



# Personnel Manual

Ordinance Number 13-32

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## SECTION 1 - PERSONNEL POLICIES

### 1.1. PURPOSE AND OBJECTIVES

The purpose of these 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, with all the benefits such program ensures without regard to race, color, religion, national origin, ancestry, gender, age, political affiliation, or disability.

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 of good personnel administration to be achieved by these policies are to:**

1. promote and increase efficiency and cooperation among employees of the City of Portland;
2. provide fair and equal employment opportunity to all qualified citizens on the basis of demonstrated merit and fitness, as ascertained through fair and practical methods of selection;
3. develop a program of recruitment, advancement and retention; which will make the City attractive as an employer and encourage each employee to render their best service;
4. establish and maintain a uniform plan of evaluation and compensation; and
5. establish and promote high morale among the employees by providing good working relationships, uniform personnel policies, and opportunities for advancement

### 1.2. PERSONNEL POLICY STATEMENT

This manual and all other City manuals do not bestow any additional rights 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 municipal government are established to:

#### **1.2.1. Employment and Placement**

- a. fill all positions, in accordance with job qualifications and requirements without discrimination as to race, color, religion, national origin, ancestry, gender, political affiliation, age or disability;
- b. establish programs for the promotion, transfer, demotion, dismissal, and reassignment of personnel

#### **1.2.2. Position Classification and Pay Administration**

- a. establish and maintain job descriptions for every position, with the descriptions maintained on file with the Human Resources Department;
- b. review position descriptions periodically and systematically to ensure currency and accuracy;
- c. establish appropriate position standards and to group positions in classes with similar standards;

- d. conduct area wage and salary surveys periodically, in order to provide competitive wage and salary scales as the budget allows

### **1.2.3. Employee Relations and Services**

- a. develop a system of job performance standards and evaluation and inform each employee periodically and systematically of their performance status;
- b. establish rules and standards governing employee conduct;
- c. administer a uniform leave program;
- d. provide an employee complaint process;
- e. develop a handbook to inform employees of their responsibilities, rights, and privileges;
- f. provide and maintain a safe and healthful work environment

### **1.2.4. Employee Development and Training**

- a. establish training standards and requirements for positions;
- b. motivate and stimulate employees to achieve their highest potential

### **1.2.5. Records**

- a. establish and maintain comprehensive and uniform personnel records;
- b. maintain confidentiality and privacy of employees to the extent allowed by the law

## **1.3. COVERAGE**

The following personnel are not covered by this policy, unless otherwise provided and as statutorily required:

1. All elected officials<sup>i\*</sup>
2. Members of appointed boards and commissions.
3. Consultants, advisors, and legal counsel rendering temporary professional service.
4. The city attorney.
5. Independent contractors and/or contract employees.
6. Volunteer personnel.
7. The city judge. (Judge position is only eligible for retirement through TCRS.)

All other employees of the municipal government are covered by this personnel policy. These Personnel Regulations shall be made available to all employees. Regular employees will receive a copy of the regulations upon employment. Any employee, who desires to review the regulations during work hours, may review the departmental copy upon approval of their supervisor or Department Head.

\* Council Members are eligible to purchase insurance benefits; while the Mayor is an elected official, the position serves as the Executive Branch of City Government. The Mayor receives employee health and voluntary benefits the same as appointed employees.

#### **1.4. ADMINISTRATION**

The Mayor is responsible to the governing body for the proper operations of all City functions. The responsibilities of the Mayor include appointment and termination of all City employees upon approval of City Council, enforcement and application of all laws, provisions of the City Charter and Municipal Code, and acts of the governing body including but not limited to the Personnel Regulations 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 Regulations adopted by the governing body.

Department Heads and supervisors are responsible for the administration and enforcement of the Personnel Regulations for employees in their respective program areas.

#### **1.5. AMENDMENTS TO PERSONNEL POLICIES**

Amendments or revisions to these regulations, policies and procedures may be recommended by the Mayor or designee for adoption by the City Council. Such amendments or revisions of these regulations, policies and procedures shall become effective upon approval by the City Council.

