"), the Pregnant Workers Fairness Act (the "PWFA") and other applicable Maine law, the City shall provide a reasonable accommodation for a qualified employee with a disability, or an employee with known limitations related to their pregnancy, childbirth and related medical conditions, regardless of whether it meets the definition of disability under the ADA, unless such accommodation would cause an undue hardship on the City. In some instances, a reasonable accommodation may take the form of an extended unpaid leave of absence.

Should an employee not be eligible for or have otherwise exhausted other available leave, such as FMLA, or require an extension of leave due to a disability or serious health condition, the employee may be eligible to take a leave of absence pursuant to this section where medically necessary. All leave requests will be reviewed pursuant to applicable state and federal law including but not limited to the Family Medical Leave Act and the Americans with Disabilities Act.

An employee must inform the City of the need for an accommodation, including the need for leave, and should do so as quickly as practicable upon becoming aware that a workplace barrier exists. If the need for an accommodation is not obvious or the employee has not already provided sufficient information to substantiate his or her qualifying medical condition, the City may request documentation of the individual's medical condition. The City may request clarification concerning the nature of the medical condition and the employee's limitations in order to identify an appropriate reasonable accommodation. The City and the employee shall engage in an interactive process to determine an effective reasonable accommodation within as quick a timeframe as is practicable under the circumstances. Employees seeking an extended medical leave of absence should see their Department Head, who shall refer them to the Human Resources Director, or Designee. If leave is determined to be necessary, the

initial period of disability leave will be processed as Family Medical Leave, twelve (12) weeks under the Federal law or ten (10) weeks under the Maine law. if the disability is a serious health condition as defined by the Family Medical Leave Act and the employee is otherwise eligible.

1. The employee shall submit written notification to the Director of Human Resources, or Designee, at least thirty (30) days prior to their anticipated departure stating the probable duration of the leave. If this is not feasible, then the employee shall provide as much advance notice as possible. The Director of Human Resources, or Designee, may require the employee to furnish written medical certification from an attending physician justifying the need for the leave and setting forth the anticipated duration, and any limiting conditions or restrictions under which work may be performed before and/or after the leave. Under certain circumstances, the City may require an employee on or seeking an extended medical Leave of Absence to be seen by a provider selected by the City at the City's expense to verify the need for ongoing leave.
2. If approved, the disability leave will have a set termination date. If the disabling condition ends before originally anticipated, the employee is to notify the Department Head or Human Resources Director. An employee may return to work at any time prior to the approved leave end date with the approval of the Department Head and Human Resources Director. Prior to an employee being allowed to return to work from a disability leave of absence the City will send an employee to a physician or occupational health provider of its choosing for a Fitness For Duty physical exam.
3. Two weeks prior to the expiration of an approved leave, the employee may request a thirty (30) day extension, or an additional period of time, from the Director of Human Resources, or Designee. The employee may be required to furnish written medical certification for the need for the extended leave.
4. Disability leaves, including extensions and renewals, shall not be approved for a total combined period in excess of twelve (12) months from the start of the leave. At the expiration of the twelve (12) months, any requests for extension beyond twelve (12) months will be carefully evaluated according to physician recommendation in accordance with applicable law.
5. Failure on the part of the employee to return to work after the expiration of an approved leave is deemed a resignation from City service.
6. Accrued sick, vacation, personal leave and compensatory time shall be paid out to an employee on an authorized disability leave of absence.

7. Should an employee's attendance or work performance be unsatisfactory because of a disability, the City may require the employee to take an unpaid disability leave of absence pursuant to this section.
8. An employee on an extended Medical Leave of Absence shall not continue to accrue Holiday, Sick Leave, Personal Time or Vacation benefits after they have been on leave for six (6) consecutive months starting with the related initial absence.

AA.

G. Personal Leave of Absence

An employee may request a personal leave-of-absence in writing to the Human Resources Director, upon the recommendation of the respective Department Head. A Department Head may request a personal leave of absence from the City Manager. Such Leave shall be without pay and without such benefits described in Sections VII, VIII and IX of this Policy, unless the duration of the requested Leave is such that maintaining certain employee benefits is more efficient and/or cost effective for the City. Such leave will be granted at the discretion of, and on any terms as directed, by the Human Resources Director or the City Manager (for Department Head requests). Such leave shall not exceed three (3) months.

If an employee fails to return to work following a Personal Leave of Absence, the City will seek repayment from the employee of any employer portion of premiums paid during the related leave, as allowed by law, unless the employee is medically unable to return to work. The employee must return to work for at least a period equal to the amount of leave taken or they will be subject to the repayment obligation. An employee who does not return to work following their leave is not eligible for any pay-out of sick or personal time accrued, unless the employee is medically unable to return to work. Failure by the employee to return to work immediately after the expiration of an approved leave is deemed a resignation from City service.

H. Educational Leave of Absence

1. Eligibility

An employee may request an educational leave of absence in writing to the Human Resources Director, upon the recommendation of the respective Department Head. A Department Head may request an educational leave of absence from the City Manager. Such leave will be granted at the discretion of, and on any terms directed by, the Human Resources Director or the City Manager (for Department Head requests). Such Leave shall be without pay and without such benefits described in Sections VII, VIII and IX of this Policy, unless the duration of

the requested Leave is such that maintaining certain employee benefits is more efficient and/or cost effective for the City. An employee seeking an Educational Leave of Absence must have no available accrued Vacation, Personal and/or Compensatory time that is, on its own or in any combination, equal to or greater than the amount of Educational Leave time requested, that they could use instead of seeking an unpaid leave.

2. Terms of Leave

Educational leave of absence without pay may not exceed one year in length and shall be granted based on a review of the employee's employment record, department staffing and operational needs, and benefit to the City. Vacation, holiday and sick time shall not be earned during the unpaid Educational leave of absence nor shall any other employee benefits be accrued.

Employees on an educational leave of absence may continue, at their own expense, if eligible, in the group health insurance and life insurance plans of the City.

3. Return to service.

Upon the end of the educational leave of absence, an employee will be restored to the position he/she occupied immediately prior to the commencement of the leave of absence or to an equivalent position with the same employee benefits and pay as existed immediately prior to commencing the leave of absence, except in the event of financial or budgetary conditions unrelated to the employee's taking of a leave which prevent the restoration to the same or equivalent position.

An employee shall return to work from an educational leave of absence no later than the first working day following the expiration of the leave. Failure by the employee to return to work after the expiration of an approved leave is deemed a resignation from City service. If an employee fails to return to work following an Educational Leave of Absence, the City will seek repayment from the employee of any employer portion of premiums paid during the related leave, as allowed by law, unless the employee is medically unable to return to work. The employee must return to work for at least a period equal to the amount of leave taken or they will be subject to the repayment obligation. An employee who does not return to work following their leave is not eligible for any pay-out of sick or personal time accrued, unless the employee is medically unable to return to work.

I. Military Leave

Military leave and rights to re-employment after such leave are available to employees

under the terms and conditions of applicable Federal and State law, as may be amended from time to time.

BB.

J. Reserve Military Leave

Reserve military service leave and rights to re-employment after such leave is available to employees who are members of the military reserve or National Guard under the terms and conditions of applicable Federal and State law as may be amended from time to time. For any period of reserve service up to two weeks in any calendar year, the City will compensate the employees the difference between their gross regular weekly wages and their total military pay, on the same terms as outlined for juror's pay under Section K(1) below, except when their military weekly pay is greater than the employee's regular weekly pay. When the military pay is greater, the employee will keep their military pay and reimburse the City for applicable benefit deduction costs that were not collected during their absence. Employees utilizing reserve service leave must furnish the Human Resources Director with an official statement of reserve service pay received.

CC.

K. Veteran Leave

An employee who is a veteran may take time away from work to attend scheduled appointments at a V.A.-operated facility, regardless of whether the employee has accrued leave, as long as the employee provides notice of such an appointment as soon as reasonably possible. If the employee has paid leave, they must use it to attend such an appointment.

L. Court Leave.

1. Jury service.

An employee shall be excused from work when required to respond to a summons for jury duty or to serve as a juror. The City will pay the employee the difference between their regular pay and juror's pay, pursuant to the following conditions:

- a. Employees continue to be paid their regular weekly wages during the time they are fulfilling their obligations as a juror;
- b. Employees provide the Human Resources Director with an official statement of their juror's pay as soon as possible.
- c. If such juror's pay is less than the employee's regular pay for the period

served as juror, the employee submits the entire amount of the juror's pay to the City.

- d. If such juror's pay is equal to or greater than the employee's regular pay for the period served as juror, the employee refunds to the City that amount of the juror's pay which is equal to the amount paid to the employee by the City for the period served as juror.
- e. Any portion of such juror's pay that is reimbursement for related mileage and/or parking costs shall be retained by the employee.

2. Required attendance in court

In the event the City requires an employee to attend a court proceeding, the employee shall suffer no loss in regular pay as a result of such attendance, and hours required to be spent at court at the City's request shall be considered "hours worked" for the City for purposes of overtime eligibility for non- exempt employees. Employees who are compensated by the City for attendance at court are required to turn over to the City any witness fees or other compensation received for such appearances.

3. Private litigation.

Any employee subpoenaed to appear in court as a witness in private litigation or as a party in private litigation unrelated to City employment will be given time off without pay for such attendance. Employees may use available vacation, personal or compensatory time.

4. Notice requirement.

Employees required to report for possible jury duty or as witnesses shall inform the Human Resources Director and respective Department Head as soon as possible of such notice to report and of any subsequent obligations. Employees shall return to work promptly to work the remainder of their regular shift after such jury or witness duties are completed.

DD.

M. Earned Paid Leave

- 1. Eligible Employees: Employees of the City who are not already eligible under the City's Personnel Policy or a Collective Bargaining Agreement to accrue earned leave, with certain exceptions as allowed by law, are entitled to earned paid leave (EPL) per MRS Title 26, Chapter 7, Section 637, Maine's Earned Paid Leave law.

Exceptions include but are not limited to employees who are classified as Seasonal employees (such as Summer Rec Camp Counselors and Lifeguards), and certain Election workers.

2. **Accrual of Earned Paid Leave:** Eligible employees are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year of employment. Accrual of this leave begins at start of employment and accrued but unused leave carries over year to year (the maximum accrual remains 40 hours). An employee who leaves employment and then returns to employment within one year will be eligible for their previously accrued EPL.
3. **Use of Earned Paid Leave:** Once eligible employees have been employed for 120 calendar days, they may use EPL for any reason and can use EPL in increments of 1 hour. EPL will be paid at the employee's regular rate of pay as established in the week immediately prior to taking Earned Paid Leave.
4. **Notice Requirements:** Eligible employees must provide to their supervisor at least 4 weeks' prior notice of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.
5. **Leave Accrual upon Separation:** Unused accrued leave (up to 40 hours) will not be paid to the employee at time of separation.

X. **CONDITIONS OF EMPLOYMENT**

A. Employee Conduct

The City has established the following guidelines regarding employee behavior while at work in order to ensure the efficient operation of City business and services to its residents, as well as to create a safe and productive environment for all employees. The following list provides illustrative examples of the behavior and conduct expected of employees and is not intended to be all-inclusive. Departments may establish additional regulations to supplement this policy with regard to the conduct of its employees, which regulations shall be binding on the employees of that Department, subject to the approval of the Human Resources Director and City Manager. In the case of a conflict between this policy and the departmental regulations, the more restrictive provision shall apply. In the event an employee is uncertain as to whether certain behavior or conduct is appropriate or in keeping with this policy, he or she should contact his or her supervisor or the Human Resources Director.

All employees are expected and required to:

1. Uphold the Constitution, laws and regulations of the United States and the State of Maine and the Charter, codes and regulations of the City of South Portland.
2. Regard service to the public as the mission of all City employees, and always place service to the public above service to self.
3. Report for work at the time and place required, physically and mentally prepared, and properly dressed and equipped unless proper notification has been made.
4. Treat all co-workers and members of the public with respect, courtesy, concern and responsiveness, without dispensing special favors or privileges.
5. Never use or disclose information obtained as a result of employment with the City for personal gain for oneself or another, to place oneself or the recipient in a position of advantage, or to spread rumors and/or accusations about City employees and elected officials.
6. Devote on-duty time and energy to fulfilling the duties and responsibilities of the assignment by acting professionally in a non-hostile manner, regardless of provocation; avoiding intentionally profane, violent, or insulting language; and promptly and courteously returning phone calls, e-mails, or other inquiries from the public, supervisors, co-workers, or others.
7. Resolve disagreements internally by working through the appropriate chain-of-command. Do not debate issues in public or through the media.
8. Demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees. Engage in no activity, either directly or indirectly, which is inconsistent with the conscientious performance of City duties.
9. Expose corruption, misuse of official authority or any action which harms the public interest wherever and whenever discovered.
10. Refrain from lobbying or attempting to influence City Councilors in regards to budget decisions, support for a new or existing program, etc. while on duty. Although City staff may occasionally be asked to provide "ride-alongs", building tours, etc. with City Councilors, employees shall provide factual information but shall not use these opportunities to lobby or influence City Councilors to

support budget requests, new or existing programs, etc. Any official requests for budget support or program support shall come from the Department Head via the City Manager, primarily through the annual budget process. As such, if employees are asked for their opinions about budgetary or programmatic needs by a City Councilor, they shall only refer the City Councilor to the City Manager.

