

# PERSONNEL MANUAL 2019

**Ordinance Number 19-67**  
*Adopted August 19, 2019*

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## SECTION 1 - INTRODUCTION TO HUMAN RESOURCES REGULATIONS

### 1.1. PURPOSE AND OBJECTIVES

The purpose of the following policies is to establish a high degree of understanding and cooperation among the City of Portland employees, which comes from the application of good procedures in personnel administration, and to provide uniform policies for all employees. **Each individual employee's primary purpose, regardless of occupational specialty, is to provide efficient and effective service for the citizens of Portland. The primary objective in providing efficient and effective service is good stewardship of the citizen investment whether through taxes or through fees paid to the City to provide those services.**

***It is the policy of City of Portland to provide equal employment opportunity to all employees and applicants for employment. No person will be discriminated against in employment because of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern\*, refusal to participate in or remain silent about illegal activities, exercise of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law. The City will provide reasonable accommodation to qualified individuals with a disability unless the accommodation would pose an undue hardship on the City.***

Per Article V, Sections 4, 2(A), 2(B) of the City of Portland Charter, the Mayor shall:

(A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures adopted by the City Council; and

(B) Nothing in [the] charter shall be construed as granting a property interest to employees or department heads in their continued employment.

The Mayor may perform the actions listed in Article V, Section 4, 2(A) or may authorize the execution of the action(s) by a department head under his/her direction.

It is the intent of the City for this personnel policy to comport itself with the City Charter and offer reasonable processes for making non-discriminatory, job-related employment decisions. It is not the intent of the personnel policy to grant property interest to employees. Tennessee is an Employment-At-Will state unless property interest is otherwise granted.

The City will not discriminate on the basis of a person's national origin or citizenship status with regard to employment actions. However, the City will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be subject to separation.

This policy applies to all terms, conditions, and privileges of employment and all policies of the City, including hiring, placement, training, employee development, promotion, transfer, compensation, benefits, grievances, educational assistance, layoffs, termination and retirement.

The City complies with Title VI of the Civil Rights Act of 1964. Title VI requires that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial

assistance. The City further complies with all federal and state laws protecting employees from discrimination.

The fundamental objectives to be achieved by these policies are to:

1. promote and increase effectiveness, efficiency and cooperation among employees of the City of Portland; and
2. provide fair and equal employment opportunity to all qualified individuals on the basis of demonstrated merit and fitness, as ascertained through fair and practical employment practices.

*\* Whether an employee's speech addresses a matter of public concern is determined by the assessment of the content, form, and context of a given statement. If the employee speaks pursuant to his/her official duties (performing a task he/she was paid to perform); and/or the speech was not a matter of public concern; and/or his/her free speech interests are not sufficient to outweigh the City's interest(s) in promoting efficiency in delivery of public services an employee may not expect free speech protection(s).*

## **1.2. PERSONNEL POLICY STATEMENT**

This manual and all other City manuals do not bestow any property rights or interests to employees regarding employment or employment benefits. This manual is not part of a contract and no employee has any contractual right to the matters set forth herein. *The City reserves the right to change any and all such policies, practices, and procedures in whole or in part at any time, with or without prior notice to employees.*

It is the policy of the City of Portland to apply and foster a sound program of personnel management. The policies of the City are established to assist in fulfillment of the objectives below:

### **A. People**

1. Deliver talent acquisition processes that maintain a workforce that meets the needs of the City by filling positions in accordance with job qualifications and requirements without discrimination as to membership in any protected class;
2. Establish sourcing, recruitment, selection assessment, onboarding and job offer contingency (drug screens, background checks, etc.) guidelines for the appointment, promotion, transfer, demotion, dismissal, and reassignment of personnel;
3. Establish, periodically review, and maintain job descriptions for every position; periodically conduct appropriate wage and salary surveys; and as applicable, propose wage and salary classification groups for board approval as the budget allows; and
4. Design, recommend, and implement compensation systems and benefit packages including pay practices; medical and ancillary insurance options; leave plans; and retirement strategies designed to attract and retain qualified employees.

### **B. Organization**

1. Structure the Human Resources function to encompass the people, processes, systems and activities involved in the delivery of services that meet the personnel needs of the City;
2. Oversee any dealings between the City and its employees regarding the terms and conditions of employment including grievance and complaint resolution; disciplinary

- processes; employment rights; compliance programs and approaches to retaliation prevention; and
3. Management of technologies including social media and the policies and procedures governing their use in the workplace.

#### **B. Workplace**

1. Follow appropriate best practices for development of a diverse workforce;
2. Minimize the probability and impact of risks to the City through best practices ensuring employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to City employees; and
3. Ensure the knowledgeable application of relevant Federal, state and local laws and regulations relating to employment as well as the City Charter and Municipal Code, as applicable.

#### **D. Records**

1. Establish and maintain uniform personnel records;
2. Maintain confidentiality and privacy of employees to the extent allowed by the law subject to the Tennessee Public Records Act (T.C.A. 10-7-501 – 515).

### **1.3. COVERAGE**

Unless otherwise stated, the content of this Personnel Manual applies to all employees of the City. All employees will receive a copy of, or electronic access to, the manual upon employment and a copy will be held by each department head for convenience.

The following personnel are not covered by this personnel policy manual, unless otherwise provided and as statutorily required, and are classified in the exempted class:

1. All elected officials;
2. Members of appointed boards and commissions;
3. Consultants, advisors, and legal counsel rendering temporary professional service;
4. The City Attorney;
5. Independent contractors;
6. Volunteer personnel;
7. Seasonal and temporary employees;
8. The City Judge;
9. The City Recorder\*.

*Some policies apply to all employees and officers of the City including those placed in the exempted class above, such as policies related to discrimination and/or harassment, and policies required by state or federal law.*

*\*The City Recorder is subject to all terms and conditions of the Personnel Policy, except as provided in the City of Portland Charter (The City Recorder is appointed by election of the City Council by majority vote.)*

#### **1.4. ADMINISTRATION OF POLICY**

The Mayor is responsible for the proper operations of all City functions, enforcement and application of all laws, provisions of the City Charter, Municipal Code, and acts of the governing body including but not limited to personnel policies and procedures and pay classification plan.

The Mayor is also responsible for implementation of additional rules, policies and procedures, which may be necessary for the proper operation of the City or its various departments, provided that such rules and procedures are consistent with the personnel policies adopted by the City Council.

Department heads, managers and supervisors are responsible for the administration and enforcement of the personnel policies and procedures for employees in their respective departments.

#### **1.5. CONTACTING ELECTED OFFICIALS**

No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be disciplined for making untrue allegations concerning any job-related matter (T.C.A. 8-50-601--604).

#### **1.6. POLITICAL ACTIVITY**

City employees, whether on or off duty, whether in or out of uniform, and whether on or off City property, shall not, at any time or any place, act as a candidate for an elected City office. The City will not compensate employees for time when the employee is not performing work for the City. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the City.

In all other elections for public office, employees may enjoy the rights of any other citizen of the state of Tennessee to be a candidate for any local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by other time off duty arrangements worked out between the employee and the City. Nothing in this section is intended to prohibit any City employee from privately expressing his/her political views or from casting his/her vote in all elections.

#### **1.7. AMENDMENTS TO PERSONNEL MANUAL**

Amendments or revisions to the personnel manual may be recommended by the Mayor or designee for adoption of the City Council by ordinance. Such amendments or revisions of the personnel manual shall become effective upon adoption by the City Council. Departments may adopt their own internal operating policies (*i.e.* SOP/SOG) specific to their operations; however, none of these policies shall be in conflict with these personnel regulations. Copies of departmental policies shall be provided to the Mayor's office as well as to the HR office and are subject to review prior to adoption.



## **1.8. SEVERABILITY**

If any chapter, article or section of this personnel manual is found to be in conflict with Federal, State or City laws and regulations, or court decision, that section will continue in effect only to the extent permitted by such law or regulation or court decision. If any chapter, article or section of this personnel manual is or becomes invalid or unenforceable, such invalidity or unenforceable nature will not affect or impair any other chapter, article or section of this personnel manual.

## **SECTION 2 – JOB CLASSIFICATION AND PAY PLAN**

### **2.1. PURPOSE AND USE OF JOB CLASSIFICATION**

Job classification provides an inventory of positions in the City's service. The plan standardizes titles, each of which is indicative of a range of duties and responsibilities and has the same meaning throughout the City.

Job classification may consist of:

- a. groupings of classes of positions that are approximately equal in difficulty and responsibility, that call for the same general level of qualifications and that can be equitably compensated within the same range of pay under similar working conditions according to the market and budget availability;
- b. class (job) titles reasonably descriptive of the work of the class;
- c. written job descriptions for each position; and
- d. physical and mental standards for performance of the duties of the position.

Job classification may be used:

- a. as a guide in recruiting and examining candidates for employment;
- b. in determining potential lines of promotion and developing employee training programs;
- c. in determining salaries and wages to be paid for various types of work;
- d. in determining placement within pay ranges/step plans;
- e. in providing uniform job terminology understandable by all City officers and employees and by the general public.

### **2.2. ALLOCATION OF POSITIONS**

Before a new position is established by a department, the department head shall submit in writing 1) a job description describing in detail the duties of such a position, and 2) justification of the need for an additional position.

The Mayor may then approve or deny such recommendation. If the Mayor agrees that the new position is necessary, then the recommendation is put before the City Council for approval or denial.

The Mayor may recommend to the City Council the establishment of a new position independently of a department. Any new position shall be subject to budgetary review and evaluation as to the appropriate salary range prior to submission to the City Council. This review and evaluation shall take into account the relative qualifications and responsibilities of the

position such that there is no wage disparity on the basis of sex for comparable skill, effort and responsibility and which are performed under similar working conditions. (TCA 50-2-202).

Positions may be reclassified by the Mayor within the classification and compensation plan based on City business needs.

### **2.3. PURPOSE AND USE OF THE PAY PLAN**

The pay plan is intended to provide equitable compensation for classes of positions in consideration of ranges or steps of pay for other positions, general rates of pay for similar employment in similarly situated private establishments and other public agencies in the labor market area, cost of living data as determined using the Consumer Price Index or other valid and accepted data, the financial condition of the City, and other factors as appropriate as the budget allows.

The pay plan for the City of Portland shall consist of minimum, midpoint and maximum rates of pay for each existing pay grade/step, and/or compensation step levels within ranges, as applicable.

The Mayor, or designee, may from time to time make comparative studies of all factors affecting the level of wage/salary ranges and may make changes in the wage/salary ranges/steps as the adopted and appropriated budget allows.

Salary/wage ranges/steps and flexible initial paid leave bank amounts are intended to furnish degrees of administrative flexibility in recognizing individual differences among positions and to provide objectivity and consistency in compensation, including consideration for placement within ranges based on job-related experience, qualifications, education, and certification, among other valid job-related criteria.

The minimum rate established for a position and minimum paid leave bank amounts and accrual rates are the normal starting point except in cases where circumstances related to operational needs appear to warrant employment of an individual at a higher rate in the pay range, or in consideration for applicable and appropriate education and/or experience levels, or other valid job-related criteria.

## SECTION 3 – COMPENSATION

### 3.1. FAIR LABOR STANDARDS ACT (FLSA)

#### **Minimum Wage**

In accordance with the Fair Labor Standards Act (FLSA), no employee shall be paid less than the Federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

#### **Overtime**

The FLSA shall govern the overtime compensation of hourly, non-exempt, City employees. The FLSA defines overtime pay as one-and-one-half times the employee's regular rate of pay for all hours worked over the applicable overtime threshold. Generally, overtime work must be authorized by the department head.

Overtime pay calculations are based on actual hours worked during the workweek / work period. Overtime will be paid when the employee's actual hours worked exceed the hours that constitute a full workweek / work period for that employee.

Sworn Fire Service non-exempt employees working a 24-hour shift may be allowed to accrue up to a maximum of 480 hours of compensatory time, only for actual hours worked at 1.5 hours of compensatory time for each hour of overtime worked according to the Fair Labor Standards Act (FLSA).

#### **Workweek**

A workweek is a regular recurring period of 168 hours consisting of seven, consecutive 24-hour periods. The number of days that shall constitute a workweek for regular employment is typically five in total. Schedules may vary in departments as necessary for the operation of the City.

A standard workweek is scheduled between 12:00 AM on Monday through 11:59 PM on the following Sunday.

Section 7(k) of the FLSA provides that employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. Work periods for the Police Department consist of 14 days, and the Fire Department consists of 7 days. Most City employees observe a 40-hour workweek; however, the overtime threshold for nonexempt police personnel is eighty-six (86) hours in a fourteen (14) day work period, and fifty-three (53) hours for nonexempt fire department personnel in a seven (7) day work period.

#### **Minimum Age**

The FLSA requires that employees of state and cities be at least 16 years of age for most jobs and at least 18 years of age to work jobs declared hazardous by the Secretary of Labor. All Firefighters and Police Officers must be a minimum of 18 years of age.

### **3.2. PAY FOR PART TIME WORK**

Employees who are employed in part-time positions are not eligible for benefits and will only be paid for their actual hours worked. In the event that hours worked by a part-time employee exceed the FLSA defined workweek/work period threshold, overtime rates will apply. Part-time employees performing the same function as full-time employees will begin employment at the minimum rate of pay for the position as described in the classification and pay ranges established by the City, but will be eligible for across the board increases. Ongoing part-time workers are limited to an average of **29** hours or fewer per workweek.

Volunteer Firefighter and Volunteer EMT compensation is on a per-call basis. Each call will be paid a de minimis payment intended to cover expenses as a nominal fee. The fee paid is subject to establishment and adjustment by Resolution of the City Council.

### **3.3. ON CALL PAY**

The designated on-call employee will be compensated at an hourly differential rate for every hour they are assigned to “on-call” status as adopted by Resolution of the City Council. This differential will be included in their regular rate of pay for overtime rate calculation.

### **3.4. CALL OUT PAY**

Employees assigned to on call services during nights, holidays and weekends are required to restrict themselves from any activity that would impair their ability to drive or work safely while being subject to on-call and/or responding to after-hour service calls. When on call, employees are required to comply with the City’s drug and alcohol policy. The employee is required to respond within thirty (30) minutes after being called. An employee who is on-call and fails to respond to an emergency call within 30 minutes will be subject to disciplinary action up to and including discharge.

Non-exempt employees who are or called out after scheduled work hours will receive call out pay for a minimum of two (2.0) hours of regular pay for the first call-out. This pay will be paid at the straight time rate of pay when allowed by FLSA, and will be considered hours worked for the purpose of calculating overtime. All subsequent call-outs that occur prior to the beginning of the next scheduled work shift will be paid at actual hours worked.

Salaried/exempt employees and salaried/exempt supervisors are exempt from the overtime pay and from on-call services. Salaried/exempt employees and salaried/exempt supervisors may not be listed on the rotation for on call but are considered “on call as necessary”, as assumed with acceptance of the departmental supervisory responsibilities.

**EMERGENCY CALL IN TO WORK FROM VACATION/HOLIDAY** - If an employee is called in to work due to a City emergency on their pre-scheduled, pre-approved vacation day or holiday, then, the City will pay the employee at time and one-half their regular hourly rate for the hours actually worked on that day in addition to straight time pay for the regularly scheduled vacation day. All hours actually worked on the scheduled vacation day shall be used in the total hours calculated before overtime is paid.

### 3.5. CHRISTMAS BONUS

Employees classified as full-time with less than one (1) year of service, unless hired in December of the previous year, and those employees classified as ongoing part-time employees (regardless of time with the City) will receive a \$40.00 Christmas bonus.