All departmental regulations, policies and procedures as presently constituted or hereinafter adopted, which are not in conflict with these regulations, policies and procedures shall be in effect.

#### **1.6. SEVERABILITY**

If any Charter, Article or Section of these Regulations 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 Charter, Article or Section of these regulations is or becomes invalid or unenforceable, such invalidity or unenforceable nature will not affect or impair any other Charter, Article or Section of these regulations.

## SECTION 2 – DEFINITIONS

For the purposes of this manual, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:

**Actual Service** – The time engaged in performance of the duties of a position or positions, including absences with pay and authorized leave without pay.

**Applicant** – An individual who has completed and submitted an application for employment with the City.

**Appointing Authority** – The Mayor shall be responsible for the appointment of qualified applicants to full-time (upon approval by the City Council), part-time, temporary, or emergency positions in the City. The Mayor shall be the appointing authority for all Department Head and certain other positions as specified in the Municipal Code and Charter for the City.

**Appointment** – The offer to and acceptance by a person of a position.

**Class** – A group of positions that are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specifications and pay range.

**COBRA** – The Consolidated Omnibus Budget Reconciliation Act that requires employers to offer extended health care benefits in the event of a qualifying event.

**Compensation** – The standard rates of pay that have been established for the prospective classes of work, as set forth in the compensation plan.

**Compensation or Pay Plan** – The official schedule of pay approved by the governing body assigning one or more rates of pay to each class title.

**Demotion** – Assignment of an employee from one class to another which has a lower maximum rate of pay and/or rank.

**Department** – The primary organizational unit under the immediate charge of a Department Head who reports directly to the Mayor.

**Disability Leave** – Paid or unpaid leave that may be granted to an eligible employee who is unable to pursue the duties of his/her position because of physical or mental impairment.

**Examination** – The process of testing, evaluating, or investigating the fitness and qualifications of applicants and employees.

**Exempt Employee** – Employees not covered in the overtime provisions of the Fair Labor Standards Act (FLSA) and defined as such by the Duties Test.

**FLSA** – Fair Labor Standards Act.

**FMLA** – The Family Medical Leave Act

**Guests of the City** – Persons with which the City is conducting business, citizens involved in public safety ride-alongs per departmental policies, persons who the City Department is responsible for transporting in a public safety setting, etc.

**Introductory Period** – The designated period of time after an applicant is appointed or an employee is promoted in which the employee is required to demonstrate fitness for the position by job performance.

**Job Description** – Statement of the tasks, duties, essential functions and responsibilities of a job to be performed.



**Lay-Off/Staff Reduction** – The involuntary non-disciplinary separation of an employee from a position for reasons of shortage of funds or work, the elimination of a position, or for related reasons which are outside the employee's control and which do not reflect upon service of the employee.

**Leave** – An authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay as provided for by these rules.

**Nepotism** – Favoritism shown to relatives by reason of relationship rather than merit.

**Non-exempt Employee** – Employees covered by the overtime provisions of the Fair Labor Standards Act (FLSA).

**Occupational Accident or Injury Leave** – An excused absence from duty because of an injury of or illness sustained in the course of employment and determined to be compensable under the provisions of the Workers' Compensation Law.

**Overtime** – Authorized time worked by an eligible employee in excess of 40 hours per week to be compensated at one and one half times the employee's straight time rate of pay. Public safety employees are allowed to work additional hours before overtime pay is required according to statute.

**Pay Range** – The range of pay rates, from minimum to maximum, established for a pay grade or class.

**Pay Rate** – A specific dollar amount, expressed as either an annual rate, monthly rate or hourly rate.

**Payroll Date** - Actual date a check is issued to an employee.

**Position** – A group of duties and responsibilities assigned to one employee. A position can be vacant or occupied.

**Promotion** – Assignment of an employee from one class to another which has a higher rate of pay and/or rank.

**Qualifications** – The minimum educational, experience and personal requirements which must be fulfilled by a person prior to an appointment or promotion.