Ex. An employee of the Fire Department, which has employees who are represented by a union, obtains a grant as part of their paid duties for the department. Notices about obtaining the grant shall refer to either the department as the Fire Department or City Fire Department and the employee as a City of South Portland employee and/or City Fire Department employee but not as a member of the associated union.

EE.

B. Off-Duty Conduct

The City of South Portland respects its employees' right to privacy with regard to activities and conduct outside of the workplace and regular working hours. The City does not prohibit employees from engaging in lawful activities while off-duty, nor discriminate against employees for the same. However, such lawful off-duty conduct shall be subject to other applicable provisions of this policy or other City regulations, including but not limited to the use of City equipment, computers or vehicles, the use of social media and other electronic communications and the City's workplace violence policy. Inappropriate behavior, workplace violence, misuse of City equipment, electronic communications or social media, or any other violation of the City's policies, although not unlawful, may be cause for discipline, up to and including termination from employment, even for a first offense.

Off-duty conduct of employees that is illegal may be cause for discipline, if the illegal off-duty conduct or consequences of the illegal off-duty conduct directly impact the employee's ability to meet the essential functions and other requirements of his or her job. Similarly, an employee's illegal off-duty conduct or consequences of the illegal off-duty conduct that directly impact working conditions, required licenses, normal business operations, or the professional reputation of the organization may be cause for discipline. In addition, off-duty conduct, whether legal or illegal, that impedes the City's ability to competently and effectively provide services to the public may be cause for discipline, up to and including termination from employment, even for a first offense.

C. Political Activity

While in the employ of the City, an employee shall not:

- (1) Engage in political activity while on duty;
- (2) Use the influence of his or her employment capacity for or against any candidate for any county, state, federal or City elective office (*i.e.*, City Council or School Board) (hereinafter "City elective office");
- (3) Use City facilities, equipment, materials or supplies to communicate, organize, assist or advocate for or against any candidate for any county, state, federal or City elective office, or for or against a political cause, regardless of whether he or she is on or off duty.

For purposes of this Section X (C), political activity means to advocate expressly for or against any candidate for any county, state, federal or City elective office; to circulate nomination papers, petitions or campaign literature for any county, state, federal or City elective office; to advocate expressly for or against a political cause; and/or to knowingly give, solicit, accept or receive a political contribution for any candidate for any county, state, federal or City elective office or for a political cause.

This provision is not to be construed to prevent City employees from carrying out the duties and responsibilities of an employee's position, including, but not limited to, advocacy on political issues or legislation; from becoming, or continuing to be, members of any political organization; from attending political organization meetings; from donating personal time, service or resources to a political cause or candidate for any county, state, federal or City elective office; from expressing their views on political matters; or from voting with complete freedom in any election.

Employees who are working directly or indirectly under a federal funding status must check with the Hatch Act Unit of the U.S. Office of Special Counsel as to the extent to which participation in state or federal political activity is allowed under Federal law.

FF.

D. Personal Receipt of Gifts

Employees are prohibited from soliciting or accepting any gift, gratuity, favor, installment, loan or any other item of monetary value from any person, within or outside the City government, when given or received under circumstances indicating the hope or expectation of receiving preferential treatment to that accorded the general public, or whose interests may be affected by the employee's performance or nonperformance of their official duties, or is intended as a reward for action on the

part of the employee, thus creating the appearance of undue influence, indebtedness or expectation of future favors.

Items of nominal value, such as food and refreshments or unsolicited promotional materials such as pens, note pads, conference tote bags, etc., given or received within the ordinary course of business may be accepted by employees so long as the employee's acceptance of such items does not otherwise have any actual or perceived influence over the employee's performance of the duties or tasks required of his or her job.

An employee who receives any gift or other item of monetary value through the course of their employment with a value likely in excess of \$25 or more – whether one time or accrued over the course of a 12 month period – shall report the receipt to the City Manager to ensure retaining the gift will not conflict with this policy.

E. Use of City Resources

Employees shall use City vehicles, equipment, tools, supplies and other municipal property for City work, and not to promote any financial or personal interest.

Use of City vehicles, equipment, materials, land, facilities, clothing, etc. for union fundraisers (for the union or for any other entity the union may raise money for) and events are prohibited. Use of City vehicles, equipment, materials, land, facilities, clothing, etc., for City fundraisers (for the City or another entity) may be allowed with the approval of the Department Director or City Manager.

F. Conflicts of Interest

In addition to adhering to general standards of conduct for an employee of any organization, a City employee is expected to treat everyone he/she serves with complete impartiality and is prohibited from using his/her official position for personal profit or the profit of his/her family.

No City employee authorized to make purchases shall have any interest directly or indirectly in any contract with the City.

No City employee shall sell goods and/or services to the City.

G. Outside Work

A City employee may engage in outside employment if the employment does not interfere with the proper, safe and effective performance of the duties of the City

position, and does not constitute a conflict of interest.

H. Smoking and Tobacco Free Environment

It is the policy of the City of South Portland to comply with all applicable Federal, State, and Local regulations regarding smoking and tobacco use in the workplace and to provide a smoking and tobacco-free work environment that promotes productivity and the health of its employees and the public. The City recognizes that tobacco is a legal product and that as an employer it may not require that employees or prospective employees refrain from tobacco use when at work, and will not discriminate against employees who use tobacco outside of employment.

Smoking and the use of any tobacco product, including, but not limited to cigarettes, cigars, pipes, smokeless tobacco and electronic or vapor cigarettes/devices is prohibited in all City facilities, vehicles and equipment, except for areas where it is specifically authorized. Smoking and tobacco use is not permitted in personal vehicles used on City business when the vehicle is occupied by one or more passengers. The City may designate Smoking Areas which must be at least twenty (20) feet from all entryways, vents and doorways of City facilities.

Employees are entitled to rest breaks during the working day as required by Maine law and as otherwise permitted by this policy. All other breaks shall be at the discretion of the employee's direct supervisor or Department Head and shall be scheduled such that break times do not interfere with employee productivity or the City's ability to provide public services to its residents through proper staffing levels.

Employees are expected to exercise common courtesy and to respect the needs and sensitivities of co-workers with regard to the smoking policy. Smokers have an obligation to keep designated smoking areas litter-free and not to abuse break and work rules. Complaints about smoking issues should be resolved at the lowest level possible; however, employees who violate this policy may be subject to disciplinary action.

Employees may contact the Human Resources Department for information regarding the effects of smoking and the availability of and reimbursement for smoking cessation programs through the City's Employee Assistance Program, and/or other available resources.

I. Drug Free Workplace Policy

The City of South Portland recognizes that alcoholism and drug dependency are treatable diseases. Left untreated, they may result in serious personal, professional and

family problems. At the same time, the City is also seriously concerned about the effects of alcohol and drug dependency upon an employee's job performance and ability to serve the public.

The City believes strongly that all employees and members of the public should be able to conduct business in an environment free from alcohol and drug abuse. Accordingly, the City expects all employees to report for work and to perform their duties in a manner which does not jeopardize the health, safety and well-being of co-workers and the public.

No employee of the City shall distribute, dispense, possess, store, use or be under the influence of any alcoholic beverage, malt beverage, fortified wine, intoxicating liquor, illegal drugs, intoxicants, controlled substances, or other substances of abuse during working hours, including rest breaks and meal periods.

The City abides by the Maine Medical Use of Marijuana Act, as may be amended from time to time and will not discriminate against an employee or applicant solely on the basis of his or her status as a qualifying patient or primary caregiver. However, the City may refuse to employ any person who uses marijuana if doing so would cause the City to be in violation of federal law or to lose a federal contract or funding. Pursuant to the Maine Medical Use of Marijuana Act, the City prohibits the smoking of marijuana on all City property, including public transportation, and prohibits possession and use of marijuana in any form on all school property, including school buses, unless otherwise expressly permitted by the Maine Medical Use of Marijuana Act.

Employees shall not possess, smoke, ingest or be under the influence of marijuana in the workplace, on or within any City property, or at any time during which the employee is working, expected to work, and/or on duty. The prohibitions in this paragraph apply to all marijuana usage, medicinal and recreational, whether or not lawful under Maine law.

Any employee who suspects that he or she may have an alcohol or drug dependence problem is strongly encouraged to contact the City's Employee Assistance Program (see Section VII (B)) or supervisor to seek voluntary diagnosis and treatment. The employee will be provided confidential referral services to an outside agency upon request, and assisted in determining the extent to which insurance coverage may help pay for such services. All voluntary referrals shall be kept confidential.

Any violation of this policy may constitute just cause for employee discipline, up to and including termination.

J. Employee Notification to Employer

As provided in the Drug-Free Workplace Act of 1988, employees are required to notify the Human Resources Director of a criminal or civil conviction for a drug violation occurring in the workplace no later than five (5) calendar days after such conviction.

Within 30 days after receiving notice, the City Manager will:

- a. Take appropriate personnel action against such employee up to and including termination; and/or
- b. Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or Local health, law enforcement, substance abuse professional, or other appropriate agency.

The City Manager, within ten (10) calendar days of learning of such a conviction, will provide written notification to any Federal agency from which the City receives grant funds.

GG.

K. Unexcused Leaves of Absence

HH.

Employees may not be absent from duty without the permission of his/her supervisor or Department Head, or on an approved leave of absence. Any employee who is absent from work without the permission of their supervisor or Department Head, and/or not on an approved leave of absence, may be subject to disciplinary action up to and including termination. Employees are expected to return to work directly after their approved absence

(i.e., sick leave, vacation leave, bereavement leave, etc.) or expiration of any qualifying and authorized leave of absence, such as Family Medical Leave or other such state or federal mandated leaves of absence. Failure of an employee to return to work the next workday or scheduled shift following an authorized absence or expiration of an approved leave of absence shall be deemed a “no call, no show” and unauthorized absence from work, which may be just cause for discipline. After three (3) consecutive days of unauthorized absence from work without approved leave, the City Manager may determine the employee has resigned, voluntarily “quit” or abandoned the position and declare the position vacant. The employee waives all rights to the position or reinstatement.

L. Commercial Driver Alcohol and Drug Policy Testing Procedures

Purpose of Policy

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 are available in the

drug and alcohol program manager's office and can be found on the Internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations. Portions of this policy are not DOT-mandated, but reflect the City of South Portland's policy. These additional provisions are identified by **bold text**.

The City of South Portland is dedicated to providing safe, dependable and economical transportation services to our transit system passengers, and assuring that our Public Works, Parks, and Water Resource Protection workers operate commercial vehicles in a safe manner.

The safety and well-being of our drivers, employees, and the general public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A driver who uses or abuses alcohol and/or drugs is a hazard to the City, the general public, other employees, and him/herself.

In order to ensure safe transportation, and provide for an efficient and drug-free workplace, while complying with the Federal Motor Carrier & Federal Transit Administration Safety Regulations, the City of South Portland has adopted this policy.

Adherence to this policy is a condition of employment, although it should not be considered an offer of employment

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All City of South Portland employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify Human Resources no later than five days after such conviction.

This policy applies to all covered employees as defined herein while on-duty, while performing any safety-sensitive duty, and while on-call. This policy also applies to off-site lunch periods or breaks when a covered employee is scheduled to return to work. Visitors, vendors, and contract employees are governed by this policy while on municipal property and will not be permitted to conduct municipal business if found

to be in violation of this policy, except that they will not be subject to any DOT testing or DOT consequences.

Failure to comply with the provisions of this policy may result in disciplinary action, up to and including termination.

Covered Employees

This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined below; and any person applying for such positions.

Under FMCSA (Part 382), you are a covered employee if you perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a CDL
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Under FTA (Part 655), you are a covered employee if you perform any of the following safety-sensitive functions:

- Operating a revenue service vehicle, in or out of revenue service
 - Operating a non-revenue vehicle requiring a commercial driver's license
 - Controlling movement or dispatch of a revenue service vehicle
 - Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
 - Carrying a firearm for security purposes
- (See separate Attachment A for a list of covered positions by job title.)