Full-time employees with at least one (1) year of service (December hires from previous year are considered in this category) will receive the bonus according to the following schedule\*:

| Years of Service | Bonus Amount | Years of Service                                  | Bonus Amount |
|------------------|--------------|---------------------------------------------------|--------------|
| 1                | \$150.00     | 13                                                | \$600.00     |
| 2                | \$175.00     | 14                                                | \$650.00     |
| 3                | \$200.00     | 15                                                | \$700.00     |
| 4                | \$225.00     | 16                                                | \$750.00     |
| 5                | \$250.00     | 17                                                | \$800.00     |
| 6                | \$275.00     | 18                                                | \$850.00     |
| 7                | \$300.00     | 19                                                | \$900.00     |
| 8                | \$350.00     | 20                                                | \$950.00     |
| 9                | \$400.00     | 21-25                                             | \$1200.00    |
| 10               | \$450.00     | 26-30                                             | \$1350.00    |
| 11               | \$500.00     | 31 +                                              | \$1500.00    |
| 12               | \$550.00     | Ongoing part-time employees received \$50.00 each |              |

Any retiring employee with at least 10 years of fulltime service with the City, will have their bonus prorated for that year. Retirees who are eligible for a pro-ration of the Christmas bonus upon retirement will have the bonus calculated based on the number of months worked in the retirement year, minus the actual month of retirement.

*The City's continuation of Christmas Bonuses is subject to budgetary considerations within each fiscal year and will be paid in compliance with the Fair Labor Standards Act. (as amended by Ord. #20-07, March 2020 **Ch12\_12-06-21**)*

### 3.5. DEDUCTIONS FROM PAY

By law, the City is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made:

1. **Federal Income Tax** – Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to file with the City a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. **Social Security** – Social Security payments and deductions will be made according to the Social Security Act. The payroll department shall keep such

records and make such reports as may be required by applicable state and federal laws or regulations.

3. **Others** – Other City authorized deductions will be made from an employee’s pay with either the employee’s signed consent or pursuant to a valid court order.
  - a. health/hospitalization insurance (medical service premiums),
  - b. life insurance,
  - c. dental insurance,
  - d. vision insurance,
  - e. deferred compensation payments,
  - f. credit union payments,
  - g. pension plan,
  - h. supplemental insurance approved by the city,
  - i. child support or other garnishments\*
  - j. charity contributions approved by the city, and
  - k. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA\*\*

\*An employee who is garnished for more than one indebtedness within a 12-month period may be subject to disciplinary action in accordance with the Consumer Credit Protection Act (15 USC, Ch. 41); except for assignment(s) of wages for spousal or child support (T.C.A. 36-5-501 (c)(2)(i)).

\*\* The City may deduct from an employee’s final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property as long as the deduction(s) do not reduce final pay to below minimum wage.

### **3.6. PAYCHECKS AND DIRECT DEPOSIT**

All employees of the City of Portland will be paid on a basis determined to best suit the needs of the City. Examples are: weekly, bi-weekly, etc. as allowed by law.

If an employee is absent on payday and wishes to have someone, such as a relative, obtain his/her live check, the employee may send his/her identification and a signed note authorizing the City to give the check to the note bearer.

**Final Paycheck** The final paycheck will be made available no later than the employee’s next regularly scheduled pay date, or within twenty-one (21) days, whichever is later.

**Lost Paychecks-** Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the payroll department so that a stop-payment order will be initiated. The employee will be responsible for reimbursement to the City for any stop payment fees incurred due to employee loss of paycheck.

**Unclaimed Paychecks-** Paychecks not claimed by employees must be returned by the supervisor to the payroll office.

**Direct Deposit** - All ongoing employees hired after 7/1/17 are required to have their payroll checks deposited via direct deposit into the financial institution of their choice. Seasonal and temporary and employees are not required to have direct deposit. Employee pay stubs/checks will be distributed no later than Friday each week.

## SECTION 4 – EMPLOYMENT

### 4.1. RECRUITMENT AND SELECTION

The City carefully selects employees through written applications, personal interviews, and applicable background and reference checks. After all available information is considered and evaluated, a decision may be made by the hiring manager. This selection process helps the City find and employ people who are concerned with their own personal success and the success of the City; people who want to do a job well; people who can carry on their work with skill and ability; and people who can work well with others to create an efficient team.

#### **Applications**

The City of Portland will make a reasonable effort to attract qualified applicants for all positions. Applications are only accepted for current position vacancies.

In the instance where positions within the same pay range and comparable skills requirements (for example maintenance or clerical), an eligibility list may be created in which future hires may be made from this list instead of requiring a separate recruitment.

All applications for employment are received at City Hall in the Human Resources Department and reviewed by the Human Resources Department or designee to ensure that minimum employment qualifications are met.

Vacancies for positions may be simultaneously posted internally and externally. The City exercises a policy of fairness for every individual who applies for work, and strives for the proper placement of individuals in various departments based on their experience, qualifications, and the needs of the City.

Potential applicants may request an application from the Human Resources Department or the receptionist at City Hall either in person, via email, or via the telephone, whereby an application will be sent to the applicant. Applicants will file their application with the receptionist or the Human Resources Department.

Applications will remain active for a period of six (6) months from the date of original submission, and only for the position(s) applied for. Applications are only accepted when vacancies exist. The City does not consider applications and resumes after a position closes except in limited circumstances, or as announced on a case by case basis.

Internal applicants for open positions are required to submit a transfer application for each open position applied for.

#### **Applicants may be removed from consideration if:**

1. Applicant declines an appointment when offered;
2. Applicant cannot be located by the postal authorities – it will be deemed impossible to so locate an applicant when a communication mailed to the last known address is returned unclaimed;
3. Applicant cannot be located via appropriate alternative means of communication;



4. Applicant moves out of a required geographic area if residency within is required for the position;
5. Applicant is currently using illegal drugs or narcotics as determined by a post-offer, pre-employment drug test;
6. Applicant is found to have been convicted of a felony or misdemeanor dependent upon the nature and gravity of the offense, the time passed since the offense, and the nature of the job sought;
7. Applicant has made a false statement on the application;
8. Applicant does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation;
9. Applicant fails to satisfactorily pass background check/investigation that is job-related and necessary; and/or
10. Applicant does not possess the minimum qualifications for the position.

**Job Announcements** - Department Heads who need to fill a job opening should contact the Human Resources Department in order to begin the recruitment process. The Human Resources Department shall work with the hiring department to establish a plan of action for the recruitment and testing process before the position is advertised. Once the selection process is established and approved by the Mayor and Human Resource Department, there shall be no deviations unless the position is advertised again with notification to all affected applicants. The Human Resource Department will cause the announcement to be prepared and publicized in order to bring notice of vacancies to as many qualified persons as possible.

**In-House Posting** - Notice of vacant, regular ongoing positions will be distributed to all departments for posting on designated bulletin boards or for circulation among employees within each department. The vacancy will be posted until a specified closing date or until the position is filled.

**Public Advertisement** - Applicants shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that qualified applicants are obtained for City employment. The Human Resource Department in collaboration with the hiring department, will determine what forms of media to use for advertisement.

**Advertisements** may also include the City's website along with the City cable channel. The notice shall contain brief descriptions of the qualifications for the particular position and will specify the locations where applications can be obtained and the deadline for accepting applications. The vacancy will be posted until a specified closing date or until the position is filled.

**Recruitment by Examination** - All appointments in the City shall be made according to merit and fitness and may be subject to competitive valid examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant's ability to be able to perform the essential functions, as well as the requisite knowledge, skills and abilities for the position.

## 4.2. SELECTION EXAMINATIONS

The examinations held to establish eligibility and fitness for any position may consist of one or more of the following elements as determined by the Mayor and/or department head in conjunction with Human Resources.

1. **Written Test** – This validated test, when necessary, will include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking employment.
2. **Oral Test** – This test, when necessary, will include a personal interview where the ability to deal with others, to interact with the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test** – This test, when necessary, will involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given weight in the examination process or may be used to exclude from further consideration applicants who:
  - a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;
  - b. pose a direct threat to themselves or others.
4. **Physical Agility Test** – When necessary, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required physical job-related standards.
5. **Psychological Test** – When required and related to ongoing business necessity, this will include any test to determine mental alertness, psychological state/stability, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes that are job-related and consistent with business necessity.
6. **Pre-employment, Post-offer Drug Test** – Pre-employment drug testing will be conducted for all positions after the offer of employment is made. Positive results on the drug test will result in an applicant being denied employment.

The City will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

Notification and Inspection of Examination Results: Each person who takes an examination shall be notified in writing of his/her standing on the eligibility list (if one is maintained) or of his/her passing or failing and may see any applicable testing results during regular City business hours.

### 4.3. APPOINTMENT TO POSITIONS

The Mayor shall appoint for budgeted, vacant positions existing within the Schedule of Authorized positions adopted by ordinance and may promote or transfer all officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs. New employees are appointed to existing salary ranges/steps as established and approved by City Council.

**Contingent Job Offers** are made to the candidate approved for hiring. The City will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the City will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will not be hired. All offers of employment are contingent on verification of the individual's right to work in the United States. The City uses E-Verify to confirm employment eligibility.

The job offer is also contingent on the results of a job-related background check as applicable and job-related to the position. The check may consist of prior employment verification, professional reference checks, and education confirmation. As appropriate, a criminal conviction history, health examination, driving record history and credit check may also be obtained if related to the position and consistent with business necessity.

Following the requirements imposed by the Federal Truth-In-Lending and the Fair Credit Reporting Acts the City may conduct a post-offer, pre-employment credit check for positions who are responsible for payments, cash, payroll and other financial related duties, including some law enforcement positions. Employment may be conditional upon the information in the credit check.

**Post-offer, Pre-employment physical examinations** may be required of prospective employees for certain positions based on the essential functions of the position as contained in the job description after a conditional offer of employment is made. The physical examination shall be given by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City to determine if the employee meets required standards in order to perform the essential functions of the job with or without reasonable accommodation.

A copy of the specific job description will be provided to the examiner. The cost of this physical examination shall be borne by the City. Prospective employees who are unable to successfully perform the essential functions tested for in the examination shall have their offer of employment by the City withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

**Post-hire Medical Examinations / Physical Agility Tests** -- All employees of the City may, during the period of their employment, be required by their department head, with the approval

of the Mayor and coordination with the Human Resources Department, to undergo periodic medical (which may also include mental fitness) examinations, as allowed by law, to determine their fitness to perform the essential functions of the position they currently hold.

Any such medical examination shall be at no expense to the employee. Determination of fitness for duty will be by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City or its insuring agency.

Annual job-related physical agility testing for incumbent positions may be required based on business necessity. These will be limited to physical agility tests, which measure an employee's ability to perform actual or simulated job tasks, and physical fitness tests, which measure an employee's performance of physical tasks, as long as these tests do not include examinations that could be considered medical.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted, or they may be separated from the City service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

**Barry Brady Law Fire Service Health Screenings** -- To be eligible for presumption benefits, firefighters must be diagnosed after July 1, 2019, have served five or more consecutive years with an eligible fire department, and may only utilize the presumption for up to five years after their most recent date of exposure. A firefighter must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances while performing the duties of a firefighter in the firefighter's capacity as an employee.

Eligible firefighters must also pass a pre-employment physical medical exam, with a cancer screening, and complete an annual physical medical examination that includes a cancer screening for the types of cancer covered under this law. Any firefighter employed by an eligible department before July 2019 who would like to be eligible for benefits must obtain a physical medical examination with the appropriate cancer screenings by July 1, 2020.

**Elimination Periods** - Newly appointed regular, ongoing, full-time employees are eligible for health, dental, and vision benefits the first of the month following appointment. The elimination period for all other benefits (voluntary life, AD&D, etc.) is completion of ninety (90) days of employment. Leave benefit elimination periods for leave benefits are described within leave policies.

#### **4.4. PROMOTIONS**

The Mayor may promote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A promotion is the assignment of a qualified employee from one job class to another that has a higher pay rate. A qualified employee possesses the knowledge, skills and abilities, has the required experience level and is able to physically perform the duties and essential functions as outlined in the job description.

*Temporary Promotion* - The Mayor may authorize department heads to make promotions of employees, including temporary promotions to fill vacancies on an interim basis. The duration of absence in the position must create a business necessity for proper operation of the City. Employees will begin to earn the pay differential for a temporary promotion immediately upon assuming the related duties and will cease to do so upon completion of the interim assignment.

In every case, promotions must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When a promotion occurs and the employee's current pay rate is less than the minimum rate for the new position, the employee's salary/wage shall be raised to at least the minimum rate. When the employee's current pay rate falls above the new position's minimum rate, an appropriate increase in alignment with the compensation plan will be awarded as determined by the department head, Human Resources and the Mayor.

When a position is advertised for certified personnel (positions that require agency or subject matter certification) and no applications are received that meet the qualifications, then present employees may be given the opportunity to move into the position and receive training, unless it is necessary to fill the vacancy quickly, or on an emergency basis.

#### **4.5. TRANSFERS**

The Mayor may transfer officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A transfer is a lateral move assigning an employee from one position to another position of equal responsibility and class. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class, or between positions of different classes of equal responsibility levels and pay. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

Should a City employee wish to transfer to another position, in the same department or in another department, when there is a vacancy, the transfer may be allowed if the level of pay is the same and the position is considered as the same level position, and the employee wishing to transfer is qualified, can perform the essential functions and duties as outlined in the job description and it is in the best interest of the City.

An employee who transfers from one department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer. In the event an employee of the fire department working 24-hour shifts transfers to another department, Sick Leave will be reduced at a ratio of fire department accrual divided by standard accrual. As a general rule, lateral transfers require no increase in compensation. If an employee has less than one (1) year of full-time employment with the City or less than six (6) months service in his/her current position, the transfer must be approved by the Mayor.

Under no circumstances will a department head (as defined in the City Charter), an employee of supervisory status, a certified operator, or any employee with a higher-level position be allowed to transfer to a position of lesser responsibility without accepting a lower rate of pay. Should

this type of transfer be allowed, the employee's existing length of overall service to the City will be acknowledged, but the employee's pay will be adjusted to the appropriate amount from the wage range for the position.

#### **4.6. DEMOTIONS**

The Mayor may demote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A demotion is the assignment of an employee from one position to another that has a lower maximum pay rate and responsibility. An employee may be demoted for any of the following reasons:

1. because his/her position is being abolished and s/he would otherwise be laid off;
2. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
3. because there is a lack of work;
4. because there is a lack of funds;
5. because another employee, returning from authorized leave granted in accordance with the rules of the leave, will occupy the position to which the employee is currently assigned;
6. because the employee does not possess the necessary qualifications to render satisfactory service to the position s/he holds;
7. because the employee voluntarily requests such a demotion, and an open position is available;
8. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job, and job transfer, reassignment, or job redesign are not reasonable; and/or
9. as a form of disciplinary action.

#### **4.7. NEPOTISM / PERSONAL RELATIONSHIPS**

Members of the immediate family of a City employee or elected official who meet the hiring standards may be employed to fill City positions as detailed below. For purposes of this policy, members of the immediate family include spouse, child, brother, sister, son- or daughter-in-law, sister- or brother-in-law, parents, parents-in-law, nephews, nieces, stepsisters, stepbrothers, stepchildren, and stepparents.

- No member of an immediate may family supervise members of his/her immediate family. This does not preclude employment of immediate family members under other lines of supervision. If the city cannot reasonably transfer one of the family members to another line of supervision, and the family members can't decide which one will leave voluntarily, the employee in the more junior position will be subject to discharge.
- No special preference will be given to family members in the selection of work location, days off, vacation schedules, etc.
- The work and conduct of the family members will be governed by the same requirements and procedures as all other employees.
- Seasonal and part-time employees are exempt from this provision/policy.

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the City. When a conflict or potential conflict arises due to the relationship affecting employment, the City reserves the right to make any and all employment decisions in the best interest of the City.