**Reclassification** – The process of reviewing the duties and responsibilities of an existing position or positions in order to revise the job description to which the position or positions are assigned; or moving a job description from one pay grade to another pay grade.

**Reprimand** – A type of disciplinary action, oral or written, that denotes a violation of personnel or departmental regulations which becomes part of the employee's personnel record.

**Resignation** – The voluntary separation of employment from the City initiated by the employee.

**Separation** – The removal of an individual from a position either through resignation, termination, layoff, staff reduction, disability, retirement or death.

**Suspension** – An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

**Termination** – A type of disciplinary action resulting in the involuntary separation of employment from the City.

**Transfer** – The assignment of an employee from one position to another position. Transfers must occur laterally.

**Workday** – The scheduled number of hours an employee is required to work per day.

## **SECTION 3 - CLASSIFICATION PLAN**

### **3.1. PURPOSE**

The classification plan provides a complete inventory of all positions in the City's service and an accurate description and specifications for each employment class. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the City.

### **3.2. COMPOSITION OF THE CLASSIFICATION PLAN**

The classification plan may consist of:

- a. a grouping of classes of positions that are approximately equal in difficulty and responsibility that call for the same general qualifications and that can be equitably compensated within the same range of pay under similar working conditions;
- b. class titles descriptive of the work of the class;
- c. written specifications for each class of positions; and
- d. physical standards for performance of the duties of the position

### **3.3. USE OF CLASSIFICATION PLAN**

The classification plan may be used:

- a. as a guide in recruiting and examining candidates for employment;
- b. in determining lines of promotion and developing employee training programs;
- c. in determining salaries to be paid for various types of work;
- d. in determining service items in departmental budgets;
- e. in providing uniform job terminology understandable by all local government officers and employees and by the general public

### **3.4. ALLOCATION OF POSITIONS**

Before a new position is established, Department Heads 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 shall 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.

### **3.5. REQUEST FOR RECLASSIFICATION**

Positions may be reclassified by the Mayor, upon approval by the City Council, based on a written request from the Department Head outlining justification for the change.

## **SECTION 4 - PAY PLAN AND COMPENSATION**

### **4.1. PURPOSE OF THE PAY PLAN**

The pay plan is intended to provide fair compensation for all classes of positions in consideration of ranges of pay for other positions, general rates of pay for similar employment in private establishments and other public agencies in the area, cost of living data, the financial condition of the City, and other factors as the budget allows.

### **4.2. COMPOSITION OF THE PAY PLAN**

The pay plan for the City of Portland shall consist of minimum and maximum rates of pay for each existing pay grade.

### **4.3. MAINTENANCE OF THE PAY PLAN**

The Mayor, or designee, may from time to time make comparative studies of all factors affecting the level of salary ranges and may recommend to the City Council for approval of appropriate changes in the salary ranges as the budget allows.

### **4.4. USE OF SALARY RANGES**

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions and in providing incentives to employees.

The minimum rate established for a position is the normal hiring rate except, in those cases where circumstances related to operational needs appear to warrant employment of an individual at a higher rate in the pay range. Any Department Head desiring to appoint an applicant to start at a salary above the minimum must submit a written justification to the Mayor for approval. Such appointments shall be made only in exceptional cases as decided by the Mayor.

### **4.5. PAY FOR PART-TIME WORK**

When an employment decision is for a part-time position, the employee will only be paid for the actual hours worked. In the event hours worked for part time employees exceeds the FLSA defined work week threshold, overtime rates will apply per the Fair Labor Standards Act. Part time employees performing the same function as full time employees will receive the minimum rate of pay for that position as described in the classification and pay ranges established by the City. Part time workers are those individuals working an average of **29** hours per work week or less.

Volunteer Fire nominal expense reimbursement pay is set at the rate of \$25.00 per call for Fire Service and \$18.75 per Medical Response Call<sup>ii</sup>.