Prohibited Behavior

Use of illegal drugs (as defined by applicable federal regulations) is prohibited at all times. Such drugs are referred to in this Policy as "prohibited drugs." All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in Part 40. Prohibited drugs include, but are not limited to, those drugs identified in 49 CFR Part 40, as may be amended, such as:

marijuana
cocaine
phencyclidine (PCP)
opioids
amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

(See also Section 5. Circumstances for Testing, Subsection - Post Accident Testing.)

Other Prohibited Behavior for covered employees:

Misuse of legally prescribed drugs while performing a safety sensitive function.

Use of illegally obtained prescription drugs while performing a safety sensitive function.

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing a safety sensitive function by a covered employee is prohibited.

During the time that covered employees are performing safety-sensitive functions, they shall not possess any alcohol or prohibited drugs.

Covered employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on municipal property, in municipal vehicles, in uniform, or while performing municipal business.

Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

Consequences for Violations

FTA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02. **The employee will be unpaid for the period of related work time they are removed from safety-sensitive duties and not allowed to use accrued time off.**

FMCSA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test. **The employee will be unpaid for the period of related work time they are removed from safety-sensitive duties and not allowed to use accrued time off.**

CERTAIN PERSONAL INFORMATION SHALL BE REPORTED TO THE FMCSA CLEARINGHOUSE AS REQUIRED: Drivers should be aware that the City is required to collect, maintain, and report certain information to the Clearinghouse:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required by subpart C of part 40;
- An employer's report of actual knowledge, as defined at §382.107;
- On duty alcohol use pursuant to §382.205;
- Pre-duty alcohol use pursuant to §382.207;
- Alcohol use following an accident pursuant to §382.209; and
- Controlled substance use pursuant to §382.213;
- A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and
- An employer's report of completion of follow-up testing.

Treatment/Discipline

Per City of South Portland policy, any employee who tests positive for prohibited drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP). **If this positive test for drugs or alcohol is a recurrence following any prior positive test or prior refusal to test per this policy, the employee will be subject to disciplinary action, up to and including termination. (Please also see Section 8 of this policy regarding Voluntary Self-Referral.)**

The City will pay for an employee's initial or first time SAP referral and rehabilitation process. Any further SAP referral and rehabilitation process following an initial positive test or test refusal, as well as a self-referral for further SAP rehabilitation process or substance abuse counseling following any prior SAP process, will be at the employee's cost. The use of paid leave during any SAP rehabilitation process is only allowed if the employee cannot perform non safety-sensitive duties of their position or a related position, on a full or part-time basis, and will be limited to vacation time (absent a need for inpatient treatment documented by a medical provider, which may also qualify under FMLA) . An employee performing non safety sensitive duties of their or a related position during the SAP process may have their pay reduced per a provision in their Collective Bargaining Agreement or by ten percent (10%) for non-union employees.

Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

FMCSA Drug Testing Exceptions

A driver is not required to undergo a pre-employment test if:

The driver has participated in a DOT testing program within the previous 30 days; and
While participating in that program, either:
Was drug tested within the past six months (from the date of application with the City

of South Portland, or

Participated in the random drug testing program for the previous 12 months (from the date of application with the City of South Portland); and

The City of South Portland can ensure that no prior employer of the driver of whom the City of South Portland has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the City of South Portland has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained City official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another employee. If there is no alcohol test within two hours of the decision to reasonable suspicion test, document for the record; if no alcohol test is completed within eight hours of the decision to reasonable suspicion test, update the document for the record and cease attempts.

Post-Accident Testing

FTA Procedures

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of South Portland using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug

and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of South Portland using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee subject to testing must remain readily available, which means the City knows the location of the safety-sensitive employee. Any safety-sensitive employee who may be subject to testing who leaves the scene of an accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test **and shall face disciplinary action up to and including termination.**

Following an accident, safety-sensitive employees subject to testing will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing should be documented in a report and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be updated on the written report.

The results of a blood, urine or breath test conducted by Federal, State or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State or local testing requirements, and that the test results can be obtained by the City of South Portland.

FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

The accident results in injuries requiring immediate medical treatment away from the scene; or

One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

The accident results in injuries requiring immediate medical treatment away from the scene; or

One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee subject to testing must remain readily available, which means the City knows the location of the safety-sensitive employee. Any safety-sensitive employee who may be subject to testing who leaves the scene of an accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test **and shall face disciplinary action up to and including termination.**

Following an accident, safety-sensitive employees subject to testing will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing should be documented in a report and

attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be updated on the written report.

The results of a blood, urine or breath test conducted by Federal, State or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State or local testing requirements, and that the test results can be obtained by the City of South Portland.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

There is no discretion on the part of the employer in the selection and notification of individuals for random drug and alcohol testing.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result. Any

return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing must also remain in the standard random pool and must be tested whenever their name comes up for random testing, even if this means being tested twice in the same day, week, month or quarter.

Testing Procedures

All FTA and FMCSA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Once a covered employee has been directed to submit to an alcohol and/or controlled substance test, he/she will proceed immediately to the testing area directed by the program administrator named in this policy. Covered employees must comply with the lawful requests of the technician doing the alcohol and/or controlled substance test.

The selected covered employee will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample for analysis of alcohol concentration.

The covered employee will be required to provide photo identification prior to testing. For drug tests, privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured and both samples will be sent to the lab.

Proper chain of custody procedures will be followed to ensure that the urine specimen submitted is indeed the specimen that belongs to the selected covered employee. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate

methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review office (MRO).

The MRO is a licensed physician that reviews all test results prior to reporting to the company. Should the specimen test positive, the MRO will contact the covered employee to discuss the test findings and afford the covered employee an opportunity to discuss his/her test results and any factors that could have attributed to the positive test. Should the covered employee question the test findings, the covered employee can request that the split sample be forwarded to another certified laboratory for re-analysis.

All test results are treated confidentially and no results will be released to outside parties without the covered employees express consent or when required by law, rule or regulation.

All testing for alcohol misuse will be conducted only by devices which have been approved by the National Highway Traffic Administration and conducted by trained Breath Alcohol Technicians (BATs) or trained Screening Test Technicians.

BAT may not act as a collector if they are a direct supervisor of the employee.

Dilute Urine Specimen

If there is a negative dilute test result, the City of South Portland will conduct one additional test. The result of the second test will be the test of record.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The City of South Portland guarantees that the split specimen test will be conducted in a timely fashion. **The City of South Portland will ensure that the costs for the split specimen are covered in order to complete a timely analysis, however, the City will seek reimbursement for the split analysis from the employee.** The employee's request for split sample testing must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. The MRO must direct the laboratory in writing to send the split sample with appropriate copies of the Chain of Custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

Test Refusals

As a covered employee, you have refused to test if you:

Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City of South Portland.

Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.

In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.

Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.

Fail or decline to take a second test as directed by the collector or the City of South Portland for drug testing.

Fail to undergo a medical evaluation as required by the MRO or the City of South Portland.

Designated Employer Representative (DER).

Fail to cooperate with any part of the testing process.

Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.

Possess or wear a prosthetic or other device used to tamper with the collection process.

Admit to the adulteration or substitution of a specimen to the collector or MRO.

Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).

Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

Voluntary Self-Referral

FTA Procedures

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Human Resources Department, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

FMCSA Procedures

Any covered employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Human Resources Department, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

No disciplinary action may be taken against an employee who voluntarily participates in a rehabilitation program. Thereafter, the employee must refrain from violating the City's drug and alcohol abuse policy. Disciplinary action based on a violation of the City's drug and alcohol abuse policy for a second time is not automatically waived by an employee's participation in a rehabilitation program and a second positive test result shall be considered cause for discipline, up to and including termination of employment.

Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the covered employee's supervisor or department director. Medical advice should be sought by the employee, as appropriate, while taking such

medication and before performing safety-sensitive duties. The misuse or abuse of legally prescribed drugs while performing a safety-sensitive function is prohibited.

A legally prescribed drug is one that the individual has a prescription or other written approval from a physician for the use of in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of use and authorization.

Contact Person

For questions about the City of South Portland's anti-drug and alcohol misuse program, contact the City of South Portland Safety Coordinator, Employee Relations Manager, Human Resources Specialist or Human Resources Director.

M. Workplace Violence Policy

The City has a zero tolerance policy toward violence or the threat of violence by its employees, customers and the general public and/or anyone who conducts business with the City. It is the intent of the City to maintain a safe work environment free from intimidation, threats, physical attacks, harassment, domestic violence, property crimes, or any other violent attacks. A complete copy of the City of South Portland's Workplace Violence Policy is attached as Appendix D.

N. Workplace Safety

The City is committed to providing a safe, healthy working environment for its employees and the public in the operations and public use of City facilities, including the provision and appropriate use of personal protective equipment, allocation of resources to correct hazardous conditions, job-related safety training, prompt accident reporting, investigation and evaluation, development and implementation of risk reduction and loss control measures and policies as needed.

Employees are required to participate in, cooperate and support the City's goal of a healthy and accident-free work place. Individually and collectively, all employees have a role and responsibility in working toward safe, healthy and productive workplaces for themselves and safe facilities and efficient services to the public.

The objectives of the City's safety program are to promote safety and health awareness, prevent work-related accidents, injuries and occupational illnesses, improve delivery of services through safer work methods, and to instill a strong safety and health culture among City employees.

The City recognizes that safe work behavior of each employee is a key to meeting these goals. It is the responsibility of each employee to follow all safe work rules and

procedures. If an employee is unsure of how to do a particular task safely, they should not proceed until they have received instruction from their supervisor. Employees are obligated to report unsafe working conditions to their supervisor or manager. It is the responsibility of each supervisor to monitor and assist employees in the safe performance of their duties and insist on the consistent usage of the proper personal protective equipment (PPE) for the job. Safe work behaviors and attitudes are an expected part of each employee's job duties and performance.

The City may establish departmental Safety Committees to meet on a regular basis for the purpose of establishing and maintaining a safe work environment for employees and implementation of loss control measures.

The City's Safety Program Mission Statement is included as Appendix G in this Personnel Policy.

O. Fitness for Duty

Employees are expected to be physically and mentally fit to perform their jobs in a safe and efficient manner at all times. If an employee is not able to perform his/her job or he/she is taking any medication that might affect his/her ability to do his/her job, the employee must inform his/her supervisor immediately.

If a supervisor believes an employee is not fit to perform his/her duties, the employee may be relieved from duty and requested to undergo a medical examination to determine their fitness for duty. The exam will be performed by a physician of the City's choosing and will focus on the employee's actual duties as set forth in his/her job description. This exam will be paid for by the City, and the employee will be compensated during the exam period. Any employee who refuses to cooperate with a determination of whether he or she is fit for duty may be subject to disciplinary action, up to and including termination. The City may also require an employee to undergo a "fitness for duty" exam with a physician of the City's choosing upon his/her return from an approved leave of absence.

If an employee is not "fit for duty", he/she may be eligible for benefits, including sick leave, family medical leave, intermittent family medical leave, workers' compensation, group health care, employee assistance program, or other benefits as provided in this Personnel Policy Handbook. This policy will be interpreted and applied so as to conform to applicable law, including the Americans with Disabilities Act and the Family and Medical Leave Act.

P. Licensing, Certifications and Insurance

Losing or failing to attain required licenses and certifications can effectively prevent

employees from performing their job duties as required for their position and as identified in their job description.

Employees who need special licenses or certifications to meet their job requirements as set forth in the job description are required to (1) obtain the license or certification(s); (2) maintain them in good standing; (3) alert their Department Head, manager or supervisor immediately regarding any change in their license or certification status; and (4) notify their Department Head, manager or supervisor immediately if they lose (or may lose) their required license or certification, or if they become uninsurable. Loss of a required license or certification as set forth in the employee's job description may result in demotion, reduction or loss of pay, or disciplinary action, up to and including termination.

Q. Attendance, Punctuality and Absenteeism

Employees are expected to be reliable and punctual in reporting for work each day and to complete the full work day. Effective and efficient City operations and service delivery takes cooperation and commitment from all employees. Unnecessary absences and tardiness are disruptive and place an undue burden on fellow employees and supervisors who may have to perform the extra work, and adversely affects the City's ability to provide necessary services to the public.

Excessive absenteeism, tardiness, leaving work early without authorization, and abuse of sick leave may result in disciplinary action, up to and including termination.