#### 4.8. TYPES OF EMPLOYEES

- **Full-Time, Ongoing Employees.** A full-time, ongoing employee is an employee who is typically scheduled a minimum of 40 hours per week, is paid an hourly or salaried rate, is subject to all conditions of employment, and receives all benefits offered unless specifically excluded by the City Charter, code, or ordinance.
- **Part-Time Ongoing Employees.** A part-time ongoing employee is an employee who works fewer hours per workweek than a full-time employee on a regular basis and whose hours cannot exceed an average of **29 hours per week** during the standard measurement period. Week-to-week increases of hours beyond the 29-hour limit must be approved by the Mayor or department head. Human Resources will assist department heads with ongoing analysis of hours worked regarding the budgetary impact of benefits costs and compliance with the Affordable Care Act (ACA). Ongoing part-time employees are not eligible for benefits other than those statutorily mandated. Standard measurement periods can be defined separately for hourly and salaried employees.
- **Temporary Employees.** Temporary employees are individuals who perform work for the City for no more than six months during a 12-month period and whose ongoing employment with the City is not expected at time of hire. Temporary employees are not eligible for benefits except those coverage under workers' compensation. Hours of work shall be determined by the department head.
- **Seasonal Employees.** Seasonal employees are hired for a pre-established period, usually during peak workloads, either directly or through an employment service. They may work a full-time or part-time schedule. They are ineligible for City benefits except coverage under workers' compensation.
- **Non-Exempt Employees,** according to the Overtime Requirements of the FLSA are eligible for overtime pay and may be required to work more than the threshold hours for overtime in their workweek / work period. They are not exempt from overtime pay and are entitled to receive overtime pay for hours actually worked in excess of the employee's defined work period. Holiday pay and leave time will not be considered as "hours worked" for purposes of calculating overtime pay.
- **Exempt Employees.** Employees whose positions meet specific tests established by applicable state and federal laws and whose duties and responsibilities allow them to be "exempt" from overtime pay provisions as provided by the FLSA. They are not paid overtime regardless of the number of hours they work in a particular week. All exempt employees are expected to observe a normal forty-hour workweek and to work any additional hours necessary to accomplish the responsibilities of the position. *Exempt employees are required to complete time records which are maintained by the Finance Department and must be submitted during the payroll process. Exempt employees must*

*utilize available paid leave if they work fewer than forty (40) hours in a work week. If no paid leave is available during the week in which fewer than forty (40) hours are worked, the employee will have his/her pay reduced by the number of hours not worked.*

- **Salaried Employees.** Employees who are paid a specified weekly rate. All personnel defined as “department heads” in the City Charter, and any employee determined to be, and designated as exempt from the Fair Labor Standards Act, shall be paid on a salary basis and are not eligible for overtime pay.
- **Hourly Employees.** Employees who are paid an hourly rate and are paid overtime for worked hours over their overtime threshold for that work period. *Holiday pay and leave time for hours not worked will **not** be considered as “hours worked” for purposes of calculating overtime pay.*

#### **4.9. PERFORMANCE EVALUATION**

The annual rating period (period of performance measurement) evaluates performance occurring during the prior fiscal year, i.e. from June 30<sup>th</sup> of the completed fiscal year back through July 1<sup>st</sup> of the previous calendar year.

Employees will receive a performance evaluation at least annually at a time based on City needs. Additional evaluations shall be conducted prior to moving to another job in the organization, when performance outcomes fall below minimum expectations or whenever a department head/supervisor/manager determines a need.

The performance evaluation is intended to help the employee achieve a professional level of conduct and performance;

Employees must clearly understand what is expected and be committed to achieving quality results;

At a minimum, evaluations will be conducted annually, but may occur more frequently if the department head/supervisor/manager determines a need.

1. The Human Resources Department will maintain evaluation schedules and will notify department heads/supervisors/managers thirty (30) days in advance of evaluation due dates; and
2. Department heads/supervisors/managers will use the appropriate evaluation form to candidly and accurately document feedback on the critical success factors and previously agreed upon performance objectives established for the measurement period.

Reviews should be structured as follows:

1. Be sure that there is an accurate and complete job description for the position.
2. Incorporate input from the employee’s self-evaluation as appropriate.
3. Discuss the written performance ratings/summaries in the evaluation areas.
4. Goals, objectives, development plans, performance improvement plans, etc. should be established during this time for the upcoming rating period. Discuss what is expected and by when (develop a timeline for completion).



5. Determine how the expectations will be measured (i.e. complete a seminar or course of study, work quality or quantity improvements, cross training, etc.).
6. Secure all required authorization signatures and dates BEFORE DISCUSSING WITH THE EMPLOYEE.
7. Review the results of the overall evaluation with the employee.
8. Provide opportunity for the employee to ask questions and to document their remarks regarding the review.
9. Employee and reviewer should sign and date the evaluation form.
10. The appraisal is not final until it has been reviewed and acted upon by the Human Resources Director and the Mayor.
11. The completed and signed evaluation form should be returned to Human Resources for filing in the employee's personnel file.
12. The City reserves the right to alter the terms and the manner in which performance is or is not appraised.

As important as written performance appraisals are, they are not meant as substitutes for ongoing discussions between employees and their supervisors about their performance.

#### **4.10. OUTSIDE EMPLOYMENT**

With the approval of the department head and Mayor (on an annual basis if ongoing), outside employment is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Portland. Before outside employment begins, employees must present a written request to their department head describing the work to be performed.

Required overtime of any employee of the City takes priority over an employee's outside employment. Anyone who knowingly misses work or refuses mandatory overtime at his/her primary job to work a second job may be subject to disciplinary action up to, and including, termination of employment. Employees missing work because of sickness or injury that can be attributed to outside employment will not receive pay or other benefits for time lost from their City job. Approval of outside employment may be withdrawn for any business-related reason.

#### **4.11. GRIEVANCES**

A grievance is defined only as an expression of dissatisfaction, disagreement or dispute arising between a current employee and his/her supervisor and/or the City regarding an aspect of the application or interpretation of regulations and policies; reasonable accommodation under the ADA\*; or an operational management decision affecting him/her. Disciplinary actions, promotions, demotions, and transfers are not grievable.

*\*If the grievance is for reasonable accommodation under the ADA, Human Resources must be involved in each grievance process step.*

It is the City's desire to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional situations that will be resolved only after a formal meeting and review.

Employee(s) who have a grievance should first discuss it with their immediate supervisor, within five business days following the incident or immediately upon returning to work from a

suspension. Every employee may present a grievance under the provisions of the grievance procedure free from fear of retaliation of any kind concerning employment.

**STEPS OF THE GRIEVANCE PROCEDURE ARE AS FOLLOWS:**

**Step 1.** The employee files a written grievance with the immediate supervisor within five (5) business days of the incident. An employee should give the supervisor copies of any witness statements or other supporting documents. The immediate supervisor will promptly investigate the circumstances surrounding the grievance, discuss the matter with the appropriate department head, and take action if within the scope of the immediate supervisor's authority. The supervisor shall inform the employee of his/her decision in writing within three (3) business days. The supervisor shall provide a copy of his/her decision to the department head. No supervisor may hold a grievance longer than three (3) business days without forwarding it to the next supervisory level.

**Step 2.** If the issue cannot be resolved between the employee and his/her supervisor, the employee may proceed to the second step by reducing the request to writing and requesting that the department head review the written grievance and supervisor's response. If an employee wishes a meeting with the department head, one will be arranged. Upon hearing the grievance, the department head must provide a written response to the employee and the immediate supervisor within three (3) business days of the meeting.

**Step 3.** If the issue still cannot be resolved by the department head, the employee may request in writing a meeting with the Mayor. The Mayor shall have ten (10) business days to schedule the meeting after which, the Mayor shall provide a written response to the employee with copies to the department head and immediate supervisor. Every attempt will be made to resolve the employee's grievance. The Mayor's decision shall be final and binding on all parties involved.

## SECTION 5 – EMPLOYEE BENEFITS

The City provides a competitive benefits program for all eligible employees. In addition to receiving an equitable salary and having an equal opportunity for professional development and advancement, employees may be eligible to enjoy other benefits which will enhance job and employment satisfaction. The benefit programs described in this personnel manual represent a significant investment in each employee by the City.

This section contains only a summary of insurance benefits, and the terms and conditions of any Plan Document and Summary Plan Description control any benefit if the summary contained in the Personnel Manual conflicts or may be interpreted to conflict. Employees should review their Summary Plan Description(s) in addition to the information provided in the Personnel Manual.

Other benefits previously approved by the Portland City Council, and not in conflict with this policy, shall remain in effect. The Portland City Council may, from time to time, approve additional benefits.

### 5.1. HEALTH, DENTAL AND VISION BENEFITS

#### Eligibility for benefits

Ongoing, full time employees will be eligible for the benefits described in this personnel manual as soon as the eligibility requirements for each particular benefit are met. Coverage is available defined in the benefits' Summary Plan Descriptions.

- Part-time, temporary and seasonal employees are not eligible for benefits.
- No benefits are available to employees prior to the plan's stated eligibility date, except as otherwise provided by law.

**Health benefits:** Employees and those City officials specified in the Municipal Code are covered under plan providers selected by the City. For details regarding current benefit plans and availability, refer to the annually approved Schedule of Benefits available in Human Resources.

**Medical, dental and vision insurance:** Eligibility for the medical, dental and vision insurance is per each plan document.

**COBRA:** COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health insurance coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves. For details regarding your COBRA coverage options following a covered event, please contact the Human Resource Department.

## **5.2. SECTION 125 PLAN**

A Section 125 plan is a benefit plan that allows employees to make contributions toward medical and dental insurance on a pre-tax rather than an after-tax basis. This means qualified expenses are deducted from gross pay before income taxes and social security are calculated.

By doing so, employees elect to have their gross pay reduced by an amount equal to contributions for medical and dental insurance. Once this election is made, no changes may be made to the pre-tax contributions until the next open enrollment period, unless the change being requested is the result of a change in family status (such as marriage, divorce, death of a spouse or child, birth or adoption of a child or termination of employment of a spouse). A change in election due to a change in family status will be effective in the pay period following receipt of the election.

## **5.3. RETIREMENT / TCRS**

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement benefits under Social Security or the Tennessee Consolidated Retirement System. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement.

All regular employees (Mayor's participation is optional) completing six (6) months of continuous employment with the City are eligible to receive employer contributions in the City's retirement plan. Membership in this plan is mandatory for eligible employees and is non-contributory by the employee. In addition, the City participates in the Social Security System.

Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

Details regarding TCRS retirement eligibility and procedures may be obtained from the Human Resources Department.

### **Re-employment after Retirement**

Any retired member may return to service in a position covered by the TCRS and continue to draw such person's retirement allowance in a temporary capacity limited to the equivalent of 120 days per 12-month period, and may earn no more than 60% of their final compensation at time of retirement.

### **Retiree Health Insurance**

Should the City of Portland withdraw from the state's health insurance plan, the retiree would no longer be eligible to continue the coverage [through the state's plan].

All retirees must elect to continue coverage in the Plan within 30 days of termination of coverage.

The retired employee's insurance premium, single coverage only, will be paid by the City with the retired employee's dependent's coverage offered at the retiree's expense.

Retirees or covered dependents who are not members of TCRS will be eligible for a BC/BS Medicare Supplement when they reach the age of 65 or become Medicare eligible.

#### **5.4. 401(k) / 457(b) PLAN**

The City participates in the State of Tennessee voluntary defined contribution 401(k) and 457(b) tax-deferred retirement savings programs. For details on enrollment in the program, please refer to the plan documents available in the Human Resource Department.

#### **5.5. CITY OBSERVED HOLIDAYS**

All offices of the City of Portland, except emergency and necessary operations, will be closed and employees excused from work on the holidays listed below.

- |    |                                         |     |                            |
|----|-----------------------------------------|-----|----------------------------|
| 1. | New Year's Day                          | 7.  | Labor Day                  |
| 2. | Martin Luther King Jr. Day              | 8.  | Thanksgiving Day           |
| 3. | Presidents' Day                         | 9.  | Day after Thanksgiving Day |
| 4. | Good Friday                             | 10. | Veterans' Day              |
| 5. | Memorial Day                            | 11. | Christmas Eve              |
| 6. | Independence Day - July 4 <sup>th</sup> | 12. | Christmas Day              |
|    |                                         | 13. | Employee Personal Holiday* |

*\*One day granted per calendar year beginning January 1, 2020 to a regular employee to be taken in a minimum of four-hour increments and with 24-hour advance notice to the supervisor. Any unused portion of a personal day will be forfeited at the end of the year and will not be eligible for cashing out nor paid upon separation from employment. This benefit becomes available upon completion of the 90-day elimination period. (as amended by Ord. #20-07, March 2020 **Ch12\_12-06-21**)*

#### **5.6. HOLIDAY PAY**

The City's observance of the holidays listed above (with the exception of the Employee Personal Holiday) will be scheduled on either Monday, Tuesday, Wednesday, Thursday or Friday. A holiday calendar designating the weekday to be observed may be issued annually. Eight (8) hours of holiday pay will be paid at the eligible employee's straight-time rate of pay for the City's observed holidays. Holiday Pay is not considered hours worked for the purpose of calculation of overtime pay.

To receive compensation for a holiday, employees eligible for holiday benefits must be in an active pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday. Employees must seek appropriate approval for paid leave in conjunction with a Holiday with the exception of statutorily mandated leaves (i.e. FMLA).

Pay for hours worked for full-time, non-exempt employees who are required to work (excluding emergency call-in) on a holiday shall be calculated at their regular, hourly pay rate for the actual hours worked on the holiday and shall be paid in addition to the regular straight-time holiday pay for the day. All hours actually worked will be counted as straight- time hours for overtime calculation purposes.

**5.7. VACATION**

**Vacation** is an employee benefit that depends on how long the employee has worked for the employer for all regular full-time, exempt and non-exempt employees.

The City will try to honor all vacation requests; however, vacations cannot interfere with the City’s operation. Therefore, your vacation must be approved by your department head/supervisor/manager in advance on a first come, first-served basis. If any conflicts arise in vacation requests, preference will be given to the employee with the longest length of continuous service.

All regular, ongoing full-time employees of the City will be granted vacation leave annually January 1 based on continuous years of service to the City. As the number of years of service increases, the amount of vacation leave granted increases and may accumulate to the maximum amount as shown in the table below:

| <b>Service Completed</b> | <b>Non-Public Safety and Exempt</b> | <b>Police Non-Exempt</b> | <b>Fire Non-Exempt</b> |
|--------------------------|-------------------------------------|--------------------------|------------------------|
| 1 Year                   | 1 week = 40 hours                   | 1 week = 43 hours        | 1 week = 56 hours      |
| 2 Years                  | 2 weeks = 80 hours                  | 2 weeks = 86 hours       | 2 weeks = 112 hours    |
| 5 Years                  | 3 weeks = 120 hours                 | 3 weeks = 129 hours      | 3 weeks = 168 hours    |
| 10 Years                 | 4 weeks = 160 hours                 | 4 weeks = 172 hours      | 4 weeks = 224 hours    |
| 20 Years                 | 5 weeks = 200 hours                 | 5 weeks = 215 hours      | 5 weeks = 280 hours    |

**The City’s vacation year is based on the calendar year.** This means that the vacation year begins on January 1 and ends on December 31 of each year. Since employees are hired throughout the calendar year, vacation time will be prorated for any partial year of service upon hire and be taken upon accrual. **There is no elimination period for this benefit.** For each completed month of service during the first year of employment Non-Public Safety and exempt staff will accrue 3.34 hours of vacation, Police Non-Exempt personnel will accrue 3.58 hours of vacation, and Fire Non-Exempt personnel will accrue 4.67 hours of vacation.

**Scheduling.** Vacations should be scheduled in advance for the mutual convenience of the employee and the City so that proper adjustments can be made in work schedules. Department heads preparing vacation schedules may give a choice of dates based on seniority of the personnel in their departments, and no employee may begin his/her vacation leave until his/her request has been approved by the department head.

**Employees may at any time cash out up to two (2) weeks of accrued vacation once annually.**

**Employees may roll over up to one (1) week to the following year in December annually.**

**Employees may convert unused vacation leave to sick leave without limit at any time.**

**At no time may an employee have more than his/her vacation accrual amount plus one week in his/her vacation bank.**

**An employee may not schedule more than two (2) weeks of vacation in any six (6) week period without approval from the Department Head.**

**Vacation Pay-out at Termination of Employment.** If there is unused vacation time upon voluntary separation from employment with the City it will be paid out at the employee's regular, base rate. A break in service of 6 months or more will reset the vacation accrual calculation.