### **4.6. MINIMUM WAGE**

In accordance with FLSA, no employee whether full-time, part-time, or within his/her introductory period, 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.

### **4.7. OVERTIME PAY**

The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees. FLSA defines overtime pay as one-and-one-half times the employee's regular rate of pay. When it becomes necessary for any city employee to work overtime hours or return to duty from off-duty hours, they shall be paid according to the prevailing salary schedule and FLSA.

The Mayor with the assistance of the heads of each department will provide a monthly report of all overtime hereafter paid with a detailed written explanation of the reasons for any overtime paid and said report will be made a part of the document to be provided to the members of the City Council at its regular monthly meeting on the first Monday of each month during the calendar year<sup>iii</sup>.

Generally, overtime work must be authorized by the department head. (CFR § 553.1 *et seq*) Most city employees observe a 40-hour workweek; however, Police and Fire Department personnel observe a longer workweek. The workweek shall hereafter be referred to as the “pay period”.

Overtime will be paid when the employee’s actual hours worked exceed the hours that constitute a full pay period for that employee. Sick leave, vacation leave and/or holiday leave for the employee **shall not be used** in the calculation of total hours in the pay period before overtime is paid; hours must be those hours actually worked<sup>iv</sup>.

In the event that an employee must be called in to work due to an emergency on a pre-scheduled, pre-approved vacation day, then, as an added bonus, those hours actually worked on vacation **shall be used** in the total hours calculated before overtime is paid. In the event that an employee must work on a holiday, as an added bonus, the City of Portland will pay the employee at **time and one-half** for the holiday hours actually worked in addition to straight time pay for the 8-hour holiday (**to be referred to as holiday benefit pay**) but only the hours actually worked on the holiday will be calculated into the total hours of the pay period before the employee is eligible for additional overtime pay within the pay period.

Non-exempt city employees<sup>v</sup> who are called back into work after hours (completion of scheduled work day or work week) shall be paid a minimum of 2 hours overtime for the call-out even if s/he works less than 2 hours. If the employee works more than 2 hours for this one call-out, then she/he shall be paid overtime for actual hours worked. 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. Full-time Firefighters are excluded from the two hour minimum. They are guaranteed a one hour minimum while responding to medical emergencies while off duty<sup>vi</sup>.

Salaried/exempt employees and salaried/exempt supervisors are exempt from the overtime pay and for “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.

Employees assigned to “on-call” services during nights, holidays and weekends are required to restrict themselves from certain activities while being subject to on-call and comply with the city’s drug and alcohol policy. The employee is required to respond within thirty (30) minutes after being called.

The designated “on-call” employee will be compensated at a differential of \$.50 per hour for every hour they are assigned to “on-call” status. Additionally, the employee shall be paid a minimum of two hours for each time the employee must report for duty<sup>vii</sup>.

Full time fire personnel working twenty-four (24) hour shifts may earn compensatory time up to 480 hours.

#### **4.8. DIRECT DEPOSIT**

All employees may have their payroll checks deposited via direct deposit into the financial institution of their choice.

#### **4.9. PAYCHECKS**

All employees of the City of Portland will be paid on a basis as 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 check, the employee may send his/her identification and a signed note authorizing the City to give the check to the bearer.

**Final Paycheck** The final paycheck will be made available on an employee’s regular payday.

**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-order payment will be initiated. The Finance Director will determine if and when a new check should be issued to replace a lost or missing check.

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

#### 4.10 CHRISTMAS BONUS

Those employees classified as Full Time with less than one (1) year service unless hired in December of previous year, and those employees classified as ongoing Part Time employees (regardless of time with the City) will receive \$40.00 Christmas bonus.