The City recognizes there are times when absences and tardiness cannot be avoided. However, this should be the exception and not the norm. In such instances, employees are expected to notify their supervisor as early as possible before the start of the work day. Unless otherwise approved by the Department Head or City Manager, time in excess of fifteen (15) minutes for which an hourly/non-exempt employee arrives late to or leaves early from work shall be deducted from the employee's paid leave.

The City offers generous sick leave time and a Sick Leave Bank Program. The City encourages employees to stay at home when sick, potentially contagious, emotionally distraught, or otherwise unable to perform their job duties for these or other legitimate reasons. (Please refer to Appendix B – Respiratory Virus Policy)

For purposes of this Article X, violation of any of the subsections A-P above may result in disciplinary action, up to and including termination from employment, even for a first offense, as set forth in Article XI below.

XI. **DISCIPLINARY ACTION**

A. Grounds for Action

The objective of disciplinary action for full-time and part-time non-Civil Service employees is to correct and guide employee behavior and performance for ultimate improvement and, if that cannot reasonably be accomplished, to terminate employment. In some instances, a specific incident may justify severe disciplinary action, including termination from employment, even for a first offense. The action to be taken shall depend primarily upon the seriousness of the incident, and only secondarily on the employee's past performance and conduct. Department Heads shall be responsible for initiating and carrying out disciplinary actions as described in Section B(1) and (2). Department Heads shall be responsible for recommending disciplinary action as described in B(3), (4) and (5) to the Human Resources Director and, where so authorized by the Human Resources Director, initiating and carrying out such disciplinary action. Disciplinary action shall be taken when the following occur, although this list is not intended to be limiting:

1. An employee's work habits, performance and/or behavior on the job, productivity or ability to handle the duties of the position fall below a satisfactory level in the judgment of management.
2. An employee acts in a disrespectful manner, or is insubordinate.
3. An employee steals, removes without authorization, possesses, destroys or abuses the property of the City or of other employees.
4. An employee is absent without authorized leave.
5. An employee makes false statements to his/her supervisor or the public or falsifies public records.
6. An employee violates any provision of this Policy, City Charter, Code of Ordinances, rules or regulations as promulgated by the Department Head, Human Resources Director or City Manager.
7. Unauthorized use of telephones, mail system, computers, internet or other City equipment.
8. Fighting, retaliation or threatening behavior.
9. Loss of driver's license when needed to perform employee's job duties.

10. Violations of Section X.

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B. Types of Action

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The City uses progressive discipline where warranted, including verbal warnings, written warnings, unpaid suspension and/or demotion, and termination for cause. Depending upon the attendant circumstances, the City reserves the right to use non-progressive discipline and bypass any or all of these steps and proceed directly to greater discipline, up to and including termination from employment, even for first offenses.

One or more of the following disciplinary actions may be taken by the Department Head or Human Resources Director depending on the totality of circumstances, such as the nature, severity and frequency of problems, and any previous discipline imposed. These actions do not need to be followed in order.

1. Verbal warning

This is intended as a purely corrective measure to inform an employee of performance or conduct which is not acceptable and must be improved or corrected. The employee shall be counseled as to the unsatisfactory areas of the employee's work or behavior and shall be told how improvement can be accomplished. The Department Head or Supervisor shall issue a written communication regarding the violation to the employee. Documenting a verbal warning does not change the warning into a written warning.

2. Written warning

In instances where the verbal warning has not been successful or where the infraction is of a serious nature or the work performance is seriously deficient, a written warning may be employed. Its purpose is to inform the employee of serious defects in work or conduct. The written warning shall include a detailed statement of the problem(s) and identify the corrective action(s) needed. The written warning shall be filed and remain in the employee's personnel file.

3. Suspension

An employee may be suspended by the Human Resources Director without pay for a serious infraction or for a recurring problem for which the employee has been previously disciplined. A record of the suspension shall be included in the employee's personnel file.

4. Demotion

An employee may be demoted for just cause upon the recommendation of the Department Head and approval by the Human Resources Director when the employee's work performance or misconduct so warrants.

5. Termination

An employee may be terminated for just cause when the employee's work performance or misconduct so warrants.

In addition to the process set forth in subsection C below, Supervisors shall consult Human Resources before issuing any disciplinary action permitted under this subsection. Department Heads must report any of the above actions beyond a verbal warning taken to the Human Resources Director within 24 hours for all employees, union and nonunion. The Human Resources Director shall inform the City Manager of all instances of employee discipline, including termination, within 48 hours of notification of said action.

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C. Hearing for Suspension, Demotion or Termination

An employee recommended for an unpaid suspension, demotion or termination by his or her Department Head may be initially placed on paid administrative leave. The Department Head will forward the recommendation to the Human Resources Director. The Human Resources Director will give notice to the employee of the recommendation and conduct a hearing to provide the employee with an opportunity to be heard before any disciplinary decision is made to impose a demotion, unpaid suspension or termination of employment. After the hearing, the Human Resources Director will decide whether or not to demote, suspend or terminate employment. The Human Resources Director in conjunction with the respective Department Head will notify the employee of the decision. The Human Resources Director shall take action as the Department Head with respect to employees under his or her direct supervision, and such employees may appeal the action taken to the City Manager.

An employee terminated pursuant to this section may appeal the action of the Human Resources Director in writing to the City Manager no later than fourteen (14) calendar days from the date of the decision of the Human Resources Director. The City Manager will schedule an appeal hearing with the employee within fourteen (14) calendar days upon receipt of the written appeal and consider all the evidence and testimony introduced at the hearing held by the Human Resources Director. The City Manager will render a written decision within fourteen (14) calendar days of the appeal hearing to uphold or reverse the employee's termination. Time limits may be extended upon the request and mutual consent of the parties.

D. Personnel Records

If disciplinary action is taken, a copy of the written decision regarding such disciplinary action is to be filed in the employee's personnel file and a copy delivered to the employee. The employee shall have the right to refute all charges in writing and to have that document placed in the employee's personnel file, provided that the written decision regarding disciplinary action shall also be kept in the personnel file indefinitely.

E. Department Heads

The City Manager shall handle all discipline of Department Heads.

XII. **GRIEVANCE PROCEDURE**

It is the policy of the City to address employee grievances promptly. A "grievance" is any dispute over the application or interpretation of this Policy. A "grievance" is not a dispute over discipline imposed under Article XI, and those disputes will be resolved under the procedures in Article XI. An aggrieved regular part-time or full-time non-union employee should make every effort to resolve any grievance through discussion with the immediate Supervisor or Department Head. If the grievance is not resolved after an informal discussion with either of these persons, the grievance should be reduced to writing and appealed according to the following procedure:

- A. Within fourteen (14) calendar days from the time the Supervisor or Department Head rendered a decision, the employee may file a formal grievance with the Department Head. The Department Head will render a decision within fourteen (14) calendar days from the date the grievance was presented, or decline to answer and refer the matter to the Human Resources Director.
- B. If the employee is dissatisfied with the Department Head's response and the matter remains unresolved, the grievance may be appealed to the Human Resources Director within fourteen (14) calendar days of receipt of the Department Head's decision, except that a grievance for termination of employment may be appealed to the City Manager. The Human Resources Director shall respond in writing within fourteen (14) calendar days.
- C. If the employee is dissatisfied with the Human Resources Director's response and the matter remains unresolved, the grievance may be

appealed to the City Manager within fourteen (14) calendar days from receipt of the Human Resources Director's decision. The City Manager shall hear the grievance and render a decision within fourteen (14) calendar days. The decision of the City Manager shall be final and binding.

- D. This sequence shall not apply when the grievance concerns the conduct, or decision of the Department Head or Human Resources Director. The employee may appeal directly to the next level.

XIII. **POLICY AGAINST DISCRIMINATION AND HARASSMENT**

A. Non-Discrimination Policy

In order to provide equal employment and advancement opportunities to all individuals, the City does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, physical or mental disability, national origin, age, sexual orientation, gender, gender identity, pregnancy, veteran status, having engaged in a legally protected activity (eg, for bringing a whistle-blower complaint), disability, ancestry, genetic information, or any other classification protected by law. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination and access to benefits and training.

Any employees with questions or concerns about any form of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the Human Resources Director. Employees can raise concerns, make reports and file claims without fear of reprisal or retaliation. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment, even for a first offense.

B. Sexual Harassment Policy

Sexual harassment is a form of illegal discrimination and is prohibited. An employee who believes that he or she has been harassed on the basis of sex, or believes that he or she has observed harassment of another employee on the basis of sex, should follow the reporting policy contained in the City's Reporting Policy outlined in Section D below .

Harassment on the basis of sex and harassment based on all other protected classifications is illegal under State and Federal law. Employees may refer to the "Annual Written Notification of Harassment Policy" provided in January.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical

conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions; or
- Such conduct has the purpose or effect of substantially interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment.

The following are examples of illegal sexual harassment:

- Unwelcome sexual advances
- Sexual or lewd remarks
- Unwanted hugs, touches, kisses
- Requests for sexual favors
- Retaliation for complaining about sexual harassment. Sexual

harassment can take the form of other types of conduct as well.

All reports of unlawful sexual harassment will be investigated immediately. Any employee whose conduct is found to constitute sexual harassment or other unlawful harassment will be disciplined, up to and including termination from employment, even for a first offense. Discipline may include verbal or written warning, suspension without pay, or termination, depending upon the particular circumstances.

C. Other Forms of Harassment

In addition to sexual harassment, harassment of an applicant or employee based on any protected status is a form of discrimination and is illegal. Examples of behavior which may be considered harassment include, but are not limited to, slurs, negative stereotyping, jokes, or hostile acts related to race, color, gender, religion, sex, sexual orientation, gender identity, veteran status, ancestry, age, national origin or physical or mental disability, genetic information, harassment of an employee for engaging in legally protected activities, e.g. for bringing a whistle-blowing complaint, or for any other classification protected by law. An employee who believes that he or she has been harassed, or believes that he or she has observed harassment of another

employee on the basis of a legally protected status or activity, should follow the reporting policy contained in the City's Reporting Policy outlined in Section D immediately below. All reports of these forms of harassment will be investigated immediately and any employee whose conduct is found to constitute illegal harassment will be disciplined, up to and including termination from employment, even for a first offense.

D. Reporting Policy

Any employee of the City who believes that he or she has been discriminated against in employment on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, physical or mental disability, genetic information or veteran status, has been denied any employment benefit on that basis, or has been harassed based on any of the above noted reasons, is expected to report the behavior as provided below. The City takes allegations of discriminatory treatment very seriously. The City will investigate every allegation of discrimination promptly and take whatever action is necessary to stop unlawful discrimination and remedy any effects of unlawful discrimination.

An employee who feels that he or she has been discriminated against or harassed or believes he or she has witnessed discriminatory treatment or harassment of another employee, should report the conduct to one or more of the following individuals:

- The employee's supervisor
- The employee's Department Head
- The Human Resources Director
- The City Manager

An employee can report discriminatory treatment or harassment verbally or in writing. Supervisors should bring any complaints to the attention of their Department Head immediately, who in turn shall report it to the Human Resources Director.

An employee's report will be investigated immediately by a person (other than the person complained against) designated by the Human Resources Director or City Manager.

E. The Maine Human Rights Commission

In addition to the City's internal reporting and investigation policy, an employee may file a complaint with the Maine Human Rights Commission. Any complaint must be filed with the Commission within 300 days of the act of harassment. The Maine

Human Rights Commission may be reached at State House Station #51, 242 State Street, Augusta, Maine, 04333 or by telephone: 207 --624-6290; fax: 207-624-8729; TTY: Maine Relay 711.

F. Anti-Retaliation

Under the law, an employee may not be punished or penalized in any way for reporting, complaining about, or filing a claim concerning unlawful harassment, regardless of nature or category, or for cooperating with or testifying in any proceeding brought by anyone else. If any employee feels they have been retaliated against for opposing or reporting what they reasonably believe to be unlawful harassment, or cooperating in any investigation of the same, please follow the same internal reporting/complaint procedure set forth above. The City will not tolerate any act of unlawful retaliation against employees who have reported, complained about, or filed a complaint of unlawful harassment. Any employee found to have committed such retaliation shall be subject to discipline, up to and including termination from employment, even for a first offense.

XIV. **MISCELLANEOUS**

A. Bulletin Boards

Departments shall establish at least one bulletin board at each building location for the purpose of advertising open positions, public notices, department or City policies and similar items. Departments located within City Hall may share one bulletin board.

B. Infectious Disease Policy

1. Purpose: This is to establish the policy of the City of South Portland for managing infectious disease issues as they relate to employees and/or prospective employees, including but not limited to, the following diseases: HIV, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations.
2. Policy
 - a. It is the policy of the City to assure to the extent reasonably possible a safe and healthful work environment.
 - b. It is the policy of the City to ensure full compliance with State, Federal, and Local requirements dealing with infectious diseases.
 - c. City procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These

recommendations will be available through the employee's Department Head.