**The Mayor**, when newly elected (not for purposes of continuation due to re-election), as an elected official of the City and head of City operations, will be awarded two (2) weeks of vacation per year of his/her term. A vacation year for the Mayor runs from the date of taking office. The Mayor may exercise the Vacation Cash Out or Carry Over options listed above.

**Legal Holidays.** Legal holidays falling within a vacation period will not to be counted as vacation days. (as amended by Ord. #20-07, March 2020 **Ch12\_12-06-21**)

## **5.8. SICK LEAVE**

All full-time employees shall accumulate (9.33) hours of sick leave with pay for each month of work completed for the City (total of 14 days per calendar year), except sworn Police department employees working 12-hour shifts who shall accrue 12 hours of sick leave per month, and fire department employees working 24-hour shifts who shall accumulate 24 hours of sick leave per month. Sick leave may be used as it accrues. **There is no elimination period for this benefit.**

Sick leave may be granted for any of the following reasons, and must run concurrently with FMLA when applicable:

1. Personal illness or physical incapacity resulting from causes beyond the employee's control;
2. Medical, dental, optical or other professional treatments or examinations for the employee;
3. Medical, dental, optical or other professional treatments or examinations for family members;
4. Acute illness of a member of the employee's immediate family. Immediate family includes children, spouse or parent(s);
5. To attend to personal illness or physical incapacity of family members, resulting from causes beyond the employee's control;
6. Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees;
7. To attend to a family member with exposure to contagious disease so that the family member might jeopardize the health of other people;

There is no maximum accumulation of sick leave. Any unused sick leave upon retirement is to be a service credit toward the employee's retirement (T.C.A. 8-34-604). Accumulated sick leave is not otherwise payable to the employee upon termination, resignation or retirement; nor can it be used as a form of 'early retirement' in practice.

A doctor's statement shall be delivered to the supervisor after three (3) consecutive days of absence for sickness. To prevent abuse of the sick leave privilege, the City supervisory staff may satisfy themselves that the employee is genuinely ill before approving sick leave, and may require a doctor's certificate for any absence for which the employee requests sick leave.

Sick leave hours deducted from an employee's sick leave accumulation shall be for the number of regular work hours absent and shall not include holidays and scheduled days off. Employees claiming sick leave while on vacation leave must support their claim by a doctor's statement if requested by a department head or the Mayor. When an employee is on "leave without pay" for greater than half of their assigned shifts during any calendar month no sick leave accumulates.

**Sick Leave Notice.** The employee is required to notify his/her supervisor as soon as practical, but no later than the start of the workday. The employee should make every effort to reach the supervisor directly to explain the reason for absence.

**Health Care Statement.** To prevent abuse of the sick leave privilege, any absence may require a doctor's certificate. Absences in excess of three (3) days shall require a doctor's return to work certification in order to return to work.

**Fire Personnel Sick Leave.** Members of the fire department working a 24-hour shift will be charged 24 hours of sick leave for each missed shift due to illness. Fire department employees who work a regular eight or ten-hour shift shall be charged sick leave for the number of hours absent each day up to a maximum of eight or ten hours.

**Workers' Compensation.** Employees on Workers' Compensation will continue to accrue sick leave during the period of absence. Workers' Compensation leave runs concurrently with FMLA leave for employees who are eligible for FMLA job-protected leave.

**Exhaustion of Leave.** Once an employee exhausts sick leave, vacation leave will be substituted for the remaining absences or until the vacation leave is exhausted. If the illness is FMLA qualifying, once all accrued leave is exhausted, further absences shall be designated as leave without pay.

**Department Head or Supervisor Requirements.** Department heads and/or supervisors are required to report to Human Resources any employee sick leave absences of more than three (3) calendar days to ensure that the City complies with federal regulations regarding the Family and Medical Leave Act. Notification to Human Resources must occur on the fourth day after three consecutive days of absence.

## 5.9. FUNERAL / BEREAVEMENT

Full-time, ongoing employees may take **eight (8) hours** of funeral leave per relative for the following family members: grandparents-in-law, aunts and uncles. Full-time employees may take **twenty-four (24) hours** of funeral leave per relative for the following family members:



|                                       |               |                 |               |
|---------------------------------------|---------------|-----------------|---------------|
| Children                              | Spouse        | Parents         | Mother-in-law |
| Father-in-law                         | Step parent   | Step children   | Grandfather   |
| Grandmother                           | Brother       | Brother-in-law  | Sister        |
| Sister-in-law                         | Grandchildren | Daughter-in-law | Son-in-law    |
| Legal Guardian/Foster Child or Parent |               |                 |               |

Should more than twenty-four (24) hours of bereavement leave be necessary; employees may seek approval from their supervisor to use available compensatory, vacation, or sick time in addition to the funeral leave. Notice must be given to the supervisor and the amount of vacation or sick time to be used must be approved by the supervisor prior to the additional time being taken. The twenty-four (24) hours of funeral leave is available per relative for each of these listed relatives. Bereavement Leave may be used non-consecutively as approved. **There is no elimination period for this benefit.**

## 5.10. FAMILY AND MEDICAL LEAVE

**Overview:** The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks (in some situations up to 26 weeks) of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity for men and women.

**Eligibility:** The Family & Medical Leave policy is applicable employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period. Such employees are eligible for a maximum of 12 to 26\* weeks of leave under the act. Special rules apply for husbands and wives employed by the same employer and for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis). People who are not covered include elected officials, volunteers, independent contractors, and legal advisors.

**Leave entitlement:** Eligible employees may take up to 12 workweeks (480 work hours for 40-hour work week employees; 516 hours for 86-hour work period employee and 636 hours for 53-hour work period employees) of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

\*Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 workweeks leave under FMLA to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a “serious injury or illness”.

**Paid / Unpaid Leave.** FMLA runs concurrently with paid time off (compensatory, sick, vacation leave) and concurrently with workers’ compensation leave. Sick time will be paid out first and vacation time will be paid afterwards. In the event that an hourly paid, non-exempt employee has accrued compensatory time, that use will precede the use of sick or vacation leave.

Approved leave will be unpaid if the employee does not have paid leave available at the time FMLA starts or when all available paid leave is exhausted while out on leave.

**Effects on Sick Leave Accrual.** When an employee’s unpaid leave time is greater than half of their assigned shifts or more during any calendar month while on FMLA, no sick leave accrues. The combination of compensatory time, sick leave, vacation leave, and unpaid leave may not exceed the total allowable leave under the FMLA, except as required by statute.

**Guidelines.** An eligible employee may take up to 12 weeks of family and medical leave in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one’s self, a child, spouse, or parent who has a serious health condition. Eligible employees may take up to 12 weeks of unpaid leave to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

**Serious health condition.** A serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment;
- A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider;
- Any period of incapacity due to pregnancy or for prenatal care;
- A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity;
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider;
- Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

**Serious Injury or Illness for an Injured Service Member** is defined as a covered service member’s injury or illness incurred in the line of duty on active duty in the Armed Forces that

may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

**Spouse / Same Employer.** If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, their aggregate leave under FMLA is limited to 12 weeks. For example, if the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouse experiences her own serious health condition as a result of the pregnancy, both employees are entitled to the full 12 weeks.

**Right to Return to Work.** On return from family and medical leave, an employee is entitled to be returned to the same position that s/he held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The City, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation.

**Notification and Scheduling.** An eligible employee must provide the City at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the City's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA. Failure to provide notification will result in the leave not being designated as FMLA. The City will, if necessary, provide the FMLA leave notice in alternate formats.

**Certification.** The City reserves the right to verify an employee's request for family and medical leave. Failure to provide certification from a health care provider in a timely manner may result in delay or denial of FMLA. Medical certifications will be treated as confidential and privileged information under HIPAA and the State's Open Records laws as appropriate.

If the City has a reason to question the original certification, the City may, at the City's expense, require a second opinion from a different health care provider chosen by the employer. The health care provider may not be employed by the City on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding. The City will pay for second and third opinion visits.

An employee may be required to report periodically to the City the status and the intention of the employee to return to work. Before return is granted, employees are required to furnish the City with a medical certification from the employee's health care provider stating that the employee is able to resume work.

**Reduced and Intermittent Leave.** Family and medical leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the City's approval. The schedule must be mutually agreed upon by the employee and the employer. Employees on intermittent or reduced leave schedules may be temporarily transferred by the City to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

**Restoration.** Employees who are granted leave under the FMLA policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

Certain highly compensated key employees, who are salaried and among the 10% highest paid workers, may be denied restoration if:

- the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;
- the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur; and
- if leave has commenced, the notice must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the City may delay restoration until the employee submits the certification.

**The 12-Month FMLA Period.** The City follows a **12-months measured forward method**. This means that the leave is measured from the first date an employee's FMLA leave begins.

**Denial of FMLA Leave.** If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the City may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave, the City may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave

may not be designated as FMLA. In instances of workers' compensation leave, pregnancy, or events where the City has sufficient knowledge of an event certification may not be required.

**Employee Benefits While on FMLA.** During periods of FMLA, the City will continue to provide health insurance benefits at the employee rate. If premiums are current, the City will maintain health insurance benefits during periods of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may be terminated. Arrangements may be made between the employee and the City for a payment plan for the employee's portion of insurance premiums. If interrupted, the City is obligated to reinstate benefits upon an employee's return to work.

The City has the right to recover from the employee all health insurance premiums paid by the City on behalf of the employee during the FMLA leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FMLA leave under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit; however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

**Workers' Compensation While on FMLA.** Workers' Compensation injury/illness meets the criteria for a serious health condition, therefore, the workers' compensation absence and the FMLA leave entitlement will run concurrently.

## **5.11. TN MATERNITY/PATERNITY LEAVE**

Under the Tennessee Maternity Leave Act, any employee who has been employed full-time for at least one year with the City of Portland and who gives at least three months advance notice of their anticipated date of departure, length of maternity/paternity leave, and intentions to return to full-time employment, may be granted maternity/paternity leave for a period not to exceed four (4) calendar months for pregnancy, childbirth, adoption, and nursing an infant. Use of paid leave (compensatory, sick, and vacation – in that order) shall be used until exhausted for maternity/paternity purposes; if no paid leave exists, leave will be without pay.

An employee desiring maternity/paternity leave shall notify her/his department head so a temporary replacement may be secured. Maternity/paternity leave will run concurrently with FMLA leave if FMLA has not exhausted otherwise, and shall be approved depending upon the medical needs and doctor's instructions. Return to duty must be accompanied by a release statement from the employee's attending physician under maternity leave.

## 5.12. WORKERS' COMPENSATION LEAVE

An employee of the City of Portland who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury in accordance with the Tennessee Worker's Compensation Act.

**Work Related Injuries Notification:** *If you experience any injury on the job as a City employee- regardless of whether it seems minor; regardless of whether it needs medical attention -- you must take the following steps:*

1. *Report the injury immediately to your department head or Human Resources;*
2. *If the department head or Human Resources is not available, report it to your immediate supervisor;*
3. *Should the injury occur after hours (weekdays) or on the weekends, report of the injury must be made as soon as you return to work and must be reported within 24 hours;*
4. *Failure to comply with this procedure may result in disciplinary action up to, and including, termination of employment.*

**Please note that your health insurance will not cover the cost of a work-related injury.** *Timely reporting is important for you, and is required by law.*

No compensation shall be paid by the City for the first seven (7) days of disability resulting from injury, excluding the day of injury. If sick leave is accumulated, the employee may use it for this seven (7) day period. If disability extends beyond the seven (7) day period, workers' compensation payment from the workers' compensation insurer will commence with the eighth (8) day after the injury. Beginning on the eighth day, and for as long as worker's compensation benefits continue, no accumulated sick leave shall be used by the employee. In the event the disability from injury exists for a period as long as fourteen (14) days, then the workers' compensation insurer will be retroactively paid beginning with the first day after injury through.

Employees injured in an on-the-job accident may be compensated according to the state worker's compensation board's schedule of compensation.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick or vacation leave during the period of convalescence. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave.

**Leave coordination:** *Workers' Compensation Leave and Family and Medical Leave (FMLA) will run concurrently for employees who are eligible for FMLA leave.*

The employee shall continue paying their portion of their insurance while on worker's compensation. After returning to work, any workers' compensation related doctor's visits will be covered by worker's compensation. If worker's compensation does not cover these visits then the employee may use their sick days.

**Time Off for Medical Appointments.** Any City employee with a workers'-compensation-related illness or injury who is on the job but seeing a medical provider for said illness/injury will not be required to use his/her accumulated sick leave for medical appointments that are scheduled during the employee's regularly scheduled work hours.

Medical providers and medical appointments shall include, but not necessarily be limited to: specializing physicians, medical practitioners, chiropractors, occupational therapists, and providers from other medical fields, as prescribed by provisions of the TN Code, Title 50, Chapter 6.

Workers' compensation related medical appointments shall be noted as such on the employee's time sheet/time card but shall not be deducted from the employee's accumulated sick leave. The employee shall be compensated at his/her regular rate of pay.

The employee shall, as soon as s/he has knowledge of scheduled appointments, advise the supervisor of the date and times that s/he will be away from the job. The Mayor (or designee), at his/her discretion, may question the employee's number of appointments and length of appointments through the employee's workers' compensation case worker should there appear to be a pattern of irregularities.

Mileage Paid to Employees For Medical Appointment. When a City employee, who has suffered a workers'-compensation-related illness/injury, drives more than 15 miles for a medical appointment calculated from either the employee's residence or worksite that employee is eligible for mileage reimbursement. The per mile reimbursement rate for the injured employee shall be not less than the mileage allowance authorized for state employees who have been authorized to use personally owned vehicles in the performance of their duties. Said employee is personally responsible for keeping accurate records of all mileage.

Employee May Use City-Owned Vehicles for Doctors Appointment for Workers' Compensation Related Illnesses/Injuries. City employees, who have suffered a workers' compensation related illness/injury that have a City-assigned vehicle for his /her job, shall be permitted to use that vehicle to travel to medical appointments for said illness/injury. The employee, however, may not use the City-assigned vehicle for appointments that are scheduled during off-duty time. During off-duty, the employee shall use his/her personal vehicle for appointments and shall keep mileage records to turn in to workers' compensation for reimbursement.

Those City employees who do not have access to City-owned vehicles shall drive their personal vehicles to medical appointments and will be paid mileage by the City for the first 15 miles, and then paid mileage by workers' compensation for 15 miles and above. Said employee is personally responsible for keeping accurate records of all mileage.

### **5.13. AMERICANS WITH DISABILITIES ACT (ADA)**

The City of Portland is committed to the fair and equal employment of individuals with disabilities under the Americans with Disabilities Act (ADA). It is The City of Portland's policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the City. The City prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA as amended, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

## **Disability**

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A “qualified person with a disability” means an individual with a disability who **has the requisite skills, experience, and education for the job in question and who can perform the essential functions of the job with or without reasonable accommodation.**

## **Reasonable Accommodation**

The City will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for jobs and perform the essential functions of their jobs without any reasonable accommodations. However, there are situations in which a workplace barrier may interfere. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job without placing an undue hardship on the City.

### **There are three types of reasonable accommodation that may be considered:**

- Changes to the job application process so that a qualified applicant with a disability will receive equal consideration for the job opportunity;
- Modifications to the work environment so that the qualified individual with a disability can perform the essential functions of the job; *or*
- Adjustments that will allow a qualified individual with a disability to enjoy the same benefits and privileges of employment as other similarly situated employees without disabilities.

## **Essential Job Functions**

For each position, the job description typically will identify essential job functions. Human Resources generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An employee’s questions about a job’s requirements should be directed to the employee’s supervisor or the director/manager of Human Resources.