Full time employees with at least one year 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
1	\$100.00
2	\$135.00
3	\$170.00
4	\$205.00
5	\$240.00
6	\$275.00
7	\$310.00
8	\$345.00
9	\$380.00
10	\$415.00
11	\$455.00
12	\$495.00
13	\$535.00
14	\$575.00
15	\$615.00
16	\$680.00
17	\$745.00
18	\$810.00
19	\$875.00
20	\$940.00
21 +	\$1,000.00

The City's continuation of Christmas Bonus subject to budgetary considerations within each fiscal year and will be paid in compliance with the Fair Labor Standards Act.

## SECTION 5 - EMPLOYMENT

### 5.1. 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 event an applicant (internal or external) desires to apply for multiple open positions, an application must be submitted for each position desired.

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

Vacancies for positions may be simultaneously posted internally and externally. The City of Portland exercises a policy of fairness for every person 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 City Hall Receptionist 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 City Hall 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 specific position applied for. Applications are only accepted when vacancies exist and will only be considered for the specific position applied. City of Portland 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 an application for each open position applied for; applicants for internal lateral transfers should submit a letter of interest responding to notices of internal transfer opportunity.

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

- The applicant declines an appointment when offered.
- The applicant cannot be located by the postal authorities. It will be deemed impossible to locate an applicant when a communication is mailed to the last known address and returned unclaimed.
- The applicant fails to pass a post offer pre-employment drug test or any other required job-related employment test.
- The applicant is found to have been convicted of a felony or applicable misdemeanor which precludes employment for the particular position for which they applied.
- The applicant has made false statements of material fact on the application.
- The application was not filed within the period specified in the vacancy announcement or was not completed correctly or thoroughly.
- The applicant does not possess the minimum qualifications as indicated by the vacancy announcement.

Job Announcements<sup>viii</sup>: Department Heads who need to fill a job opening should contact the Human Resource Manager in order to begin the recruitment process. The Human Resource Manager 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 positions will be distributed to all departments for posting on designated bulletin boards or for circulation among employees within that department. Notice of regular vacancies will be posted 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 Service. The Human Resource Manager, in collaboration with the hiring manager, will determine what forms of media to extend the advertisement.

The advertisement may also include the City website along with the local government cable channel and in appropriate media outlets. 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 the position is filled or until specified closing date.

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.

The Mayor is authorized to hire temporary employees for the various departments of the city as the need may arise<sup>ix</sup>. The Mayor is to inform the Council as to his decisions and provide any necessary additional information to the Council as requested.

The Mayor shall appoint and remove for reasonable cause, subject to approval by the city council, promote, transfer, demote, suspend and discipline all officers and employees of the city including the following: recorder, city attorney, city judge, treasurer, chief of police, fire chief, superintendent of public works, and superintendent of parks and recreation; subject to the provisions of this charter, state law, and city ordinances. Before any new appointment is made of any of the foregoing officers or employees, a salary or salary range shall have been established by the City Council.

Such officers and employees shall be under the supervision and control of the mayor, and he may, at his discretion, authorize each department head to promote, transfer, demote, suspend, discipline, and recommend for appointment and removal for cause, employees under his or her supervision to provide for the orderly day-to-day operation of the city; subject to the provisions of this charter, state law, and city ordinances.

The Mayor shall have the authority to authorize appropriate appointed designees to promote, transfer, demote, suspend, discipline and recommend for appointment and removal for cause those employees under their direct supervision but, they can only recommend the appointment or removal for cause of any employee to the Mayor for his final decision or for recommendation to City Council<sup>x</sup>.

## **5.2. RECRUITMENT BY EXAMINATION**

All appointments in the City shall be made according to merit and fitness and may be subject to competitive 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 required by the position.

## **5.3. TYPES OF 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. The City will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

**5.3.1. Written Test.** This test, when required, 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.

5.3.2. **Oral Test.** This test, when required, will include a personal interview where the ability to interact with others, to meet 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.

5.3.3. **Performance Test.** This test, when required, will determine the ability and skills of applicants to perform the work involved.

5.3.4. **Physical Test.** When required and allowed by law, this consists of tests of strength, agility, and physical fitness, and functional ability to perform the essential functions of the job for applicants. This test may be used to exclude from further consideration applicants who do not meet the minimum required standards where allowed by law.