- d. It is the obligation of all City employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.

3. Procedures

- a. The City will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform the essential functions of their job with or without reasonable accommodation. Employees with infectious diseases will be treated under existing policies, State, Federal, and Local requirements, and collective bargaining agreements.
- b. Where allowed by law, the City retains the right to test employees for infectious diseases.
- c. The City must maintain confidentiality regarding any employee's health status, and does not have a duty to inform other individuals or organizations unless required by law.
- d. Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the City's Human Resources Director.
- e. Upon notification by an employee that an infectious disease diagnosis has been confirmed and is a threat to the public health, the Human Resources Director will:
 - i. Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired;
 - ii. Assist in the identification of reasonable accommodations to be made, if any;

iii. Assist individual departments, if necessary, in complying with this policy.

- f. The City's Human Resources Office will provide to employees appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- g. Individual departments have the right to develop protocols regarding infectious disease control provided that these protocols conform to this policy.

B. Injuries

All accidents or injuries to City employees arising out of or during the course of employment, no matter how minor, or for an occupational disease, must be reported immediately upon the employee's knowledge of the injury or occupational disease to the Department Head and Human Resources Office. A written report shall be made on forms for that purpose, and immediately forwarded to the Human Resources Department. The Human Resources Department is required to file a "First Report of Injury" with the Maine Municipal Association and Workers' Comp Board within seven (7) days after knowledge or notice of injury resulting in lost time or loss of a day's pay.

C. Legal Aid and Protection

The City, with the employee's consent, shall assume the defense of and may indemnify any employee against a claim which arises out of an alleged act or omission occurring within the course and scope of his/her employment and for which the City is not liable, up to the applicable statutory standards. In addition, the City, with the employee's consent, shall defend and indemnify any employee, up to the statutory limits of the Maine Tort Claims Act, against a claim which arises out of an alleged act or omission occurring within the course and scope of employment, and for which the City's immunity has been waived under Section 8104-A of the Maine Tort Claims Act; provided, however, that the City shall not indemnify an employee under these circumstances if a court determines that the act or omission of the employee occurred outside the course and scope of his or her employment. The City shall not defend or indemnify an employee unless notice is required to be filed with the City under Section 8107 of the Maine Tort Claims Act or the employee has notified the City within 30 days after receiving written notice of claim or within 15 days after receiving service of a summons and complaint. The City shall pay reasonable attorneys' fees and court costs of the employee instead of assuming the defense of the employee in the event that

defense of the employee creates a conflict of interest between the City and the employee, or under other circumstances as permitted by law and at the City's discretion.

In any case where the City is defending or indemnifying an employee, the City has the right to approve the retention of any outside counsel, and the right to accept settlements of such cases. The City shall not defend or indemnify an employee if the employee settles a claim without the consent of the City.

Pursuant to City ordinance, any employee involved in an accident or incident in which the City may be a party, or having any notice of knowledge of such accident or incident, is required immediately to file a full report thereof with the City Manager's Office.

The above legal aid protection is also extended to former employees for claims against them arising from acts or omissions during their employment with the City, provided that such claim is brought within the applicable statute of limitations under the Maine Tort Claims Act.

D. Personnel Records

1. Personnel records; confidentiality.

A personnel record for each employee shall be kept in the Human Resources Office and/or the office of the department for which the employee works. The personnel record shall contain all vital statistics and other pertinent data related to the employment of the individual. Personnel files may include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and non-privileged medical records relating to the employee within the possession of the City. Records that are part of the personnel file may be maintained in electronic or paper form and may be located in one centralized file or among various files maintained by individual departments. All such documents shall be considered part of the personnel file, regardless of form and/or physical location in which they are stored.

It shall be the responsibility of the Human Resources Director to keep such records confidential, as required by law, and to limit access to the records only to the City Manager, the Human Resources Director, the Department Head, legal counsel for the City and such other personnel as may have legitimate reasons to review them from time to time with the approval of the City Manager or Human Resources Director.

The Human Resources Director shall develop a reporting system and necessary forms to record the attendance and leave of each employee and such reports shall be kept in the Human Resources Office.

2. Duties of Human Resources Director.

Each new employee shall complete the necessary administrative forms to commence employment and to obtain all employment benefits. The Human Resources Director, or his/her designee, shall review the record of each employee and update any changes in information, salary or classification.

3. Right to review file.

The Human Resources Director shall provide the employee or a duly authorized representative with an opportunity to review his or her personnel file and to obtain a copy of such file upon receipt of a written request for the personnel file from the employee or his or her authorized representative. Such reviews shall take place at the Human Resources Office during normal office hours or another time and location as determined appropriate by the Human Resources Director.

If any other personnel records exist outside the Human Resources Office, the Human Resources Director shall request and compile those records for the employee's review upon receipt of a written request for the same.

4. Complaints

Employees shall be timely informed of any complaints regarding their job performance, whether or not a copy of the complaint has been filed in the Human Resources Office file. They shall be provided with an opportunity to review all written complaints and, if any complaint and/or written decision regarding disciplinary action is entered into the personnel file, the employee shall have the opportunity to submit a rebuttal statement to also be included in the personnel file.

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E. Educational Reimbursement Policy

In order to encourage employees to better prepare themselves to fulfill the duties and responsibilities of their positions, the City agrees to reimburse employees up to fifty percent (50%) of the cost of tuition, laboratory fees, and books for a pre-approved post-secondary degree program directly related to the employee's daily job responsibilities.

The annual funding level of the program and an employee's past use of the funds will

be used to determine how the resources can be fairly and equitably administered each year.

An employee must receive a grade of "B" or better to be eligible to receive reimbursement as described in this policy.

In order to participate in the program, an employee must have passed their six (6) month probationary period to qualify for tuition reimbursement: their initial request must follow the end of probation. The employee must first obtain the approval of his/her Department Head prior to the commencement of the course or training program. The employee must then seek the approval of the Human Resources Director who will certify that the degree program is duly qualified for the City's educational reimbursement program and that funds are available. It shall be the responsibility of the employee to demonstrate that the course or program for which he or she is seeking reimbursement is directly related to his or her job responsibilities.

To receive reimbursement, the employee must submit a form approving the individual courses, a receipt from the institution, school or college showing amount and payment of tuition and a transcript showing the grade obtained in the course. Employees must also submit receipts for books and/or laboratory fees for which they are seeking reimbursement.

An employee that leaves employment with the City for any reason, including voluntary resignation, termination, or retirement, within four (4) years of receiving an educational reimbursement for tuition, fees and/or books shall reimburse the City the prorated share of the educational reimbursement paid to the employee in proportion to the number of months left in that four (4) year period from the date of the educational reimbursement.

F. Travel and Meeting Reimbursements

1. Employment-related expenses.

Employees who have been authorized by the City Manager, or his/her designee, upon recommendation of the respective Department Head to participate in in-state or out-of-state conferences, official meetings, training programs, examinations and institutes directly related to the employee's work shall be reimbursed for reasonable expenses incurred in connection with such participation including fees, transportation, mileage, tolls, parking, meals and lodging, upon submission of proper documentation of such expenses.

In instances where employees submit to the City a written estimate of all costs related to attendance at an approved function, they may receive a travel

advance or otherwise will be reimbursed afterwards.

2. Reimbursement procedure.

Actual work-related expenses incurred away from the office or job site shall be reimbursed only when accompanied by a detailed receipt and when demonstrated to be necessary and incidental to the actual performance of work. There shall be no reimbursement for alcoholic beverages, movies, admissions and personal incidental expenses that may be incurred while traveling for work-related purposes, but are not otherwise related to or necessary for the performance of work.

3. Parking Fees/Tolls

Reimbursement for parking fees and tolls must be accompanied by receipts. The City will not reimburse employees for parking tickets and/or motor vehicle violations or infractions.

4. Mileage Reimbursement

Reimbursement for an employee's use of his/her personal vehicle for City authorized business shall be paid at the appropriate rate indicated in the Internal Revenue's Annual Business Reimbursement Guidelines. The City's Finance Director shall communicate the appropriate reimbursement rates to employees on an annual basis. The City of South Portland shall reimburse employees for business travel at the lesser of: (a) mileage from home to destination; or (b) mileage from office to destination.

Employees are responsible for submitting a record of the business mileage to their immediate supervisor who must review and approve the mileage worksheet and submit reimbursement request to the City's Manager's Office, or the City Manager's Designee, for final approval.

5. Automobile Accidents While Conducting City Business

If an employee is involved in an automobile accident using his/her personal vehicle while traveling on City business (the definition of business would follow workers' compensation rulings), the City will reimburse the insurance deductible up to the maximum amounts of \$500 for comprehensive and \$500 for collision. All such automobile accidents shall be reported immediately or as soon as practical to the City Manager's Office.

6. Towing of Vehicles

If an employee's vehicle requires towing while traveling on City business, the employee shall be responsible for the first seventy-five dollars (\$75) of towing expense. If the cost of towing exceeds \$75, the City shall assume the additional cost up to a maximum of fifty dollars (\$50) in City reimbursement.

In the event that your personal vehicle becomes disabled for more than 24-hours while in the course of conducting City business, the City will make available alternative transportation.

7. Travel Time

The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Travel time away from home for approved, work-related purposes is work time when it occurs on regular working days during normal working hours, in addition to corresponding hours on non-working days as both a driver and passenger.

Time spent in travel away from home for approved, work-related purposes as a driver of a vehicle outside of regular working hours is counted as work time and is compensable, but in some instances the employee's normal commute time will be deducted from this total.

Time spent in lectures, meetings or training programs may not be counted as time worked if such meeting or other program is attended voluntarily outside normal working hours, is not job-related and no other work is performed while in attendance. For example, certain dinners or reception functions at meetings or conferences may not be considered compensable time worked if all four of the above criteria are met.

Time spent in travel away from home for approved, work-related purposes outside of regular working hours as a passenger on/in an airplane, train, bus or automobile is not counted as work time and is not compensable.

Employees and supervisors with questions on how an employee should be compensated and/or reimbursed for out of town or overnight travel time for work-related purposes (both as a driver or passenger) should contact the Human Resources Director. The City abides by guidelines established by the US Dept. of Labor Wage and Hour Division.

8. Distracted Driving

In accordance with State law, employees shall refrain from using cell phones and texting while driving a City vehicle. Employees should proceed to a safe location off the road and stop the vehicle before placing or accepting a call or text message. If acceptance of a call is absolutely necessary while the employee is driving, the employee shall use a hands-free option and advise the caller that they are unable to speak at that time and will return the call shortly when it is safe to do so.

9. Administration of this Policy

The City Manager or the Human Resources Director has the responsibility for the administration and interpretation of this policy.

G. Municipal Employee Wellness Program and Other City Service Related Benefits

The City shall periodically provide educational and health information programs and brochures to employees to promote health awareness. As part of the Municipal Employee Wellness Program, all full and part-time City employees and benefit eligible School Department employees shall be entitled to use the: City swimming pool during open swims; indoor walking track; Adult Drop In Open Gym programs available through the Parks, Recreation and Waterfront department; library; municipal golf course (excluding club rentals); and municipal Transit Bus service, all without charge during normal operating hours. Such time spent at these facilities shall not be considered hours worked.

The City provides a number of incentives, including financial incentives, for participation in the various Wellness activities, including but not limited to having annual physicals, and attending classes and exercise programs.. The Human Resource or Finance Offices can provide additional information about the specifics of the City's Wellness program.

H. Dress Code

The City of South Portland has adopted a business casual dress policy for the comfort of its employees who work in an office environment, including but not limited to all City Hall offices. It is important that a 'business casual' dress policy not be interpreted by employees as a 'casual' dress policy.

Appropriate business casual attire should allow employees to maintain a very high level of professionalism while conducting business in a more relaxed and flexible environment. If you have any questions about appropriate business attire for any occasion, be sure to discuss the issue with your Supervisor. Please help ensure that this

policy is maintained by strictly observing the approved guidelines for business casual dress.