## **Requesting a Reasonable Accommodation**

An employee with a disability is responsible for requesting an accommodation from the Human Resources Department, or his/her supervisor, and engaging in an informal process to clarify what the employee needs and to identify possible accommodations. The City will provide notice of the employee’s rights under the ADA and document the interactive process discussions. If requested, the employee is responsible for providing medical documentation regarding the disability.

The employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. The Human Resources Department will work with the employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the employee to perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the City and the individual employee. While an individual’s preference will be considered, The City is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the City. The City will provide notification in writing of denial based on undue hardship.



Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the organization, and the type of operation.

### **Grievances**

In the event that an employee would like to grieve the outcome of the reasonable accommodation and interactive process, he/she should follow the City of Portland Grievance Procedure.

### **Safety**

All employees are expected to comply with all safety procedures. The City will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the Human Resources Department and will be based on factual, objective evidence. A written copy of the determination will be given to the employee so that s/he may submit additional information and/or challenge the determination that s/he poses a direct threat.

### **Confidentiality**

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

It is the policy of the City to prohibit any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels s/he has been subject to such treatment or has witnessed such treatment, the situation should be reported using the harassment complaint procedure. The City of Portland's policy prohibits retaliation against an employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an employee feels he or she has been retaliated against, the situation should be reported using the harassment complaint procedure.

## **5.14. MILITARY LEAVE**

Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee's seniority, status and pay rate will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. For the first 31 days of military leave, the City will maintain contribution at the same level as was done prior to leave. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be

sent. When an employee's unpaid leave time is greater than half of their assigned shifts or more during any calendar month, no sick leave accrues for that month.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment.

The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

## **5.15. MILITARY RESERVIST LEAVE**

Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees serving in the National Guard or Military Reserve will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the City the dates for training and travel time in advance. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

### **Active State Duty: Army/Air National Guard and TN State Guard. Civil Air Patrol**

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

#### **5.16. LEAVE WITHOUT PAY**

Leave without pay is defined as time off from regular work which may be granted without pay at the recommendation of the employee's department head. Leave without pay may only be authorized by the Mayor unless provided for statutorily (i.e. FMLA, Mat/Pat, ADA).

Leave without pay may only be granted after an employee exhausts all applicable paid leave, and for a period not to exceed three (3) months for good and sufficient reasons which are considered uncontrollable. When an employee is on Leave Without Pay for greater than half of their assigned shifts during any calendar month no sick or vacation leave accumulates until the employee returns to work for greater than half of their assigned shifts for the calendar month in which they return.

There is no job protection entitlement associated with a leave without pay except where statutorily mandated. Such leaves of absence may be granted to regular, ongoing full-time employees in instances where unusual or unavoidable circumstances require a prolonged absence and all applicable unpaid and paid-time-off options have been exhausted, e.g. sick leave, vacation time, etc.

Additionally:

- Health insurance premiums must be paid on a monthly basis; if leave is not covered under FMLA, the entire amount of COBRA premium will be paid by the employee to the appropriate COBRA administrator.
- The City reserves the right to limit the number of leaves granted an employee unless statutorily mandated.
- The employee on leave without pay will not receive holiday pay.

*An employee who utilizes leave time to actively pursue other employment or who accepts any employment or goes into business while on leave of absence shall be considered to have resigned from their employment and will be terminated as of the day the other employment began.*

#### **5.17. EMPLOYEE TRAINING**

The Mayor or his/her designee may require employees to attend conferences, seminars, workshops or other functions that are intended to improve or upgrade the employee's job skills.

Employees are also encouraged to take advantage of education and training benefits to improve their job skills and ability to qualify for advancement opportunity. These benefits are limited to training and education relevant to the employee's current position or "reasonable" transfer and/or advancement opportunities. "Reasonable" is defined as attaining the minimum qualifications for advancement or transfer with no more than two years of additional training or education.

Education and training benefits will be available to employees on a first-come, first-served basis, subject to the availability of budgeted funds and departmental operational needs. Requests for training may be initiated by either the employee or the City. Certificates of completion should be forwarded to Human Resources for inclusion in the employee's personnel file. Final decisions on requests for education and training will be made by the Mayor and the department head. Requests to attend training sessions should be made at least 15 days prior to the deadline for registration (if available). The department head, based on the supervisor's recommendation, will determine who will attend conferences and/or training opportunities based on the availability of budgeted funds.

When a request for training is approved, the employee's cost for registration, tuition, training materials transportation, lodging, and other reasonable expenses will be covered by the City. All professional training should be documented in Human Resources training files.

#### **5.18. EMPLOYEE ASSISTANCE PROGRAM**

As a benefit to employees, the City of Portland provides an employee assistance program which allows for up for three sessions per issue per year with a mental health counselor for employees and their family members. In addition, there is access to limited legal and financial advice as well as online information on general issues.

Unless as part of a disciplinary referral, utilization of this program is confidential and encouraged as undue stress, either job or family related can interfere with your health or success at work or in your daily activities.

There are instances in which supervisors may feel it necessary to make a mandatory referral to the EAP when either your behavior or attitude at work is having a detrimental effect on the organization.

Prior to making a mandatory referral, supervisors should consult with HR. Should this referral be approved, the employee will be required to sign a release of information regarding attendance and level of cooperation during the sessions. No other information will be requested. Failure to attend the mandatory counseling or an uncooperative attitude (in the opinion of the counselor) will result in immediate disciplinary action, up to and/or termination.

#### **5.19. EDUCATIONAL / TUITION ASSISTANCE**

**PROGRAM SUMMARY:** The City of Portland offers educational assistance to eligible employees. Any approval of educational assistance must be applicable to the employee's current job or professional development deemed beneficial to the operation of the City. Assistance must be approved and employees must agree to the stipulations of the programs outlined below for participation.

The City reserves the right to limit Educational/Tuition Assistance opportunities on a first-come, first-served basis; to limit opportunities to comply with fiscal constraints and budgetary responsibility; and to limit opportunities to those circumstances deemed to be work or job-related in the best interest of the City.

## **EDUCATIONAL ASSISTANCE (Scope of the benefit):**

- A. The *Educational Assistance Reimbursement Program*** includes tuition expenses, books and registration fees charged by colleges, universities and vocational/technical institutions for course work applied to the completion of a two- or four-year degree or technical diploma. Master's and doctorate level course work will be evaluated for the reimbursement program on a case-by-case basis. The City reimburses eligible employees after successful completion of the course and submission of the required paperwork. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement* form.
- B. *Academy Training for Police Officer Certification*** Includes tuition, books and registration fees for course work applied to the completion of training through the state's police academy for police officer certification. Costs for police officer certification training will be paid in advance of the training to the state's academy. Participants will be required to sign a Police Department *Tuition Reimbursement and Repayment Agreement* prior to enrollment to recapture costs on a prorated basis if the employee leaves employment within two years of attending the academy.
- C. *Professional Development*** includes enrollment fees for training costs at approved seminars, workshops, conferences etc. related to an employee's job performance and skill development in their position. Approved Professional Development training costs paid on behalf of the employee do not require a reimbursement agreement.

## **EMPLOYEE ELIGIBILITY REQUIREMENTS for participation:**

Eligible employees must:

- be a full-time employee at the time for application for participation in the program;
- have been employed full-time for at least one (1) year or required to obtain police officer certification;
- be performing at their job's "Acceptable" performance level;
- have completed, signed, secured the required approvals and returned all documentation on time.

Any failure to meet the eligibility and documentation requirements of the program(s) may jeopardize any reimbursement or pre-payment from the City of Portland, exclude an employee from future participation in the program(s) or, be cause for the repayment of funds to the City.

Participating employees are required to complete, sign and provide the following documentation:

- the Application for Educational Assistance (Reimbursement Program) form;
- the Tuition Reimbursement Agreement form;
- the applicable Repayment Agreement form;
- and provide the City of Portland with official evidence of satisfactory completion of any and all courses (with grades received) and documentation of any additional financial assistance from another agency or source within sixty (60) calendar days of completion of any pre-approved course.

## **PROCEDURE:**

***Educational Assistance Reimbursement Program*** -- Employees must submit a completed application with a proposed study curriculum from the learning institution to their department head at least 30 days prior to the registration deadline for such classes. Requests will be considered for attendance at accredited colleges, universities, business, technical/vocational schools and state run academies for single courses or programs leading to a degree, certificate, or a HiSET (High school equivalency test formerly a General Equivalency Diploma (GED)). The City reserves the right to review the adequacy of any programs, and/ or course work as to relevance to the position and the integrity of the educational process.

- A. . The City reserves the right to limit its assistance to the published average of the state's cost for post-secondary education tuition costs. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement form* with the understanding that any monies owed will be deducted from their final paycheck as long as the final pay is not reduced to below minimum wage.
- B. ***Academy Training for Police Officer Certification*** -- Employees must submit a completed application form to their department head at the time of registration. Costs for Police Officer Certification training will be paid at registration (in advance) of the training to the state's academy by the City. Participants will be required to sign *Police Department Tuition Reimbursement and Repayment Agreements* prior to enrollment.
- C. ***Professional Development*** -- Employees must submit an approved (by the department head) purchase order for registration in the seminar, workshop, conference, etc. and provide a certificate or notification of completion to Human Resources for their training files, if provided. Repayment agreement is not applicable to this circumstance.
- D. **Grade Requirements for the tuition reimbursement program** -- If a written request is approved, the employee shall receive reimbursement for the cost of tuition (maintenance) fees upon proof of successfully completing the course(s) based upon the following schedule:
- 100% reimbursement for a grade of A, B or C
  - 0% reimbursement for a grade of D or F.
  - Pass/Fail class: Pass 100%, Fail 0%
  - Minuses and pluses (A-, B+, etc.) will not change the percentages

**The city will reimburse up to a maximum of \$375/per credit hour (up to 12 hours per semester/quarter) to a maximum of \$5250 per fiscal year according to the above reimbursement schedule.**

- E. **Additional financial assistance programs** -- The City's financial assistance for continuing education will be reduced by the funding amounts received from other agencies/sources such as scholarships, the Department of Veterans Affairs, etc. Employees will be required to provide documentation of the funding received from any other agency or source.

F. **Required documentation at completion of course/training (for the employee file) --**

1. at the end of all **educational assistance** course work (semester or quarter) -- the employee will provide an official transcript or grade report and an itemized statement of reimbursable expenses (with receipts) and documentation of all additional tuition assistance they receive from other sources to Human Resources for processing of the reimbursement.
2. At the end of the program for **Police Officer Certification Training** -- the employee will provide a copy of their certificate of completion to Human Resources for inclusion in his/her employee file.
3. **Professional Development Training** -- the employee will provide a copy of the certificate of completion (if applicable) from the training provider to Human Resources for inclusion in his/her employee file.

**REPAYMENT REQUIREMENTS:** Employees participating in the Educational Assistance Reimbursement Program, certain job-specific Certifications, and the Police Officer Certification Training program will be required to sign documentation agreeing that they are required to repay the City of Portland all or a portion of the funds paid on their behalf under the program for any affected course(s) or certification if they leave employment voluntarily, or involuntarily within two years from the cost being incurred by the City.

- A. ***Educational Assistance Reimbursement Program:*** If an employee is voluntarily, or involuntarily, separated from the City within two years (24 months) of receiving educational assistance through this program, the employee will be required to repay a portion of the funding paid on their behalf. The repayment plan will be calculated as an amount prorated over a 24-month period. Specifically, for each month of employment, after completion of the final course, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee. The ***TUITION REIMBURSEMENT AGREEMENT & REPAYMENT AGREEMENT FOR TUITION REIMBURSEMENT FUNDS*** forms must be completed and signed.

**Educational Assistance funds must be repaid if a participant:**

1. does not successfully complete any course with a grade of "C" or better, as evidenced by an official grade report, transcript, or equivalent form;
2. drops, withdraws, or takes an incomplete grade in the course(s);
3. does not continue full time employment with the City of Portland at the start and completion of any course;
4. voluntarily resigns from the City of Portland's employment within two years after completion of the final course.

- B. ***Police Officer Certification Training:*** If a police officer is voluntarily, or involuntarily, separated from the City during the two years (24 months) after completion of the basic recruit training required to become a certified police officer, the employee will be required to repay the costs and expenses incurred by the City on a prorated basis. Specifically, for each month of employment, for two years after completion of the training program, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee.

- C. ***Professional Development Training:*** An employee is not required to repay the costs of professional development training at separation.

**WORK SCHEDULE ACCOMMODATIONS:** In cases where employees have special scheduling problems while attending approved education or training programs, especially courses in preparation for a GED, reasonable effort will be made to allow the employee release time from his/her work schedule to attend classes, subject to departmental scheduling and workloads. In situations of this type, the employee may be required to make up the release time on a weekly basis. Written approval from the employee's department head must be obtained prior to using release time. Employees who obtain their GED or HiSet shall receive a one-time bonus of \$250.

**NON-WORK-RELATED TYPES OF EDUCATION/TRAINING:** Employees are encouraged to improve themselves through education or training, even if it is not related to their City work; however, the City will be unable to provide financial assistance for non-work-related types of education/training. Employees may be granted, upon written request, permission to take time away from their jobs for training when such time is taken without pay, as paid leave that is available and approved (excluding sick leave). This applies only so long as their absences are pre-approved and will not cause hardships for their departments.

**TAX IMPLICATIONS:** There may be tax implications for employees receiving Educational Assistance and/or Professional Development Training. Please contact your accountant or tax professional for complete details. (as amended by Ord. #20-07, March 2020 **Ch12\_12-06-21**)



## SECTION 6 – EMPLOYEE CONDUCT

It is the policy of the City of Portland that employees use appropriate conduct during the course of their official duties. These rules of conduct are established to give general guidelines to employees as to what is acceptable behavior and what is prohibited behavior. Violation of any of these or other appropriate rules shall be sufficient reasons for counseling, reprimand, suspensions, and/or dismissal of any City employee. Rules of Conduct are not intended to grant property interest in employment.

Employees may hold their positions during good behavior and acceptable performance, but may be removed for, but not limited to, the following reasons: acts of, or behaviors of, incompetence, inefficiency, ineffectiveness, dishonesty, insubordination, discourteous treatment of the public or other employees, unbecoming conduct, neglect of duty, undermining the efficiency and/or effectiveness of the City mission to deliver service to its citizens, unwarranted work slowdown or stoppage, and undermining employee morale.

### 6.1. GENERAL RULES OF CONDUCT

**MISCONDUCT** - The following list of unacceptable activities is a sample of the types of infractions to the Code of Conduct that may result in disciplinary action. It does not include all types of conduct that can result in disciplinary action, up to and including termination.

#### **Rule 1 – VIOLATION OF RULES**

Employees of the City of Portland shall not commit any act or omit any acts which constitute a violation of any of the rules, regulations, directives, or orders of this policy whether stated in this rule or elsewhere (i.e. departmental SOP/SOG). Examples: punching the timecard of another employee; leaving during workhours without the approval of the supervisor, etc.

#### **Rule 2 – UNBECOMING CONDUCT**

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the City. Unbecoming conduct shall include that which brings the City disrepute or reflects discredit upon the individual as an employee of the City, or that which impairs the operation or efficiency of the City or individual. Examples: Using threatening, intimidating, abusive or vulgar language; fighting, horseplay, or other disorderly conduct; sabotage, etc.

#### **Rule 3 – IMMORAL CONDUCT**

Employees shall not participate in any incident involving moral turpitude, which impairs their ability to perform or causes the City to be brought into disrepute. Definition of Moral Turpitude: conduct that is believed to be contrary to community standards of honesty, justice or good morals, thought by a reasonable person to be shameful, corrupt or vile acts.

#### **Rule 4 – CONFORMANCE TO LAWS**

Employees shall in the course of their duties obey all laws of the United States and of any state and local jurisdictions in which the employees are present. A conviction of a violation of any law may be evidence of violation of this section.

#### **Rule 5 – REPORTING FOR DUTY**

Employees shall report for duty at the time and place required by assignment or orders and

shall be properly equipped and be cognizant of all information required for the proper performance of duty.