5.3.5. **Mental Test.** When required and allowed by law, the mental test will include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems or to ascertain special character traits and attitudes.

5.3.6. **Pre-employment Drug Test.** Pre-employment drug testing will be conducted on all positions. Positive results on the drug test can result in an applicant being denied employment.

#### 5.4. NOTIFICATION AND INSPECTION OF EXAMINATION RESULTS

Each person who takes an examination shall be notified of his/her standing on the eligibility list (if one is maintained) or of his/her passing or failing.

#### 5.5. PHYSICAL EXAMINATIONS

**Pre-employment.** Every prospective employee for the Police and Fire Departments shall be given a physical examination by a licensed physician designated by the municipal government after a conditional offer of employment has been extended, to determine if the employee meets necessary physical fitness standards.

Employees in other departments may also be required to receive a physical examination after the conditional offer of employment based on the essential functions of the position as contained in the job description. A copy of the specific job description will be provided to the examining physician. The cost of this physical examination shall be borne by the City.

The conditional offer of employment may be rescinded for applicants who are unable to meet the necessary physical fitness standards of the job description.

**Post-Hire.** All employees of the City may, during the period of their employment, be required by their Department Head and with the approval of the Mayor, to undergo periodic medical examinations as allowed by law to determine their fitness to perform the essential functions of the position in which they are employed or appointed to. This periodic medical examination shall be at no expense to the employee. Determination of fitness for duty will be by a physician designated by the City or its insuring agency.

An employee determined to be unfit to continue in the position in which he/she is employed may be demoted in accordance with these rules or separated from the City as governing Federal and State law permits.

#### 5.6. NEPOTISM

The following members of the immediate family of the City employee, department head, Mayor, Alderman or other official of the City, who meet the hiring standards, may be employed to fill any position. The 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. However, such family members are subject to the following provisions:

1. Members of the immediate family may not be hired or transferred into the same department.



2. Members of the immediate family in other departments or divisions may not work for the same supervisor.
3. No special preference will be given to family members in the selection of work location, days off, vacation schedules, etc...
4. The work and conduct of the family members will be governed by the same requirements and procedures as all other employees.
5. Members of the immediate family may not work in the same department or in a position where one member of the family would have direct supervisory responsibility over another member of the family.
6. No person currently employed will be penalized for being related as described above.
7. Seasonal and part-time employees are exempt from this provision/policy<sup>xi</sup>.

## 5.7. MINIMUM AGE

The Fair Labor Standards Act requires that employees of State and Local governments 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 21 years of age.

## 5.8. TYPES OF EMPLOYEES

**5.8.1. Full-Time Employee.** A regular full-time 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 local government, charter, code, or ordinance. Regular full-time employees serve a 90 day Introductory Period, during which time they may be dismissed without recourse.

**5.8.2. Part-Time Employee.** A regular part-time employee is an employee who works part-time hours on a regular basis and whose hours cannot exceed an average of **29** hours per week during the standard measurement period. Week-to-week increase of hours beyond the 29 hour limit must be approved by the Mayor or Department Head. Ongoing analysis of hours worked to be performed by Department Head regarding budgetary impact of benefits cost. Regular 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.

**5.8.3. Temporary Employee and/or Seasonal Employee.** Temporary (or seasonal) employees are individuals who perform work for the city for no more than six months during one calendar year (or per term of employment) and whose ongoing employment with the City is not expected at time of hire. Temporary (or seasonal) employees are not eligible for benefits except coverage under workers' compensation. Hours of work shall be as determined by the department head.