1. Clothing must be clean, neat and appropriate for the work site.
2. When representing the City of South Portland at training or meetings, attire should be in conformance with the attire expected at the meeting as communicated by the host of the meeting or otherwise generally established by the industry or setting. At no time should an employee dress in attire that is inappropriate for a business gathering.
3. If an employee has attire which bears the logo or other indicia of the City of South Portland, and is not otherwise inappropriate, it shall be considered acceptable and appropriate for the work site.
4. Appropriate Business Casual Attire does not include:
 - Jeans, except as listed below
 - Clothing that is too tight, short or revealing
 - Clothing that is faded, frayed, worn or torn
 - Clothing that is not clean
 - Overalls
 - Non-collar casual tee shirts or tee shirts with logos or slogans
 - Undershirts or tank tops
 - Sports attire including sweat shirts, sweat pants or warm up suits
 - Leggings not covered by a dress
 - Halter-tops or strapless tops
 - Sneakers in generally poor condition
 - Sandals in generally poor condition, flip flops of any kind
 - Shorts for men or women (except skorts or knee-length pant-suits for women)
 - Hats (except as required by religious custom or for medical reasons), sports headbands, or other unprofessional headwear
 - This list is not inclusive. Inappropriate attire is subject to the determination of the employee's department head and/or supervisor, in accordance with the general guidance of this policy
5. The use of scented products (i.e., perfume, aftershave, cologne, scented lotion,

etc.) is a personal choice. However, the fragrance from these products may, at times, cause discomfort/allergic reaction in others nearby. To make our work environment a more pleasant one and to maintain air quality, employees are asked to ensure that fragrances in the work area are minimal by limiting their use and being receptive to feedback from others who have an adverse reaction to fragrances.

6. Body art/tattoos and body piercing are a personal choice and are allowed. However, for roles in which face-to-face customer contact is required, supervisors have discretion to let employees know that based on customer interaction needs it may be necessary to remove facial or other body jewelry or cover up areas of body art when meeting with customers. Tattoos containing images or words that may be considered derogatory or offensive to others shall be covered at all times while in the workplace.
7. It shall be the responsibility of supervisors to enforce the business casual dress policy in their respective work areas or departments and to send employees who are dressed too casually or inappropriately home to change. Supervisors are also expected to enforce the provisions related to fragrances, body art and piercings in the work area. In the event a supervisor is unable to enforce or an employee is unwilling to cooperate with the provisions of this policy, the Human Resources Director shall be notified as soon as practicable and will be responsible to determine the appropriate course of action in order to ensure compliance with this policy.
8. Political Attire. In accordance with Section X. Conditions of Employment, subsection C. Political Activity, an employee may not wear an article of clothing, including accessories, while in the workplace or in the course of employment outside the workplace that advocates expressly for or against any candidate for any county, state, federal, or City elective office or that includes political messaging that could be construed as engaging in political activity while on duty or using the influence or resources of his or her employment to advocate for or against any candidate or political cause.
9. Wearing Shorts. Certain employees, by virtue of the nature of their work and provided there is not a safety risk when doing so, may, with the express approval of the Department Head, wear shorts.
10. Jeans. As a general rule, jeans shall not be considered appropriate business casual attire. However, jeans paired with a business-professional top – such as a blazer or sports coat/jacket with button up shirt – and business-casual or business-professional shoes may be appropriate. This shall not prevent the use of jeans by those who have jobs which require frequent acts of manual labor

and/or whose positions expose them to environmental hazards, nor shall it prevent departments from allowing employees to wear jeans on rare, special occasions, such as accompanying the jersey of a team involved in a championship sports event (e.g. the Super Bowl, World Series, NBA Championship, NHL Stanley Cup Finals, etc). Departments may also elect to have a “dress down” Friday where jeans may be worn, along with appropriate business casual tops and footwear. As always, jeans and other articles of clothing must not be faded, frayed, worn, or torn.

I. Pets

Employees are not allowed to bring pets to the workplace except under limited temporary circumstances, for example, pickup of a pet from the veterinarian or for a special approved program. Service animals, as defined by the Maine Human Rights Act (5 M.R.S.A. §4553(9- E)) may be permitted to assist an employee with a disability as a reasonable accommodation, provided that the presence of the service animal does not create an undue hardship on the City or pose a direct threat to the health and safety of employees or the public. The employee must inform the City of the need to be accompanied by the service animal and should do so as quickly as practicable upon becoming aware that a workplace barrier exists. If the need for the accommodation of being accompanied by a service animal is not obvious or the employee has not already provided sufficient information to substantiate his or her qualifying medical condition, the City may request documentation of the individual’s medical condition. The City may request clarification concerning the nature of the medical condition and the employee’s limitations in order to identify an appropriate reasonable accommodation. The City and the employee shall engage in an interactive process to determine an effective reasonable accommodation, which may or may not include the use of a service animal, within as quick a timeframe as is practicable under the circumstances.

XV. **AMENDMENTS TO POLICY**

Except as otherwise provided herein, this Policy shall only be altered by order of the City Council.

To ensure the Policy remains current and in compliance with various state and federal laws, as they may be amended from time to time, the City Manager and Human Resources Director shall review it and report their findings to the City Council periodically, along with recommendations for amendments or revisions.

Proposed amendments to the Policy shall be communicated to all employees at least two weeks before Council action is scheduled.

XVI. **SAVINGS CLAUSE**

If any provision of this Policy shall be contrary to any local ordinance, state or federal law, or the City Charter, such invalidity shall not affect the validity of the remaining provisions.

XVII. **PAST PRACTICES**

All practices related to the implementation or administration of this Policy prior to January 1, 2020 shall not be considered an agreement regarding the terms and conditions of employment for any City employee and any such practices that are inconsistent with or not covered by this Policy are thereafter deemed invalid. The City shall enforce the plain language of this Policy and shall not be limited by previous exceptions or deviations to it.

APPENDIX A

SNOW CLOSURE POLICY

Notification

The City Manager, or Designee, shall notify Department Heads of a snow closure, delayed opening or early closing. Department Heads shall immediately notify affected employees. Department Heads, managers and supervisors shall develop an efficient communication plan and obtain contact information for their employees. Whenever feasible, an announcement shall be posted on the home page of the City's website; www.southportland.org. Local media outlets (TV and Radio) may be notified for storm closure or delayed opening announcements.

Weekday Snow Closing

If City Hall closes the following offices will also close:

- Planning & Development
- Library (both)
- Civilian Public Safety Employees
- Assessing

The Community Center will have the discretion of when to close or cancel programming. The Community Center may cancel programming for a snow day; however, if City Hall is open then staff at the Community Center will be expected to work.

Weekend Snow Closing

The Community Center & Library will determine their opening/closing for the day. Upon the determination they will notify the City Manager.

Transportation & Water Resource Department – Snow

Discontinuing daily services by the Transportation & Water Resource Department will be at the discretion of the department directors. Upon the determination they will notify the City Manager.

Employee Discretion – Making it to Work

It is up to the employee's discretion to make it in to work during a snow event. If the employee self elects to not come into work, then said employee shall take a vacation day, personal day, or use accrued compensatory time. If City operations close for a portion of a

day and the employee elected to not come in to work at all and took a vacation day, personal day, or used accrued compensatory time, then a full vacation day, personal day, or hours of compensatory time equal to a full day will be charged.

Employees on a previously approved vacation shall not have any vacation leave credited back in the event City Hall is closed a full or partial day during the time period of their vacation.

APPENDIX B

Respiratory Virus Policy

The threat of seasonal respiratory viruses, coupled with the potential for a large-scale outbreak of a pandemic infection, has prompted the City to draft a policy for all employees. This policy is based on information from Maine Center for Disease Control (CDC) and the Federal CDC. The first priority of our organization is to the health and well-being of our employees. We must also be concerned for our families and those from the public with whom we come in contact with while performing our duties on a daily basis.

This Respiratory Virus policy brings a unified, practical approach to protecting against a range of respiratory illnesses, such as COVID-19, seasonal influenza (flu), respiratory syncytial virus (RSV), and other common respiratory viral illnesses that are contagious. It emphasizes a desire to protect our employees, our families, and the public from potential exposure to such infectious diseases. These viruses share similar routes of transmission. They are spread from expired droplets from when people who are sick sneeze, cough, sing, or talk, which then enter the body of others through their lungs. Symptoms of illness from such viruses include, but are not limited to, cough, sore throat, fever (temp above 101 F), chills, body aches, and occasionally nausea and vomiting.

Workplace Rules:

If you experience a respiratory viral infection, you must stay home from work for at least **24 hours** until both are true:

Your symptoms are getting better overall, and

You have not had a fever without the use of fever-reducing medications.

Symptoms can include but are not limited to, fever, chills, fatigue, cough, runny nose, and headache, that are not better explained by another cause. Supervisors must be vigilant and watch for employees who appear sick. If you suspect an employee has a respiratory viral infection, the best way to verify this is to ask the employee whether they are running a fever. If the employee believes he/she has a fever, they will be sent home. The City recommends that all employees seek medical clearance prior to returning to work.

The best methods to avoid respiratory viral infections include frequent hand washing, use of hand sanitizers and to cover your mouth when coughing (with a cloth or your arm, but not with your hand). Regular cleaning of our office equipment is just as important as the cleaning of our hands. This includes the computers we share as well as telephones, door handles etc. Also, the Respiratory Virus Policy recommends additional precautions over the next 5 days following a return to work. These precautions encourage taking more steps for cleaner air, wearing a well-fitted mask, keeping a distance from others, and/or getting vaccinated, tested, and treated for respiratory viral infections.

In the case of a pandemic infection in our community, City Department Heads will be

monitoring the health and vacancy rates caused by the spread of the virus. The goal is to continue to provide a high level of service to the citizens. However, we may be forced to look at alternative staffing levels if vacancy rates escalate. In addition, Department Heads may consider reassignments and covering vacancies with other capable employees. Any decision to close places of gathering will be based on Policy from the Maine CDC.

APPENDIX C

VEHICLE USE AND ANTI-IDLING POLICY

Vehicle Use

This section of the policy is designed to provide consistent standards for use of City of South Portland owned vehicles and use of personal vehicles for City of South Portland business to ensure the safety of employees and the public during such use.

Employees must have a valid and current Driver's License to operate a City vehicle or a personal vehicle while on City business. If operating a personal vehicle on City business, appropriate automobile insurance must be maintained at all times while the vehicle is to be used for City purposes. (Please see Section XI. Disciplinary Action, A. Grounds for Action, and Section X. Conditions of Employment, P. Licensing, Certification and Insurance, regarding loss of Driver's License.)

The City reserves the right to conduct a driver's history background check on employees who are eligible to use City vehicles. Such background checks will only be conducted with the prior authorization of the employee, but failure or refusal to authorize a driver's history background check for this purpose shall be grounds for the City's refusal to permit the employee to operate a City vehicle and may be cause for discipline. The City further reserves the right to deny the use of a City vehicle to any employee who has had his or her driver's license suspended or revoked, has been convicted of an alcohol or drug-related driving offense, multiple speeding violations or other serious moving traffic infractions, or who has been involved in multiple accidents for which he or she was found to be at fault.

Employees shall use City vehicles exclusively for City work and not to promote any financial or personal interest, including, but not limited to, travel related to other outside employment. (Please also see Section X. Conditions of Employment, Section E. Use of City Resources.)

Only authorized City employees shall be permitted to drive City vehicles. Spouses, children, parents, siblings, other relatives, friends or coworkers shall not be permitted to drive a City vehicle without express permission from the City Manager.

All City vehicles must be marked with the appropriate City logo and department lettering,

except for certain Police Department vehicles and those recommended by the federal government to remain unmarked. These markings must appear on at least the front driver's and passenger's side doors and be legible to the public from a distance.

The Police Chief, Deputy Police Chief, Detective Lieutenant, K-9 Patrol Officers and Commander, SWAT Commander, SWAT 2nd in Command, and SWAT Senior Operator/Breacher. Police Mechanic, Office of Professional Standards and Dive Team Commander, Fire Chief, Public Works Director, Public Works Deputy Director, and Emergency On Call staff at Water Resource Protection (rotating), may drive their assigned vehicles to and from their homes. City vehicles are to be used only in the accomplishment of official City-related business. Stops for incidental purposes are permissible provided they are made within the regular travel route. Exceptions: The Police, Fire, and Public Works vehicles may be used for personal, non-City business due to the potential need to respond to emergency situations, but any use for travel out of state must be by approval of the City Manager. Employees may not use vehicles for personal, non-City business while on vacation time as they will not be expected to respond to an emergency situation. City vehicles shall not be used for any purpose which could result in excess wear and tear on the vehicle, such as towing trailers or recreational equipment.

The City will comply with all IRS regulations pertaining to the use of City vehicles and taxable income to employees.

Department Heads shall have the authority to determine who may operate City vehicles in the accomplishment of official City business on a daily basis, but any other use (including taking a vehicle home) must be approved by the City Manager unless specifically authorized in this policy.

Any City vehicle may be utilized to meet any official exigencies as determined by the City Manager.