**Rule 6 – NEGLECT OF DUTY**

Employees shall not commit any acts expressly forbidden or omit any acts that are specifically required by the laws of this state, the ordinances of this City, the Personnel Policy, policies, procedures or directives of the City. Employees shall not engage in any activity or personal business, which could cause them to neglect or be inattentive to duty.

**Rule 7 – FICTITIOUS ILLNESS OR INJURY REPORTS**

Employees shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the City as to the condition of their health.

**Rule 8 – EMPLOYMENT: SICK – INJURED – LIMITED DUTY**

No employee shall engage in off-duty employment of any kind while on sick leave, workers compensation leave, or leave of absence status, except by specific written permission from the Mayor.

**Rule 9 – SLEEPING ON DUTY**

Employees shall remain awake while on duty. If unable to do so, they shall so report to their supervisor, who shall determine the proper course of action.

**Rule 10 – UNSATISFACTORY PERFORMANCE**

Employees shall maintain sufficient competency to properly perform their duties and assume the responsibility of their positions. Employees shall perform their duties in a manner, which will maintain the highest standards of efficiency in carrying out the functions and objectives of the department.

Unsatisfactory performance may be demonstrated by a lack of knowledge of the job duties; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the position; the failure to take appropriate action; or absence without approval.

**Rule 11 – INSUBORDINATION**

Employees shall promptly obey any lawful directives of a supervisor, manager, department head, or the Mayor.

**Rule 12 – GRATUITIES**

Employees shall not accept, directly or indirectly, any money gift, gratuity, or other consideration or favor of any kind from anyone other than the City except as defined in the City of Portland Ethics Policy.

**Rule 13 – ABUSE OF POSITION**

Employees shall not use their official position, official identification card, or badges:

1. To secure any privilege or exemption for themselves or others that is not authorized by the charter, general law, or ordinance or policy of the City.
2. To avoid consequences of unlawful acts.

Employees shall not lend their identification cards or badges to another person or permit them to be photographed or reproduced without the approval of the Mayor.

**Rule 14 – ENDORSEMENTS AND REFERRALS**

Employees shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service.

**Rule 15 – CITIZEN COMPLAINTS**

Employees shall courteously and promptly direct complaints against employees to a supervisor for handling. Supervisors taking a complaint may attempt to resolve the complaint but shall never attempt to dissuade anyone from lodging a complaint against any employee.

**Rule 16 – COURTESY**

Employees shall be courteous to the public and co-workers. Employees shall be tactful in the performance of their duties; shall control their tempers and exercise the utmost patience and discretion; and shall not engage in argumentative discussions. In the performance of their duties, employees shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any discriminatory intent toward members of protected classes.

**Rule 17 – REPORTS**

Employees shall submit all required reports on time and in accordance with established procedures. Reports submitted by employees shall be truthful and complete and no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, or alter, remove, or destroy any report once filed for the purpose of altering the natural order of information.

**Rule 18– ISSUANCE / RETURN OF CITY OWNED EQUIPMENT**

Each employee may be issued or provided with authorized equipment required for duty. Any employee separated from employment shall return all equipment issued.

Employees shall utilize City-owned property only for its intended purpose in accordance with established procedures and shall not abuse, damage, alter, tamper with, repair unless authorized, or allow unauthorized persons to use City-owned property. All City-owned property issued to employees shall be maintained in a proper order and returned upon separation from employment. Intentionally defacing or damaging City property is not permitted.

**Rule 19 – TRUTHFULNESS**

Upon the directive of the Mayor, department head, Human Resources Director, or a supervisor, employees shall fully and truthfully answer all questions specifically directed and narrowly relating to the performance of official duties or fitness for duty which may be asked of them.

**Rule 20 – PRIVACY**

Employees provided lockers in the work place are expected to provide their own lock and to keep the locker locked when away. Liability for loss or damage to content of lockers cannot be assumed by the City. Employees may be requested to open their assigned locker for periodic housekeeping, inspections or other occasions when it is appropriate and/or necessary. Those who use the locker rooms are expected to assist in keeping them clean and orderly. Any suspicious activity around lockers, as well as break-ins and theft, should be reported to a supervisor. All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

## **Rule 21 – ETHICAL and LEGAL BEHAVIORS**

Employees shall not conspire or knowingly engage in any activity which deprives any person of their civil rights, due process, equal opportunity for employment, advancement, job opportunities, or any constitutional or statutory guaranteed right. No employee shall disseminate confidential or protected information to any unauthorized person for any purpose.

Employees are responsible to follow the ethics code as defined in Portland Municipal Code, Title 4, Chapter 8, Code of Ethics

### **6.2. DRESS CODE**

Employees' personal appearance and hygiene are important both to employees and the City. Employees are expected to maintain a good personal appearance and to give consideration to neatness and cleanliness. Employees should always dress in a manner befitting the job, with due consideration to the needs of the City, other employees, and safety. Employees are responsible for dressing appropriately for work and following the dress code.

Supervisors/managers and, when notified, the Human Resources Department will interpret the application of the dress code and the appropriateness of an employee's dress at work.

Dress and appearance should not be offensive, revealing, sloppy or distracting. Clothing that works well for the beach, yard work, dance clubs, exercise sessions, and sports contests is not appropriate for a professional, casual appearance at work.

The following dress code includes appropriate appearance and dress guidelines for employees in both office and field positions. Employees in the Police, Fire, Parks and Public Works Departments are furnished uniforms, which must be worn on the job at all times.

Office personnel are expected to dress appropriately for their work environment (i.e., dress slacks, dresses, skirts and appropriate blouses, shirts, sweaters, jackets, sandals, boots, loafers, pumps).

Clothing that is not allowed to be worn by employees while working includes, but is not limited to, the following:

- tattered/torn jeans or shorts
- shirts with language or graphics that are vulgar, sexually explicit, or may otherwise be offensive;
- attire that is too tight, revealing or provocative;
- clothing that exposes bare midriffs;
- mini-skirts, sun dresses, beach dresses, spaghetti-strap dresses;
- see-through blouses or shirts;
- sports bras, halter tops, or similar attire;
- tank tops, muscle shirts or mesh shirts;
- flip-flops;
- hats (in the office);
- sweat suits, sweat pants, ski or jogging pants/shorts.

Also, remember that some employees are allergic to the chemicals in perfumes and makeup, so wear these substances with restraint.

Employees arriving at work dressed inappropriately will be sent home to change, with no pay for the time so spent. Repeated violations of the dress code may result in disciplinary action up to and including termination.

**On “Casual Fridays”** office personnel may wear neat, clean blue jeans (must not have holes or tears) and t-shirts, sweat shirts, sneakers, and sandals. However, items of casual clothing bearing offensive slogans and/or prints and/or with designs that are inappropriate, vulgar, offensive, or advertise drug, alcohol or tobacco-related products are not permitted.

### **6.3. DRUG FREE WORKPLACE**

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City has adopted by resolution a drug and alcohol testing policy. The policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver’s license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. The types of tests that may be required under the DFW policy are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to disciplinary action. Prohibited and/or illegal conduct includes but is not limited to:

1. being on duty or performing work for the City while under the influence of drugs and/or alcohol;
2. engaging in the manufacture, sale, distribution, use or unauthorized possession of drugs at any time and of alcohol while on duty or while in or on City property, or City vehicles;
3. refusing or failing a drug and/or alcohol test administered under this policy;
4. providing an adulterated, altered, or substituted specimen for testing;
5. use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. use of alcohol or drugs within eight hours following an accident (incident) if the employee’s involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures

Employees who are required to take prescribed or over-the-counter medication shall notify the immediate supervisor should the medication produce any effects which might limit the employee’s ability to safely perform his/her job. Per Public Chapter 373 – 2019 a valid prescription is defined only as a prescription issued within six (6) months prior to a positive drug test.

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or disciplinary actions up to and including termination of employment. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or disciplinary actions up to and including termination of employment.

All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

- a. Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.
- b. Employees assigned lockers (that are locked by the employee) are also subject to inspection.

Employees who have reason to believe another employee is using alcohol or illegal drugs while on duty must report the facts and circumstances immediately to their supervisor or Human Resources. Failure to do so may result in disciplinary action. Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head who shall immediately forward the information to Human Resources.

The City performs post-offer, pre-employment; random selection (for safety sensitive positions); post-accident; reasonable suspicion; fitness-for-duty; and follow-up drug testing.

All employees in safety-sensitive positions (such as gas department employees, equipment / vehicle operators that require a Commercial Driver's License, Police and Fire department employees, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199).

DOT regulated positions (i.e. CDL drivers) upon being engaged in a vehicle accident, or have been removed from duty due to reasonable suspicion of being under the influence by a trained supervisor, cannot resume driving activities until results of drug/alcohol screen have been confirmed as negative.

As a condition of continued employment with the City, all employees must abide by the City's policy and notify the immediate supervisor of any criminal drug statute convictions within five (5) days after such conviction. The City, in turn, informs any granting or contracting agency within ten (10) days of such notification.

Failure to comply with the provision or intent of this rule may be used as grounds for disciplinary action up to and including termination, or for requiring the employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

**Random donor** selection dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of City, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City may omit that employee from that random testing or await the employee's return to work.

An employee or job applicant whose drug test yields a positive result, indicating the presence of drugs or alcohol, shall be given the opportunity to speak with the Medical Review Officer prior for a final determination. Test results are then forwarded to Human Resources for appropriate action.

A job applicant will be denied employment with the City if his/her post-offer, pre-employment test result has been confirmed positive.

Current employees will be subject to disciplinary action up to and including termination of employment if their test result has been confirmed positive, if they refuse to test, or for any other violations outlined in the Drug Free Workplace policy.

To the extent allowed under the Tennessee Open Records Law, all information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results.

#### **6.4. TRAVEL POLICY**

All employees and elected and appointed officials are required to comply with the City's travel policy, adopted separately by ordinance, and any applicable laws and charter provisions. All trips that involve reimbursement and/or City expense shall not be undertaken without prior approval of the City. Mileage, meals, incidentals and expenses will be reimbursed according to the provisions of the City of Portland Travel Policy. For details regarding travel, obtain a copy of the City's travel policy from the City Recorder or Finance Department.

#### **6.5. WORKPLACE VIOLENCE AND HARASSMENT POLICY**

The City is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the City to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the City's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern, refusal to participate in or remain silent about illegal activities, exercise

of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law.

This policy applies to all City employees, elected officials, appointed officials, regular part time/temporary employees, members of the public, and contractors. The governing body may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

Per Public Chapter 331 – 2019 the City can seek an injunction against a person who commits harassment against a City employee. Harassment under this statute is defined as two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that persons status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee’s duties.

The City will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another’s work performance or which creates an intimidating, abusive, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
  - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
  - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
  - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
  - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).
  - e. Abusive Conduct - acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:
    - i. repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
    - ii. verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or



- iii. the sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe; multiple acts may arise to the level of pervasive. To aid employees in identifying abusive conduct, the following examples are provided.

These examples are not exhaustive; they illustrate, however, the types of conduct that may violate this policy:

- Intimidating an employee by excessive yelling, repeated emotional outbursts, berating others, using an unreasonably harsh tone of voice;
- Undermining another's work by withholding pertinent work-related information or purposefully giving incorrect information, or by not giving enough information to do what is required, as compared to others;
- Persistent or constant criticism in front of others for the purpose of humiliating another employee;
- Isolating an employee from co-workers, or launching a campaign not based on facts to provoke an employee to leave or be removed;
- Making humiliating or degrading remarks about a person through or on social media; or
- Any malicious behavior a reasonable person would find unprofessional, disturbing, and/or harmful to his or her psychological health.

Under no circumstances are the following items permitted on City property, including City-owned parking areas, except when issued or sanctioned by the City for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. other objects carried for the purposes of injury or intimidation.

Copies of the investigative report with recommendations for appropriate action will be turned over to the Mayor to determine the appropriate further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors, Human Resources, or the Mayor before the situation escalates into potential violence.

The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion if they believe a criminal act has occurred.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation.

False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action, up to and including termination.

The City will not tolerate harassment of its employees. The City will take necessary steps to stop such harassment when it occurs from employees, or third parties.

This policy applies to all officers and employees of the City including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, citizens, third parties, and employees working under contract for the City.

### **Sexual Harassment**

The following actions constitute an unlawful employment practice and are absolutely prohibited by the City when they affect employment decisions, create a hostile work environment, cause distractions, or unreasonably interfere with work performance. They are:

1. Sexual harassment or unwelcome sexual advances;
2. Requests for sexual favors;
3. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. Explicit or implied job threats or promises in return for submission to sexual favors;
5. Inappropriate sexually-oriented comments on appearance;
6. Sexually-oriented stories;
7. Displaying sexually explicit or pornographic material, no matter how the material is displayed or communicated; and/or
8. Sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, video and audio, and internet materials).

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

### **Making harassment complaints**

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Any number of individuals may be chosen. The object is to give several options to a harassment victim. Complaints may be made orally or in writing to:

1. The employee's immediate supervisor,
2. The department head,
3. Human Resources,
4. The Mayor, or
5. the City Attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people allegedly committing the harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

### **Employee Obligation**

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action up to and including termination of employment.

### **Reporting and investigating harassment complaints**

The Human Resource Director, or designee as appropriate, is the office the City designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against the Human Resource Director, the investigator may be independent outside counsel appointed by the Mayor, or provided through the City employment practices liability insurer.

### **When an allegation of harassment is made by any employee, the following shall occur:**

1. the City may separate the complainant and accused party for the duration of the investigation upon the approval of the department head and Mayor;
2. the investigator will meet with the employees, any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information. The investigator may elect to conduct a hearing as part of the investigation process;
3. the investigator will prepare a report of the complaint and submit it to the Mayor;

4. the investigator will make and keep a written record of the investigation, including notes on:
  - a. verbal responses made to the investigator by the person complaining of harassment,
  - b. witnesses interviewed during the investigation,
  - c. the person against whom the complaint of harassment was made, and
  - d. any other person contacted by the investigator in connection with the investigation.
5. the investigator will prepare and present the findings to the Mayor in a report, which will include:
  - a. the statement of the person complaining of harassment;
  - b. the statements of witnesses;
  - c. the statement of the person against whom the complaint of harassment was made; and
  - d. all the investigator's notes connected to the investigation.
6. If the City suspects a criminal act has occurred, the investigation process may be turned over to the Portland Police department or an outside agency for review.

#### **Actions on complaints of harassment**

If the Human Resources Director or Mayor, or designated investigator, determines that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation, the Human Resources Director and/or Mayor, within a reasonable time, will determine whether the conduct in question constitutes harassment.

In making that determination, the Human Resources Director and/or Mayor may look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the Human Resources Director and/or the Mayor determines that the harassment complaint is founded, the City shall take immediate and appropriate disciplinary action against the offending employee, consistent with its authority under the City charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s).

A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action may be consistent with the nature and severity of the offense and any other

factors sincerely believed to relate to fair and efficient administration of the City. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The City will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of violation of this policy shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation. All other City employees are also hereby warned not to retaliate in any way to the complaining or participating parties.

Any such retaliation or harassment may include disciplinary action, up to and including termination of employment.

If the employee complaining of harassment is not satisfied with the manner in which the City addressed the complaint, the employee shall be given an opportunity to present a request for review of the outcomes to the Mayor through the City Grievance Process.

The Office of the Mayor will render a determination in the matter within prescribed timelines, and in the manner outlined in applicable grievance or complaint processes.

The decision of the Mayor will be final in all such matters, unless otherwise provided for in these personnel policies.

The Mayor has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the Mayor when he/she determines that a neutral third party is in the best interest of the City.

## **6.6. COMPUTER AND ELECTRONIC DEVICE USE**

It is every employee's duty to use the City's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not grant users any contractual rights. The term "computer resources" refers to the City's computers, electronic equipment, and its entire computer network.