**5.8.4. Non Exempt Employee.** Employees that are not exempt from the Fair Labor Standards Act Overtime Requirements may be required to work more than 40 hours in a workweek and are entitled to receive overtime pay for hours actually worked in excess of 40 hours in a workweek under the applicable provisions of the Fair Labor Standards Act ("FLSA"), its regulations and applicable state law. (Holidays and Leave will not be deemed to be "hours worked" for purposes of determining eligibility for overtime pay.) *Special calculation circumstances apply to Police and Fire service employees for determining overtime.*

**5.8.5. Exempt Employees.** All personnel defined as "department heads" in the City Charter, and any employee determined to be exempt from the Fair Labor Standards Act, shall be paid on a salary basis. All exempt employees are expected to observe a normal forty hour work week 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.

## 5.9. APPOINTMENTS, PROMOTIONS, DEMOTIONS AND TRANSFERS

Pursuant to the City Charter, the Mayor has the authority to appoint, promote, demote, transfer, suspend, and remove for cause (appointment and removal upon approval of City Council) all officers, appointees and employees of the City of Portland except as defined in the City Charter.

All vacancies of Board-approved positions in the City shall be filled by original appointment, re-employment, promotion, interim appointment, transfer or demotion.

Whenever a Department Head wishes to fill a vacancy, an Employee Request Form must be completed and submitted to Human Resources for approval by the Mayor.

**Promotions.** A promotion is the assignment of an employee from one class to another that has a higher pay rate and/or rank, and the employee is qualified and can physically perform the duties and essential functions as outlined in the job description. The Mayor may authorize department heads to make promotions of employees, including temporary promotions to fill vacancies on an interim basis. Duration of absence of position to be filled must be greater than 21 calendar days for consideration of temporary promotion. Employee will begin to earn pay differential for temporary promotion immediately upon assuming related duties and will cease to do so upon completion of interim assignment.

Promotions in every case 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 an employee in one classification is promoted to a position in another classification and the employee's current pay rate is less than the minimum rate for the new position, the employee's salary shall be raised to that minimum rate. When the employee's salary falls above the new minimum rate, a percentage increase as determined by the Mayor shall be given based on historical pay data for the position to be filled.

When a position is advertised for certified personnel (for positions that require 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.

**Transfers.** 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 rank and pay.

The Mayor may authorize department heads to make transfers of employees. 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 municipal government 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 Service working 24 hour shifts transfers to another department, Sick Leave will be reduced at a ratio of Fire Service accrual divided by standard accrual). As a general rule, lateral transfers require no increase in compensation. No transfer shall occur unless the employee has at least one (1) year of employment with the City of Portland without the approval of the Mayor<sup>xii</sup>.

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 the lower rate of pay. Should this type of transfer be allowed, the employee's existing seniority will be acknowledged, but the employee must take the entry-level position with appropriate pay.

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

1. because his/her position is being abolished and he/she 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 on 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 he/she holds;
7. because the employee voluntarily requests such a demotion, and it 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 is not reasonable; and/or
9. as a form of disciplinary action.

### **5.10. INTRODUCTORY PERIOD**

The introductory period is an integral part of the examination process, and may be utilized for the following:

- closely observing the employee's work;
- securing the most effective adjustment of a new, promoted, demoted or transferred employee to his/her position;
- rejecting any employee whose performance does not meet work standards

The introductory period for all full- and part-time employees shall be 90 calendar days. Department Heads may request an extension of any employee's introductory period with the prior approval of the Mayor. In no event may a probationary period be extended beyond 6 months.

Department head shall recommend continuation/discontinuation of employment, or extension of probationary period prior to completion of employee's probationary/introductory period. This review should occur and be scheduled by the department head between the 60<sup>th</sup> and 90<sup>th</sup> calendar day of employment.

Firefighter and Police Officer probationary periods are determined by the department's SOP.

At any time during the probationary period, the Department Head may notify the Mayor in writing of an employee's unsatisfactory performance and recommend whether or not employment should continue.