All City employees must use seat belts while in City vehicles or equipment, either as an operator or passenger. This policy also applies when an employee is using their own personal vehicle for City business. Drivers are expected to adhere to all traffic regulations at all times while driving a City vehicle or a personal vehicle for City business.

Drivers are responsible for the security of the vehicle assigned to them. The vehicle engine must be shut off, ignition device removed, and vehicle doors locked whenever the vehicle is left unattended. See also Anti-Idling section of this policy below.

No driver shall operate a City vehicle when their ability to do so safely has been impaired by illness, fatigue, injury, prescription medication, or any other substance which may have the effect of impairing mental capacity or judgment whether or not such substance may be used lawfully.

Driving while on City business and/or driving a City vehicle while under the influence of intoxicants and others drugs (which could impair driving ability and whether or not such intoxicants or drugs are lawfully permitted to be used by the driver) is strictly forbidden.

Smoking and smokeless tobacco are not allowed in any City vehicles. (Please also see Section X. Conditions of Employment, Section H. Smoking and Tobacco Free Environment.)

Any employee that is operating a City owned vehicle or City owned piece of equipment will not use any cellular device or any other type of electronic device that impairs or distracts the employee from the safe operation of the vehicle or equipment. (Please also see Section XIV. Miscellaneous, Travel and Meeting Reimbursements, 8. Distracted Driving.)

All accidents in City vehicles, regardless of severity, must be reported to the Police Department and City Manager. Accidents are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). Employees are encouraged to document the incident with photographs and a written report, including the names and contact information of any witnesses or other persons involved. Accidents in personal vehicles while on City business must follow these same accident procedures. Police Department employees are required to follow internal policy on providing notice of accidents. (Please also see Section XIV. Miscellaneous, C. Injuries.)

Drivers must report all ticket violations received during the operation of a City vehicle, or while driving a personal vehicle for City business, within 72 hours to the HR Director. Police Department employees are required to follow internal policy on providing notice.

For information on reimbursement of various expenses related to use of a City or a personal vehicle while on City business, please see Section XIV. Miscellaneous, G. Travel and Meeting Reimbursements.

The use of a City vehicle is not a guaranteed condition of employment and is offered as a benefit at the sole discretion of the City. The City reserves the right to revoke an employee's privilege to operate a City vehicle at any time.

Anti-Idling

This section of the policy is designed to eliminate unnecessary idling of municipal vehicles in order to reduce the cost of City operations and to reduce emissions created by City vehicles. A vehicle idling gets zero miles per gallon; unnecessary idling wastes fuels and pollutes the air. Our goal is to reduce use of petroleum products, reduce cost, protect and preserve the natural environment, and improve air quality in the City of South Portland.

It is the policy of the City of South Portland to continually improve the efficient use of vehicle fuels in an effort to reduce operating costs and emissions. City vehicles will not be permitted to idle unnecessarily. Operators of City equipment will adhere to the following standards:

- A. Unnecessary idling is prohibited when the ambient temperature is above 35 degrees F;
- B. Five minute idle time limit when ambient temperature is 32 degrees to 35 degrees F;
- C. Ten minute idle time when the ambient temperature is below 32 degrees F for diesel vehicles and any vehicle in the field to provide heat for safety of the operator. Any vehicle left running for these purposes must be within sight of the operator at all times; and
- D. Five minute idle time when ambient temperature is above 80 degrees F and the operator is in the vehicle for air conditioning.

Exceptions:

Due to the emergency nature of some City operations, the following exceptions will apply to this policy:

- A. Emergency response vehicles when responding to an emergency;
- B. Ambulances which must maintain onboard medication at a specific temperature;
- C. Vehicles whose batteries may be discharged because of onboard electrical equipment (i.e. emergency lights, radar, computers etc.);
- D. K-9 or Animal Control vehicles when animals are on-board;
- E. Equipment being used during snow plow operations;
- F. City buses when patrons are on-board; and
- G. Vehicles that require the engine to run at a certain RPM when using a piece of equipment associated with the vehicle.

Any employee found to have committed a violation of any portion of this policy shall be subject to discipline, up to and including termination from employment, even for a first offense.

APPENDIX D

WORKPLACE VIOLENCE POLICY

The City of South Portland maintains a zero tolerance policy toward violence or the threat of violence by any of its employees, customers, vendors, the general public and/or anyone who conducts business with the City. The City of South Portland strives to maintain a respectful work environment free from intimidation, threats, physical attacks, harassment, property crimes, or any other violent attacks. This includes, but is not limited to intimidating, threatening or hostile behaviors, physical abuse, vandalism, use of weapons, possessing weapons on the premises, or any other act, which in management's opinion, is inappropriate to the workplace. In addition, bizarre or offensive comments regarding violent events and/or behavior will not be tolerated.

The City has a general no weapons on the premises rule, which prohibits all weapons of any type, including loaded firearms, unloaded firearms, knives, explosives, ammunition, and other weapons, except as specifically authorized by Maine law.

Employees who feel subjected to any of the behaviors listed above should immediately report the incident to their supervisor or the Human Resources Office. Employees who observe or have knowledge of any violation of this policy should immediately report it to their supervisor. Complaints will receive immediate attention and will be investigated. Based upon the results of the inquiry, disciplinary action which management feels appropriate will be taken.

As with any effective safety and health program, there are five main components to a program for preventing Workplace Violence:

- Management commitment
- Employee involvement
- Worksite analysis
- Hazard prevention and control
- Training

The objective of this policy is to achieve the following:

- Reduce the potential for violence in and around the workplace;
- Encourage and foster a work environment that is characterized by respect and healthy conflict resolution;
- Mitigate the negative consequences for employees who experience or encounter

violence in their work lives.

All employees are responsible for:

- Refraining from acts of violence;
- Seeking assistance to resolve personal issues that may lead to acts of violence in the workplace; and
- Reporting to Managers and Supervisors any dangerous or threatening situations that occur in the workplace. Employees are encouraged to report to their Managers/Supervisors situations that occur outside of the workplace which may affect workplace safety, instances where protection orders have been issued.

Managers and Supervisors are responsible for assessing situations, making judgments on the appropriate response, and then responding to reports of or knowledge of violence and for initiating the investigation process.

The City Manager, or the City Manager's designee is responsible for developing procedures that are designed to reasonably achieve:

- Prompt and appropriate response to any act of violence;
- Accountability among employees for acts of violence committed in the workplace;
- Establishment of oversight of investigations of violence;
- Establishment of a Crisis Management Team to provide immediate response to serious incidents;
- Establishment of avenues of support for employees who experience violence;
- Communication of this policy and administrative procedures to employees, managers and supervisors.

When a violent act occurs:

- If the act or altercation constitutes an emergency, call 911. In instances that are not emergency situations, contact your immediate Manager or Supervisor. In the event that 911 is contacted, notify an immediate Manager or Supervisor.
- The Department Director will contact the Human Resources Director, who will take responsibility for coordinating response to the incident.
- In instances that involve emergency situations or criminal activity, the Human Resources Director will contact the City Manager and the Police Department. Incidents involving emergency situations and/or criminal activity will be referred to the Police Department for assessment.
- In instances when it is not appropriate to refer an incident to the Police

Department, the Human Resources Director will evaluate the situation and make a recommendation regarding the need for an investigation. If an internal investigation is recommended, the Human Resources Director will coordinate the investigation process.

The City of South Portland shall maintain confidentiality of investigations of workplace violence to the extent possible. The City will act on the basis of anonymous complaints where it has a reasonable basis to believe there has been a violation of this policy and the safety and well-being of members of the City community would be served by such action.

Violation of this policy by an individual on City property, or by any individual involved in City business off of City property when his/her actions affect the public interest or the City's business interests will not be tolerated and will be followed by legal actions, as appropriate.

APPENDIX E

LACTATION BREAKS POLICY

In recognition of the well documented health advantages of breastfeeding for infants and mothers, and 26 M.R.S. §604 (“Nursing mothers in the workplace”) the City of South Portland seeks to provide a supportive environment to enable breastfeeding employees to express their milk during work hours (as defined below) for their nursing child for up to three (3) years following child birth.

Organization Responsibilities

Breastfeeding employees who choose to continue providing their milk for their infants after returning to work shall receive:

- **Milk Expression Breaks:** Breastfeeding employees shall be allowed to express milk during work hours using their normal paid breaks and meal times. If this time is insufficient, the employee should discuss the situation with their supervisor and the supervisor may consider granting the employee flexible working arrangements. Additional unpaid breaks shall be provided each time the employee has the need to express breast milk. Employees may use earned paid time (vacation, personal, compensatory, sick) to cover the lactation breaks. There is no minimum or maximum limit on the number of breaks per day or the duration of the breaks.
- **A Place to Express Milk:** A clean room or other location (not a toilet stall or restroom) shall be available for employees to express milk. The room will be private and will have an electrical outlet. Human Resources will work with each nursing mother and their Department to determine a private and secure area where they may express milk. If employees prefer, they may also express milk in their own private offices, or in other comfortable locations agreed upon in consultation with the employee’s supervisor.

Employee Responsibilities

- **Communication with Supervisors:** Employees who wish to express milk during the work day shall keep supervisors informed of their needs so that appropriate accommodations can be made to satisfy the needs of both the employee and the City of South Portland.
- **Maintenance of Lactation Rooms:** Employees shall be responsible for keeping the general lactation break rooms they use clean for the next user.

- **Use of Cold Storage at Facilities:** Employees must clearly label any expressed milk that is stored at a city facility in order to ensure its safekeeping and must discard any material in a timely manner that they no longer wish to retain.

APPENDIX F

SAFE HARBOR POLICY

The Fair Labor Standards Act (FLSA) is a federal law which requires that most employees be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek. However, Section 13(a)(1) and Section 13(a)(17) of the FLSA provide exemptions from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional, outside sales and certain computer employees. These categories are for descriptive purposes only; job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. An exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked.

It is the City's policy to comply with the salary basis requirements of the FLSA in order to ensure that employees are properly compensated for all time worked. Therefore, we prohibit all supervisors or payroll personnel from making any improper deductions from the salaries of exempt employees in violation of the FLSA.

Employees classified as exempt will receive a salary that is intended to compensate the employee for all hours worked for the City. This salary will be established at the time of hire or when the employee otherwise becomes classified as an exempt employee and will be a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work performed by the employee.

Exempt employees will receive full salary for any workweek in which work is performed. However, exempt employees do not need to be paid for any workweek in which they perform no work and there are certain exceptions in which deductions from pay of otherwise exempt employees are permissible. Those exceptions include when an exempt employee is absent from work for one or more full days for personal reasons including vacation, sickness and disability in accordance with the City's applicable policies. Deductions may also be taken for: unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions; to offset amounts employees receive as jury or witness fees, or for military pay; during the first or last week of employment in the event an employee works less than a full workweek; and for any insurance premiums, taxes, social security, or voluntary contributions to retirement plans.

An exempt employee's salary will not be reduced for a partial day absence for personal reasons; however, the exempt employee will be required to use accrued vacation, sick or personal time equivalent to the amount of such partial day absence. In the event an exempt employee does not have accrued paid time off, the employee's salary may not be reduced for a partial day absence. It is the responsibility of employees to maintain and submit time cards that accurately account for all time worked. It is a violation of this policy for any employee to falsify a time card, alter another employee's time card or instruct another employee to inaccurately report hours worked.

If any employee believes that a violation of this policy has occurred or that an improper deduction has been made to his or her salary, that employee should immediately report this information to his or her direct supervisor, Department Head, or to the Human Resources Director. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for any improper deduction made. The City will not tolerate any form of retaliation against individuals who report alleged violations of this policy or who cooperate in the City's investigation of such reports. Any form of retaliation in violation of this policy will result in disciplinary action, up to and including discharge.

APPENDIX G

SAFETY POLICY MISSION STATEMENT

The City of South Portland is extremely conscious of the safety of our employees and citizens, and the importance of our physical assets. As an employer, we recognize the obligation to ensure the safest possible work place for our employees. As a governmental entity, we recognize our responsibility to protect the City of South Portland's physical assets from damage or loss and to provide a safe environment for the public we serve. Our ultimate goal is to achieve an accident free, loss free environment for our employees and public.

To help meet these goals, the City of South Portland has allocated resources to administer an aggressive safety and loss control program. Some of the program components include an Executive Safety Board, Safety Coordinator, department safety committees, written safety policies and procedures, employee training, safety inspections and additional administrative controls.