The computer resources are the property of the City and should be used for legitimate business purposes. While personal use of City computer resources including Internet and electronic mail is not forbidden, it is limited to breaks and meal times. Personal use shall be minimal and shall not interfere with the performance of job duties and responsibilities. Users are permitted access to the computer resources to assist them in performing their jobs. Use of the computer resources is a privilege that may be restricted or revoked at any time. All information contained in the computer resources and all documents generated there from are for the exclusive use of the City in connection with the conduct of its business and are the sole property of the City. Periodically, the City may make a random check of any device in order to ascertain any abuse.

### **A. General Computer Policies**

- Computer information, programs, software and hardware are owned by and licensed to the City.

- All systems and information are considered proprietary.
- Utilization of computing resources, the Internet or electronic mail may not be used in any way that may be disruptive to the City's operations or in violation of Federal or State laws or City policy.
- Only those persons currently employed (or given special permission) are permitted to use any computer resources owned, leased or in control of the City of Portland.
- **Employees have no right or expectation of privacy regarding computing resources, the Internet or electronic mail and voice mail systems.** The City has the right to monitor Internet and e-mail use for security, as well as detection of an employee's use of these services for personal use on company time.
- Use of the City of Portland's computer resources or Internet connections for gambling, obtaining or distributing pornographic materials and all other illegal activity is strictly forbidden. The City actively monitors incoming and outgoing internet traffic for this type of usage.
- Programs and/or downloads related to specialized icons, wallpaper, screensavers, instant messaging, chat rooms, and online gaming is strictly prohibited.
- Only information system personnel or agents contracted by them may install software or hardware on any City computer system. Information systems personnel may, at their discretion, authorize staff to perform specific software or hardware installations. All other software or hardware installations are strictly prohibited.
- The changing of, or introduction of, any original software or hardware on users' systems or other company computer or communications systems from the original issued form is forbidden, without prior IT Department approval.
- No software programs are to be installed on any computer equipment without IT management's approval.
- Unless departmental arrangements have been made, always obtain permission from a co-worker before using his/her computer. Please be considerate, if you must use someone else's computer, do not change their colors or other settings.
- Do not log into your colleague's account(s). However, staff may authorize other staff members to use shared files and/or directories in cooperative projects.
- Where copyright laws apply, the City forbids unlawful copying of any software or manuals.
- Anyone misusing or tampering with computer information or equipment will face disciplinary action up to and including termination, as well as, possible prosecution. Also, violations of the policy guidelines can lead to revocation of system privileges.
- The City of Portland is under no obligation to store or forward the contents of an individual's computer files, e-mail inbox/outbox or voice mails after the termination of the individual's employment.

## **B. Internet Usage**

- Access to the Internet is for the exchange of information and research consistent with the vision, mission, goals and activities of the City of Portland.
- Employees are expected to use the Internet solely for job related or approved educational research and City business communications during work hours.
- Employees shall not use the Internet for inappropriate or unlawful purposes, including but not limited to, placing unauthorized information, computer viruses or harmful programs on or through the computer system in either public or private files or messages, using obscene or otherwise inappropriate language in communications and obtaining, viewing or downloading information that is unlawful, obscene, indecent, vulgar, pornographic or otherwise objectionable.

- Employees are prohibited from posting anything on the Internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination.
- An employee may not characterize him or herself as representing the City, directly or indirectly, in any online posting unless done pursuant to a written policy of the City.
- Internet access records and records of downloaded files are not private and may be occasionally monitored as the Mayor or department head deems necessary.
- Department heads shall be responsible to ensure proper employee use of the Internet.
- Inappropriate or unlawful use of the Internet may result in the loss of access for the user and, depending on the seriousness of the infraction, can result in disciplinary action as deemed necessary.

### **C. E-Mail Usage**

- In general, electronic mail is treated no differently than any other business record or correspondence.
- Employees should be aware that all types of business records are subject to inspection, review, or disclosure without prior notice for any business purpose or as required by law.
- Electronic mail may constitute a public record under certain circumstances and may be accessible or obtainable by individuals, agencies and others outside the City and subject to state archivist rules for retention / destruction.
- All electronic mail originating from or received by City computer systems is City property, and is not considered private information.
- Electronic mail may be monitored by the department head and/or the Mayor as they deem necessary.

## **6.7. SOCIAL MEDIA**

This policy applies to every employee employed by the City in any capacity who post any material whether written, audio, video, or otherwise on any website, blog or any other medium accessible via the Internet.

City of Portland departments may utilize social media and social network sites in support of City goals and objectives. To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, City departments may consider participating in social media formats to reach a broader audience. The City of Portland encourages the use of social media to further the goals of the City and the missions of its departments where appropriate.

The Mayor and department heads will approve which social media outlets may be suitable for use by the City and its departments.

The City of Portland's website will remain the City's primary and predominant Internet presence.

All official City presences on social media sites or services are considered an extension of the City's information networks and are governed by the City of Portland's policy.

The Mayor and department heads will review department requests to use social media sites. In addition, the Mayor and department heads may assist in the selecting of appropriate social media outlets, as well as defining a strategy for engagement using social media.

Departments that use social media are responsible for complying with applicable federal, state, and local laws, regulations, and policies, as well as all applicable City policies. This includes adherence to established laws and policies regarding copyright, records retention, the open records statutes, the First Amendment, and privacy laws.

Authorized employees representing the City government via social media outlets must conduct themselves at all times as representatives of the City. Employees that fail to conduct themselves in an appropriate manner shall be subject to the disciplinary action outlined in the *City of Portland Personnel Manual* and the City of Portland Information Systems Policy and Procedures. Violation may also result in the removal of department pages from social media outlets.

Departmental staff members are responsible for the content and upkeep of any social media pages or sites that a department might create. One contact will be designated by the department and approved by the Mayor.

The simultaneous use of a City email address, job title, official City name, or logo in conjunction with a posting may be evidence of an attempt to represent the City in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity may also be deemed evidence to represent the City in an official capacity.

Any postings on non-City social media sites and platforms made in an official capacity may be subject to the Tennessee Public Records Act. A City employee posting on a non-City social media site or platform shall take reasonable care not to disclose any confidential information in any posting. When posting in a personal capacity an employee should take reasonable care to distinguish that his content is a personal expression and not that of the City.

## 6.6. ATTENDANCE

Punctual and regular attendance is necessary for the City to operate efficiently. The City provides a variety of forms of leave to cover absences from work. Employees are expected to report for duty, and be ready to begin work by the start of the regular work day or their regular shift, unless on approved leave.

Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. When this is not possible due to sudden illness or emergency, the employee is to notify his/her supervisor as soon as possible, and in all cases, prior to the start of the work day in which the employee will be absent. Failure to notify one's supervisor of absences, or abuse of leave policies may result in disciplinary action.

**ATTENDANCE:** Punctual and regular attendance is necessary for the efficient operation of the City. Attendance expectations for all employees are that they are to be at work every day, on time and work their complete workday. Uncontrollable circumstances may cause an employee's inability to meet attendance expectations. In those instances:

- Employees who are unavoidably late or absent from work due to illness or other cause must notify their supervisor (or the supervisor's designee if unable to reach the



supervisor) within the time frame established by his/her department of their regularly scheduled starting time (with the exception of an emergency situation).

- Employees should provide the reason for their absence and, if possible, an anticipated return to work date. A note should be provided to the supervisor if the employee is treated by a medical professional.
- Supervisors should notify Human Resources when an employee is absent more than three (3) consecutive days for guidance on possible FMLA leave eligibility.
- Failure to timely notify one's supervisor of absences may result in disciplinary action or dismissal.
- Excessive absences, unless protected under existing law, may be subject to disciplinary action regardless of an existing bank of available paid leave time.

Every City employee has been assigned working hours. These scheduled hours are not the same for every employee or every department.

**Note:** An unauthorized absence from work for a period of three (3) consecutive working days including three (3) days **no show/no call** will be considered a voluntary resignation.

**RECORDING TIME:** Some City employees record their hours on time sheets rather than “punching” time clocks. Employees who complete time sheets are subject to the same rules as those using a time clock.

- The 7-Minute Rule: Employees assigned a time clock must not clock in more than seven (7) minutes prior to the beginning of their work schedule, nor clock out more than seven (7) minutes after the end of their work schedule.
- Early or late clock-ins/outs in excess of seven (7) minutes deviation from the assigned work schedule must be justified and approved by the supervisor.
- Time accumulated on the time clock before or following the employee's scheduled work hours will not be allowed whether regular time or overtime – without written justification provided to the payroll office by the supervisor. The accumulation of extra time or overtime by virtue of early clock-in or late clock-out is prohibited as long as practices remain compliant with the FLSA regulations for time rounding 29 CFR § 785.48.
- An employee who does not have prior written permission and is found to have clocked in more than seven (7) minutes before his/her schedule, or clocked out more than seven (7) minutes after his/her schedule, will be in violation of the provisions of this policy and subject to discipline.

**TIME CALCULATIONS:** Tardiness exceeding the seven (7) minute grace period will be counted in 15-minute increments **for purposes of payroll calculation.** Fractions of time on the clock beyond the seven (7) minute grace period resulting in overtime will be paid in 15-minute increments but only when overtime has been authorized. **All issues of tardiness up to and including the 7-minute period are subject to disciplinary action.**

- Continual and/or repeated deviations from the assigned working hours will be grounds for disciplinary action. Such deviations include, but are not limited to: changes of schedule without prior approval, excessive tardiness, and clocking in/out too early or too late.
- Any time a City employee leaves the workplace during the workday, except for work-related business, the employee must clock out. Upon returning to work, the employee must clock-in.

**PAID TIME OFF and TIME OFF DOCUMENTATION:** If the time card /sheet calculations result in less than the assigned work hours for the pay period, the employee must claim paid-time-off leave e.g. vacation leave\*, funeral leave\*, sick time\*, jury duty\*, or other paid-time-off reason for the lost time. (*\*NOTE: All of these must be approved, and some in advance.*)

Prior arrangements, approved by the supervisor, for lost time for anything other than the approved, paid-time-off reasons noted above may supersede the prior approval requirement. In other words, the employee shall be docked for lost time during the workweek if no provision is made for the absence by using any of the paid-time-off reasons listed above.

For any time off including the \*leave times mentioned above, a *Time Off Request Form* must be completed and approved by the supervisor in advance, except in the event of an emergency.

**FALSIFICATION OF RECORDS:** Time cards/sheets must be signed by the employee and forwarded to the supervisor for review and approval. The employee's signature attests to the accuracy and completeness of the time card/sheet.

No City employee is to punch the time clock in/out for another employee. This and any deliberate documentation errors to time cards/sheets will be considered falsification of records and documents and shall be a violation of City policy that will result in both employees receiving disciplinary action. **Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record, may be punishable as a Class E Felony under Tennessee Law.** (as amended by Ord. #20-07, March 2020 *Ch12\_12-06-21*)

## **SECTION 7 – SEPARATIONS AND DISCIPLINARY ACTION**

### **7.1. SEPARATIONS**

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, death, or dismissal. At the time of separation and prior to final payment, all records, assets, and other City property in the employee's custody must be transferred to the City. Any amount due for failure to return City property may be withheld from the employee's final compensation on a depreciated/prorated basis. Deductions from pay cannot result in the employee being paid less than the federal minimum wage. These rules are not intended to grant property interest in employment.

### **7.2. RESIGNATION**

In the event an employee decides to leave the City's employ, an appropriate (customarily, two weeks') notice shall be given so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all City equipment assigned and/or in their possession. An unauthorized absence from work for a period of three (3) consecutive working days may be considered resignation from employment by means of job abandonment.

In the event an employee tenders a resignation with appropriate notice while in good employment standing, and not under investigation for an offense in violation of City policy, the City may, if in the best interest of City operation, remove the employee from service and compensate them for remaining scheduled work hours, and any unpaid vacation. In this event the employee will be placed on Administrative Leave with Pay until the last day of official employment not to exceed two (2) weeks.

If a former employee returns to City employment after resigning, his/her status of seniority, pay, leave, etc., will be the same as a new employee.

### **7.2. REDUCTION IN FORCE (LAYOFF)**

To establish an effective and equitable process in the event that a reduction-in-force (RIF) is necessary, a RIF may be determined as necessary by the Mayor. The Mayor may promulgate additional policy, rules and procedures necessary for the implementation of a RIF.

This regulation applies to all regular full time, regular part time and temporary employees. Provisional employees, hired for a specific period covering the duration of an assigned project, are not subject to the provisions of this policy. State-funded positions, which the City supplements, may be subject to a reduction or elimination of the City supplement. A loss of the City supplement may not ultimately result in a position reduction.

In the event that a RIF becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and length of service in determining retention. For the purpose of this regulation, it is understood that upon determination that a RIF becomes necessary, a RIF plan may be implemented based on the circumstances.

Discharge, demotion, or layoff because of lack of work, RIF, or job elimination is non-grievable under the City's Grievance Policy and Procedure. The City retains the right, at any time, to abolish positions for business necessity.

### **7.3. DISABILITY**

An employee may be separated from employment with the City for a disability when he/she cannot perform the essential functions of the job because of a physical or mental impairment that cannot be accommodated without undue hardship, or when the disability poses a direct threat to the health and safety of the employee and/or others.

### **7.4. RETIREMENT**

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement benefits under Social Security, the Tennessee Consolidated Retirement System (TCRS), or other adopted retirement system. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

### **7.5. DEATH**

All compensation due in accordance with T.C.A., Section 30-2-103, designation of beneficiary, wages and debts owed deceased employee, shall be paid except for such sums as by law must be paid to the surviving spouse.

### **7.6. DISMISSAL**

The Mayor may remove all officers and employees of the City subject to the City Charter, state law, and provisions of this personnel ordinance.

### **7.7. DISCIPLINARY ACTION**

Whenever an employee's performance, attitude, work habits, or personal conduct fall below desirable level, supervisors should inform employees promptly and specifically of such lapses and should give them counsel and assistance. All records associated with disciplinary action shall become a permanent part of the employee's file. The employee may attach a rebuttal statement.

The types of disciplinary action are:

1. oral reprimand,
2. written reprimand,
3. suspension,

4. reduction in pay,
5. demotion, and
6. dismissal

Disciplinary action may be remedial and progressive, if possible, with the objective of directing and motivating employees to fully carry forth their work obligations to the City.

Employees should be informed of standards of conduct, performance, and applicable rules and regulations. Rules and regulations should be consistently applied considering the gravity of the infraction, mitigating circumstances, previous work record, and other relevant criteria.

*As a public employee, the City may require you to provide information as part of an internal and/or administrative investigation to determine whether disciplinary or administrative action is necessary. You may be ordered to truthfully respond to questions or be subject to disciplinary action. You may be asked questions specifically, directly and narrowly related to performance of your official duties or fitness for your job. You are entitled to all the rights and privileges guaranteed by the law and the Constitution of the United States, including the right not to be compelled to incriminate yourself. If you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you could be subject to discharge. If you do answer, neither your statement, nor any information or evidence which is gained by reason of such statement, can be used against you in any subsequent criminal proceedings. However, these statements may be used against you in relation to subsequent internal discipline.*

#### **ORAL REPRIMAND**

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor should inform the employee of such lapses and should give him/her counsel. If justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. The supervisor will place a memorandum in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response. The memorandum will be reviewed with the employee prior to placement in the employee's file.

#### **WRITTEN REPRIMAND**

When an employee receives a written reprimand, a copy will be placed in the employee's file. The supervisor administering the reprimand will advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite applicable previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail performance improvement plans and identify dates by which the correction actions shall be taken.

At the conclusion of a meeting with the employee, a signed copy of the written reprimand will be given to the employee and a copy placed in the employee's file. It is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

## **SUSPENSION**

An employee may be suspended with or without pay by the Mayor or by his/her department head with the approval of the Mayor.

## **REDUCTION IN PAY**

An employee may have their pay reduced as a disciplinary action by the Mayor or by his/her department head with the approval of the Mayor.

## **DISCIPLINARY DEMOTION**

An employee may be demoted by the Mayor or by his/her department head with the approval of the Mayor.