The overall program is the responsibility of the City Manager. Administrative responsibility is assigned to the Human Resources Department and Safety Coordinator. The Human Resources Department and Safety Coordinator, however, are not responsible for departmental safety, which is the responsibility of department heads, supervisors and all employees. It is expected that department heads will complement the efforts of the Human Resources Department, Safety Coordinator and Safety Committees to reduce losses, establish and maintain compliance, and provide for the safety of employees and the public. These safety and loss control responsibilities are continuous and equal in importance with all other operational considerations.

It is the responsibility of each employee to follow all safety work rules and procedures, and to cooperate with and support safety and loss control program activities and objectives. Each employee is expected to report any unsafe conditions and to ask for instruction from a supervisor to monitor and assist employees in the safe performance of their duties. Safe work practices and attitudes are an expected and essential part of every employee's job duties and performance. Safety and loss control is every employee's responsibility. This mission statement will be reviewed annually to allow the City of South Portland to meet the mutually beneficial goal of maintaining a safe, loss free environment for both our employees and the citizens we serve.



City
Manager

DATE ISSUED: 10/02/2018 by ORDER #62-18/19

APPENDIX H

SICK LEAVE BANK POLICY

Section 1: Purpose

The purpose of the Sick Leave Bank Policy is to establish a procedure through which eligible employees may voluntarily enroll as a member of the Sick Leave Bank. As a member, employees must donate a portion of their accrued sick and/or vacation leave balance to the bank. The time donated to the bank may then be used to assist any eligible employee who: has suffered, or is needed to care for an immediate family member suffering from, a severe medical condition; and has already exhausted, or is in danger of exhausting, all other forms of paid time off as set forth in this policy due to the severe medical condition.

For the purposes of this policy, a severe medical condition is defined as a physical or mental illness, injury, or impairment that substantially limits major life activities, that is not work related, that causes the employee to be unable to work in any capacity for a prolonged period of time (such as, a minimum of thirty (30) consecutive calendar days) and that will result in a substantial loss of income to the employee because the employee has exhausted all paid leave. A severe medical condition shall not include common illnesses, such as the cold or flu, or elective surgery.

To be eligible under this policy, an employee participating in the Sick Leave Bank must meet all the conditions described herein to enroll in and withdraw from the Sick Leave Bank.

Section 2: Conditions for Enrolling and Maintaining Membership in the Sick Leave Bank

To be eligible to enroll in the Sick Leave Bank and remain a member, an employee is subject to the following conditions:

- A. Be a non-union employee working regularly full-time, or working regularly part-time at least twenty (20) hours per week, and eligible to accrue paid time off.

- B. Donate a minimum of two (2) days (and a maximum of ten (10) days) of either accrued sick and/or vacation leave to the Sick Leave Bank to become an enrolled member. Enrollment must occur upon initial employment or within one year from the date of adoption of this policy. New employees must designate their intent to contribute or not contribute within ninety (90) days of their date of hire or within one year from the date of adoption of this policy, whichever is later. The number of hours in the day to be donated is defined by the employee's full or part-time status and their regular schedule. A day is defined as the number of hours budgeted weekly divided by five. For example, an employee who works a four-hour day must donate a minimum of 2 four-hour days, and an employee who works a seven and one-half hour day must

donate a minimum of 2 seven and one-half hour days, etc. If the employee's hours vary throughout the year, the donation of 2 days will be based on their budgeted hours calculated as a daily average based on their regular work schedule.

- C. An employee who wishes to enroll and is otherwise qualified, but does not have two (2) days of accrued leave to donate, may enroll and donate the two (2) days as follows: (1) For employees who elect to enroll upon initial employment, the donation must occur no later than six (6) months from the date of hire; and (2) For current employees who elect to enroll within one (1) year from the date of adoption of this policy, the donation must occur no later than three (3) months from the election to enroll or six (6) months from the employee's return to work if he or she is on leave at the time of adoption. Failure to donate within these time periods will render an employee ineligible to enroll in the Sick Leave Bank, except as provided in Section 5(J) of this policy.
- D. To remain an enrolled member of the Sick Leave Bank, an employee must contribute a minimum of two (2) leave days (and a maximum of (10) ten days) annually to the Sick Leave Bank on January 1st of each year. This will automatically occur once an employee has enrolled as a member and shall be subject to the minimum accrued balance required in Section 2(f) below.

If an enrolled employee no longer wishes to participate as a member of the Sick Leave Bank, they must notify Human Resources in writing or via email, by December 1st. If an enrolled employee ceases participation in the Sick Leave Bank, the employee will only be eligible to re-join in the future pursuant to Section 5(J). Any days donated by the employee who ceases participation in the Sick Leave Bank will remain in the Sick Leave Bank.

- E. Following the first year of employment, an enrolled member must have a balance of the equivalent of one week of sick time in his or her own accruals as of December 1st each year. In the event the enrolled member does not have at least one week of sick time as of December 1st in any year, the member shall not be required to donate the required minimum for that year. However, once a member does accrue over one week of sick time, the City shall deduct a minimum of two (2) days from their balance. A member shall be automatically unenrolled from the Sick Leave Bank if he or she fails to satisfy the minimum annual donation requirement for two consecutive years on January 1 following the second year.

3: Conditions for Withdrawing Days from the Sick Leave Bank

Enrolled employees may be considered eligible to withdraw accrued time from the Sick Leave

Bank upon approval by the Human Resources Director and City Manager if:

- A. The employee has satisfied and continues to satisfy all of the requirements of Section 2 of this Policy.
- B. The employee:
 - 1. is unable to work because of a severe medical condition as defined in Section 1 of this Policy that is not work-related and does not render the employee eligible for Workers Compensation benefits from any source; or
 - 2. requires leave to personally provide care for an immediate family member who suffers from a severe medical condition as defined in Section 1 of this Policy.
- C. The employee has exhausted, or is reasonably expected to exhaust as a result of the medical condition within four weeks of the request for withdrawal, all forms of paid leave including sick time, compensatory time, personal leave time, and vacation time;
- D. The employee has passed his or her initial probationary period;
- E. The employee has no documented abuse of any form of paid leave on file;
- F. The employee does not have access to a light or modified duty work assignment and/or is unable to work a reduced schedule. (In the event such work exists, the employee may be eligible for withdrawals only to the extent such withdrawals supplement the light or modified duty or reduced schedule to equal the employee's regular work hours);
- G. The employee is not on a disciplinary suspension or administrative leave;
- H. The grant of additional leave beyond the employee's permitted use of personal accruals and any timeframe otherwise required by law would not significantly burden the City's ability to provide services to its citizens; and
- I. The employee provides appropriate and adequate documentation, including, but not limited to, the certification of a health care provider of the necessity for the leave and the duration of time the employee can reasonably be expected to be absent.

Section 4: Procedure

An eligible employee who wishes to withdraw donated leave days from the Sick Leave Bank must submit a request in writing to Human Resources. In connection with their request, an eligible employee must submit to Human Resources a physician's statement as evidence of a severe medical condition as defined in Section 1, if such information has not been provided previously.

A request to withdraw donated leave days from the Sick Leave Bank may be made within four weeks of when the eligible employee anticipates that his/her paid time off will be exhausted, or upon the beginning of the employee's leave if it is certain that such paid leave

accruals will be exhausted at that time. Failure to submit the request in a timely fashion may result in a delay in payment from the Sick Leave Bank.

After a decision has been made by the City Manager and Human Resources Director regarding the individual's eligibility to withdraw donated leave days as set forth in this Policy, Human Resources will notify the employee. If an employee has been approved to withdraw leave from the Sick Leave Bank and such approval will extend the employee's absence from work, Human Resources will also notify the employee's department director of the amount of additional leave time that has been granted. Specific details regarding the reason for leave shall remain confidential, except that the employee may voluntarily share information about his or her own leave with others at his or her discretion.

Section 5: Administration of the Leave Sharing Program

The Human Resources Director and City Manager, and/or their designee, are responsible for administration of the Sick Leave Bank and for enforcement of this policy, including reviewing eligibility requirements to enroll in or withdraw from the Sick Leave Bank and the circumstances under which an employee may cease enrollment.

In making decisions about eligibility to withdraw leave days from the Sick Leave Bank, the Human Resources Director and City Manager will review all evidence submitted by the requesting employee, verify that all paid leave has been or likely will be exhausted, and prepare any necessary documentation to approve or deny the request for withdrawal.

The Human Resources Director shall monitor the use of the Sick Leave Bank with the objective of establishing uniform administration of this Policy and will ensure that no decision is made based on an employee's race, religion, creed, color, sex, national origin, disability, age, marital status, sexual orientation, public assistance status, veteran status, ancestry, genetic information, or any other status protected by law. Employees who are determined to have donated or requested leave under this policy based on discriminatory motives shall be ineligible to donate or receive leave under this policy.

Final decisions on eligibility and distribution of donated leave time are at the sole discretion of the City Manager and shall not be subject to any grievance procedure.

In addition to all other requirements set forth in this policy, donation of leave and withdrawal of donated leave shall be subject to the following conditions:

- A. Employees may not withdraw more than sixty (60) days, or the balance of donated time in the Sick Leave Bank, whichever is less, from the Sick Leave Bank in any 12-month period, using a rolling look back from the last request date.
- B. Employees withdrawing leave from the Sick Leave Bank must do so in whole day increments, based on their regular schedule, except as noted in Section 5(E) below. The number of hours in the day to be withdrawn shall be determined by the employee's full or part-time status and their regular work schedule. For example, an

employee who works a four-hour day can withdraw up to 60 four-hour days, and an employee who works a seven and one-half hour day can withdraw up to 60 seven and one-half hour days, etc.

- C. Employees withdrawing leave from the Sick Leave Bank will be paid at their base rate of pay in effect at the time that each payroll is processed.
- D. Employees withdrawing leave from the Sick Leave Bank may not use the Sick Leave Bank to be paid in excess of their regular daily or weekly base pay.
- E. Employees enrolled in the Sick Leave Bank who are also covered by the City's Short Term Disability insurance (IPP) benefit program shall only be eligible to receive leave from the Sick Leave Bank in increments of time in order to "remain whole" or fully paid for each regular work day per Section 5(B) above, and will not be paid in excess of their regular daily or weekly base pay as of the time each payroll is processed. Any increments of Sick Bank Leave time used each day by an employee to supplement the IPP benefit will count as a full day for the purposes of Section 5(B) above.
- F. Employees withdrawing leave from the Sick Leave Bank are not required to repay that time used, but will remain subject to the minimum annual donation required to remain enrolled as a member of the Sick Leave Bank.
- G. The employee receiving donated leave will continue to be subject to City and Department policies and procedures regarding leaves of absence. Further, nothing contained herein shall increase the amount of leave which an employee is authorized to take under the Maine or Federal Family Medical Leave laws, or other applicable laws. Use of the Sick Leave Bank, if granted, merely allows for paid leave where leave would otherwise be unpaid.
- H. Use of donated time from the Sick Leave Bank does not render an employee eligible for benefits to which he or she would otherwise be ineligible if he or she did not receive shared leave.
- I. Employees using days withdrawn from the Sick Leave Bank will not accrue sick leave and vacation leave and will not be eligible for holiday pay during the use of such leave. Any Personal Time eligible to be accrued by an employee while using days withdrawn from the Sick Leave Bank will be credited to the employee upon his or her return to work on a prorated basis pursuant to the accrual rate set forth in the Personnel Policy.
- J. If at any time during the year the Sick Leave Bank is or is expected to be depleted, the City Manager may allow current members, with at least one day of sick leave accrual, to donate additional days to the Sick Leave Bank and permit enrollment by employees who are not enrolled at that time during a special enrollment period designated by the Manager. The City Manager shall determine the provisions applicable to any special enrollment period, including but not limited to limiting the amount of leave from the Sick Leave Bank an employee who is already out on or who may be about to go on extended leave may receive from the Sick Leave Bank.

- K. Leave accumulated in the Sick Leave Bank will carry forward each year and will not expire.

- L. Employees who return to work following leave for which they received paid time from the Sick Leave Bank will be credited with up to one week (five days) of vacation leave upon their return to work provided that the employee had exhausted his or her vacation leave as a result of his or her medical condition associated with his or her need for paid time from the Sick Leave Bank. The amount of vacation leave credited upon return to work shall be limited to the number of days or hours of vacation leave that were used by the employee prior to withdrawing from the Sick Leave Bank, but shall not exceed one week (five days). The crediting of vacation time shall be at a rate of one day per week beginning the first week during which an employee returns to work for his or her regularly scheduled work week. The number of vacation hours to be credited to constitute a "day" shall be based on the employee's regular work schedule, and shall not exceed five equivalent days. Once five equivalent days have been credited upon the employee's return to work, the employee will resume normal vacation accruals.