## **DISCHARGE**

An employee may be discharged by the Mayor or by his/her department head with the approval of the Mayor. Employees who are involuntarily discharged are not eligible for payout of accrued but unused paid leave, but will be paid out any unused compensatory time. The action of the Mayor, or designee as authorized by the Mayor, shall be final and binding on all parties involved, unless overturned or remanded by the chancery court on appeal.

The City will assess discharge actions using the following standard:

- The employee was informed either verbally, or by promulgation of work rules, that an act or behavior could reasonably result in discipline.
- The employee should have known that the act or behavior could reasonably result in discipline due to the nature of the act or behavior.
- The City took reasonable steps to make a fair determination of the circumstance(s) involved.
- The City has reason to believe the employee committed the alleged infraction, act, or behavior based on observation of reasonable facts.
- The City took reasonable measures to ensure the consistent application of rules and regulations using available resources.

## **INVESTIGATIVE LEAVES**

### **ADMINISTRATIVE LEAVE WITH PAY/REASSIGNMENT**

An employee may be placed on administrative leave with pay from his/her specific job duties and temporarily reassigned pending the outcome of an investigation, and upon approval of the Mayor, or approved designee. A copy of the temporary removal/reassignment notification and related documentation shall be forwarded to Human Resources for inclusion in the employee's file.

### **ADMINISTRATIVE LEAVE WITHOUT PAY**

When an employee is unable to effectively perform the duties of his/her position due to an ongoing investigation, the employee may be placed on administrative leave without pay by the Mayor, or authorized designee, pending the outcome of the investigation when it is in the best interest of the City. In the event the employee is determined eligible to return to his/her duty at the conclusion of the investigation, the employee will be restored with backpay for hours missed.

## **SECTION 8 – MISCELLANEOUS POLICIES**

### **8.1. NONSMOKER PROTECTION ACT**

The City complies with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles. All employees who operate City-owned vehicles are prohibited from smoking, the use of vapor devices, or use of smokeless tobacco in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles. Violators of this policy will be subject to disciplinary action.

### **8.2. VOTING POLICY**

When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with T.C.A. 2-1-106. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where the person is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for such absence.

If the tour of duty [workday] of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before the closing of the polls of the county where the employee is a resident, the employee may not take time off under this section.

The employer may specify the hours during which the employee may be absent. Application for such absence shall be made to the employer before twelve o'clock (12:00) noon of the day before the election.

### **8.3. IDENTITY THEFT POLICY**

The risk to the City, its employees and customers for data loss and identity theft is of significant concern to the City and can be reduced only through the combined efforts of every employee and contractor. The City adopts this sensitive information policy to help protect employees, customers, contractors and the City from damages related to the loss or misuse of sensitive information.

Sensitive information includes the following items whether stored in electronic or printed format:

1. Credit card information (including credit card number (in part or whole), credit card expiration date, cardholder name, and cardholder address);
2. Tax identification numbers (including social security number, business identification number, and employer identification number);
3. Payroll information (including paychecks and pay stubs);
4. Cafeteria plan check requests and associated paperwork;
5. Medical information for any employee or customer (including doctor names and claims, insurance claims, or any related personal medical information); and

6. Other personal information belonging to any customer, employee or contractor (including date of birth, address, phone number, maiden name, names, or customer number).

Municipal personnel are required to use good judgment in securing confidential information to the proper extent. If an employee is uncertain of the sensitivity of a particular piece of information, s/he should contact the supervisor. In the event that the City cannot resolve a conflict between this policy and the Tennessee Public Records Act, the City will contact the Tennessee Office of Open Records.

Each employee and contractor performing work for the City will comply with the following Hard Copy Distribution policies:

1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
2. Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
3. Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.
4. Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed or shredded when not in use.
5. When documents containing sensitive information are discarded, they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD) approved shredding device.

Each employee and contractor performing work for the City will comply with the following Electronic Distribution policies;

1. Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.
2. Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

*"This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited."*

Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come in contact with accounts or personally identifiable information that may constitute a risk to the City or its customers.

The Mayor, or designee, is responsible for ensuring that identity theft training for all requisite employees and contractors is provided. Employees must receive annual training in all elements of this policy. To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

#### **8.4. JURY AND CIVIL DUTY LEAVE**

Civil leave with pay shall be granted to employees for the following reasons:

1. Jury duty (T.C.A. 22-4-108);



2. To answer a subpoena to testify for the City.

Employees providing proper documentation when selected for jury duty shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, s/he shall be expected to return to his/her department. An employee shall receive full pay from the City during jury duty. Any monies received from jury duty may be kept by the employee.

## 8.5. DRIVERS LICENSES

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must **immediately** inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted by the City.

All employees required to drive:

- a vehicle with a gross weight of more than 26,000 pounds;
- a trailer with a gross weight of more than 10,000 pounds;
- a vehicle designed to transport more than 15 passengers, including the driver; and
- any size vehicle hauling hazardous waste requiring placards

Employees operating vehicles of greater than 26,000 GVW and/or carrying 15 or more passengers are required to have a Tennessee Commercial Driver's License in accordance with T.C.A. 55-50-101 et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

## 8.6. USE OF CITY VEHICLES

**Use of City Vehicles:** No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the City. Decisions about aid to charitable, civic or other organizations will be made exclusively by the Mayor and the City Council.

**Authorized Positions for Vehicle Take Home:** Due to the need for various departments to have on-call employees available to deploy in emergency situations, a take-home vehicle policy may be adopted by Resolution of the City Council.

### Rules for Drivers of City Vehicles:

- No one may ride in City vehicles except City employees or people who are directly involved in ongoing City projects such as engineers, contractors, and vendors.
- Absolutely no family members are allowed to ride in a City vehicle except for City related matters or functions. All employees who are not the on-call person may only use the City vehicle for City business.
- The paid on-call employee will be required to have the vehicle with them at all times.
- The on-call employee may not leave the City's geographical utility service area in the City vehicle without proper approval.

- City employees may use City vehicles to attend job related schools if assigned by the department head. No other City employee will be allowed to take a City vehicle home overnight unless specifically approved by the department head.
- All employees are required to keep their assigned vehicle clean with maintenance up to date and documented.
- No smoking (including vapor devices), or smokeless tobacco use shall be allowed in City vehicles at any time.

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must immediately inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted.

## 8.7. BREAKS AND MEALS

Employees working an eight (8)-hour daily work schedule may be allowed to take a fifteen (15) minute paid break in the morning and another one in the afternoon. The supervisor/manager will coordinate break schedules based on the needs of the department.

With the exception of the Police Department, Fire Department and Water Treatment Plant, whose schedules must cover 24-hour operations, full-time employees will observe a 40-hour workweek with a one-hour unpaid meal break and two 15-minute paid break times scheduled at the discretion of the department head.

**A. Coffee breaks and snack breaks** (15-minute breaks) are compensable rest periods and cannot be excluded from hours worked as meal periods as long as they are under 20 minutes in length.

**B. Meal Periods** - "A bona fide meal time, when employees are completely relieved from duty, is not work time." 29 C.F.R. § 785.19(a). "Short periods, such as coffee breaks or snack breaks, are not considered meal time. If an employee works during the meal, the time is compensable. Whether or not an employee's meal period can be excluded from compensable working time depends on the employee 'freedom meal test'." 29 C.F.R. § 785.19(a). Unless all of the following three conditions are met, meal periods must be counted as hours worked:

1. The meal period generally must be at least 30 minutes, although a shorter period may qualify under special conditions.
2. The employee must be completely relieved of all duties. (If an employee must sit at a desk and incidentally answer the telephone this would be compensable time)
3. The employee must be free to leave his/her duty station. There are no requirements, however, that an employee be allowed to leave the premises or work site.

**C. Smoking Breaks:** The 15-minute breaks in the morning and afternoon are also the designated times for smoking breaks and are to be compliant with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles.

**Note:** Employees working in the field, away from their department office locations, must begin and end their 15-minute break(s) at the worksite. Travel time to and from the work location is included in the 15-minute break time.

Overtime, lunch breaks, break times and any other modification of the hours/time mentioned above shall be subject to approval of the department head.

## **8.8. INCLEMENT WEATHER**

It is the City's intent to remain open through various weather situations unless it is determined that the essential functions of the City cannot be safely be administered. This decision will be made by the Mayor and will be communicated via appropriate communication methods.

However, when the weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

1. The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible; and
2. The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.

If the above conditions are not met, the employer will deduct the missed workday (or portion thereof) from accumulated vacation leave, and if no leave is available, the missed portion of the work day will be unpaid. Reporting this leave shall follow the same requirements as other leave.

In situations where advanced notice of closure is known, the Mayor will communicate such closure via appropriate means. If City government operations are closed due to inclement weather, all non-essential personnel will be provided administrative leave with pay. Those employees deemed essential personnel will be provided the choice between time off to be used at a later date equivalent to time awarded off with pay to non-essential employees, or payment incurred for the time served during closure of government operations.

The policy is meant for those who are in danger due to weather conditions only. Should any employee abuse this policy, he/she will be subject to disciplinary action.

## **8.9. PERSONNEL RECORDS**

Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record is punishable as a Class E Felony under Tennessee Law.

The City respects the dignity and worth of each individual employee, while asking each employee to offer in return his/her loyalty, respect, and best effort. The City will collect, retain, use, disclose, and maintain the confidentiality of employee information as required by law.

Human Resources records for each employee are kept on file and maintained in a secure manner by the Human Resource Department.

The Human Resources File for each employee may contain, but not be limited to the following information: 1) Human Resources action forms noting position and wage information; 2) performance evaluation forms and other documentation related to an employee's job

performance; 3) employment documentation including application and resume, employee data sheet, and income tax deduction forms; 4) outside employment forms; 5) official commendations, training and education records including certificates and diplomas; 6) complete documentation pertaining to all disciplinary matters and corrective actions; 7) information relative to grievance proceedings, and complaints of discrimination and harassment filed by the employee; and, 8) all applicable benefits records. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personal information including change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training maintained in the Human Resources file by notifying the Human Resource Department. The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep Human Resources records current.

### **Collection, Retention, and Use of Personal Information**

The City will strictly follow the requirements of applicable laws regarding information collection concerning membership in protected class. With these restrictions in mind, the City will gather such information about job applicants or employees as determined by the City to meet compliance initiatives.

The following basic principles will be applied in collecting and retaining personal information:

1. The Human Resource Department shall maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by applicable provisions within a City charter, ordinance or resolution. The master file shall be the central file containing all employee information.
2. Each department head may maintain a file on each employee in his/her charge. The file shall be limited to performance evaluations, attendance records, official memos, letters, and information related to an employee's salary history. All information contained in this file must also be present in the master file.
3. Payroll data may be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.
4. Supervisors may maintain separate files on their subordinates. The file shall be limited to performance evaluations, attendance records, official memos, and letters. All information contained in this file must also be present in the master file.
5. Employee information may be collected from employees whenever possible, but the City may use outside sources for other information where allowed by law.
6. Worker's Compensation documents will be maintained in a separate file in the custody of the Human Resource Department.
7. Medical information obtained from city provided medical examinations are the property of the City, and will be maintained in a secured file system separate from an employee's official Human Resources record. Medical information may include, but not be limited to the following: benefit documentation such as health insurance forms, fitness for duty examinations, drug testing results, medical information related to leaves of absence, inoculation records, etc. These documents will be maintained in a secured file system

that is not open for public inspection. These procedures are in accordance with applicable laws.

### **Employees' Access to Human Resources Records and Management Files**

Employees may have access to and review their own Human Resources files during normal business hours. If the employee disagrees with any information found therein, the employee may submit a written disagreement to the Human Resource Department, which will be attached to the specific document in the file(s). Contents of employee files may not be removed. An employee desiring to access the Human Resources file of another employee must follow the procedures for public records requests.

### **Employees' Access Procedures**

Employees may contact the Human Resource Department for an appointment to view their own file. Employees must review the file in the presence of an appropriate representative. Employees may take notes and may request to be provided with a copy of any of the file's contents subject to the City's policy on copy charges. Any question about the information's accuracy must be referred to the Human Resource Department. Employees may submit a note of disagreement to the Human Resource Department.

### **Disclosure of Applicant and Employee Records and Information**

The content of applicant and employee Human Resources files is open to public inspection under the Tennessee Public Records law; however, some personal information has been deemed confidential under state and federal law. Only the Human Resource Department is authorized to disclose information about applicants and employees to outside inquirers.

Confidential information shall only be disclosed under the following circumstances:

1. properly identified and duly authorized law enforcement officials without a warrant when investigating allegations of illegal conduct by applicants and employees;
2. legally issued summonses or judicial orders, including subpoenas and search warrants; and
3. others as legally allowed by state and federal law.

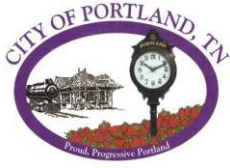
Requests for copies of detailed applicant and employment information shall be made in writing and should be directed to the City Recorder who will then forward to the appropriate departments. Requests for public inspection of applicant and employee records shall be directed to the City Recorder who will then inform the appropriate departments.

Police Department applicant and employment records may be exempt from public access pursuant to state law. All requests for applicant and employment records shall be reviewed by the Chief of Police on a case by case basis. When a request is for a professional, business, or official purpose, and includes a request for personal information as defined by T.C.A. § 10-7-504(g), the Chief of Police (or designated custodian of files) must notify the officer prior to disclosure. The officer must be given a reasonable opportunity to be heard to oppose the release of the information. If the Chief of Police decides not to disclose personal information, the requestor must be notified within two (2) business days from the request and the files shall be released with personal information redacted.

All public records requested shall be subject to the City's public records request process.

Confidential information will be redacted out of any Human Resources files that are requested for inspection, as per Tennessee Law. Adequate time will be allotted to allow for redaction of such information as allowed by law. All requests will be completed promptly, and in a responsive and timely manner.

In all such matters, the employee shall be notified within seventy-two (72) hours of the records inspection and/or provision of copies. Police officers shall be informed that an inspection has taken place or copies have been provided; the name, address, and phone number of the person(s) making the request; person(s) for whom the request was made; and the date of inspection and/or the provision of copies. Exceptions for non-police employees may be made to release limited general information, such as the following: (a) employment dates; (b) position held; and (c) location of job site.



**ACKNOWLEDGEMENT OF RECEIPT**

Sign, date and keep this copy with your manual

Sign, date and return the duplicate acknowledgement to Human Resources

Employee Printed Name: \_\_\_\_\_ Employee #: \_\_\_\_\_

I acknowledge that I have received a copy (written or electronic access) of the City of Portland, TN Personnel Manual adopted by **Ordinance 19-67**. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the Manual. If I have any questions, I understand that it is my responsibility to ask my supervisor or Human Resources.

I understand that any and all policies and practices can be changed at any time by the City by ordinance, or if appropriate by Resolution. I understand and agree that other than by ordinance or resolution of the City Council a manager or representative of the City has no authority to enter into any agreement, expressed or implied, for employment for any specific period of time, or to make any agreement.

I understand and agree that the Personnel Manual may be changed at any time upon issuance of ordinance by the City Council. My continued employment indicates my agreement to work under those changes.

I understand that nothing in the Personnel Manual or any summary brochure or employee handbook should be deemed to be a promise by the City to provide any benefit. The City reserves the right to alter or eliminate any benefit, without notice, at any time by City Council action.

I understand that the Personnel Manual replaces (supersedes) any and all prior policies and any and all prior Personnel Manuals or employee handbooks and affected ordinances and/or resolutions, and any information contained in any such prior policy, handbook, or manual is no longer in effect.

As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I may not be informed prior to the drug and/or alcohol test if classified as a safety sensitive position, and that I may be subject to immediate dismissal if I refuse to take the test.

I am aware that the Personnel Policies grant me no property interest in my employment.

I understand and agree that the City may deduct from my final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property, or for reimbursement of appropriate fees paid for educational assistance, as long as the deduction(s) do not reduce final pay to below minimum wage.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date