### **5.11. PERFORMANCE APPRAISAL / EVALUATION**

Each employee should be given a performance evaluation at the midpoint and completion of his/her respective introductory period by the immediate supervisor. Annually, each employee's performance should be formally reviewed by his/her immediate supervisor, once the employee has served in his/her position for a minimum of one (1) year at time of evaluation at a minimum. The written evaluation will be discussed with the employee. By this means, it is intended that each employee will have adequate opportunity to correct any weaknesses that may hinder satisfactory job performance. Each written evaluation, once signed by the employee will be forwarded to Human Resources for review by the Mayor and inclusion in the employee's personnel file. The City reserves the right to alter the terms and conditions of employment, including the manner in which performance is or is not appraised.

The **overall rating** will be one of the following five levels:

<b>Rating</b>	<b>Definition of Rating</b>	<b>Guidelines</b>
<b>Outstanding</b>	Exceptional, extraordinary, well above standard. Employee achieves all major objectives, most by a wide margin. Performance is consistently characterized by exceptionally high-quality work. Contributions to the City are repeatedly far above the requirements of the position.	Use when performance is exceptional.  Far exceeds requirements.
<b>Exceeds Expectations</b>	Performance exceeds position requirements. Consistently meets all major objectives, producing high-quality work. Makes valuable contributions to the organization and contributes more than required share. Takes initiative beyond job responsibilities. Requires minimal supervision.	Use when performance consistently exceeds standards.  Exceeds requirements.
<b>Meets Expectations</b>	Satisfactory and competent performance. Meets all performance requirements and produces quality work. Performance on some objectives exceeds requirements; may be deficient in a few, but overall performance is solid. Requires moderate supervision.	Use when all standards for successful performance are met.  Meets all basic requirements.
<b>Improvement Needed</b>	In general, meets performance requirements and accomplishes objectives. Understands basic job responsibilities. Needs some growth and development. May be new in job. Requires supervision.	Use when performance standards are generally not acceptable.  Meets some basic requirements.
<b>Unsatisfactory</b>	Performance is clearly below the level of acceptability. Unable to perform essential functions. Deficiencies may be correctable. Requires frequent counsel, guidance, and close supervision.	Use when performance is intolerable.  Fails to meet the most basic requirements.

The City of Portland does not solely rely on the performance review process to gauge employee performance and “fit for the city”. A positive review is simply a snapshot in time. The city does recognize the value of providing employees with regular feedback. The performance of all employees may be appraised and reviewed at least annually by their supervisor. Written appraisals will be discussed with the employees so they will know how they are progressing and what they may do to improve their performance. As important as these written performance appraisals are, they are not meant as substitutes for ongoing discussions between employees and their supervisors about their performance.

The appraisal is not final until it has been reviewed and acted upon by Human Resources and the Mayor.

**Rating Period** The annual rating period (period of observed performance) observes performance occurring from June 30<sup>th</sup> of the completed fiscal year back through July 1<sup>st</sup> of the previous calendar year to encompass the entire prior fiscal year. The review period (time set for appraisal meetings between supervisors and subordinates) will be determined annually based on City needs.

The supervisor and/or department head will formally meet with each employee within the review period. During this meeting, the performance elements and associated performance standards will be discussed, established and recorded for the prior year. Goals, objectives, development plans, etc. should be established during this time for the upcoming rating period. Supervisors should conduct quarterly update meetings with subordinates to track and discuss progress toward goals and objectives.

**Assessment** The supervisor and/or Department Head and employee will review the job description together, and determine if the job description properly describes the duties and responsibilities of the position. Job descriptions may be amended or revised as necessary through Human Resources and the Mayor. The supervisor will also review and assess employee performance related to job functions.

## 5.12. OUTSIDE EMPLOYMENT

With the approval of one's Department Head and Mayor, 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 the 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. Approval of a second job may be withdrawn for any of the above reasons.

## 5.13. WORKDAY / WORKWEEK

Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as is provided in special contracts of employment, the number of days that shall constitute a workweek for regular employment shall be five in total. Schedules will vary in departments as necessary for the smooth operation of the City, i.e. the Parks and Recreation Department, the Public Works Department, and the Fire Department and Police Departments. A standard workweek is scheduled between 12:00 AM on Monday through 11:59 PM on the Sunday following. Standard work periods for purposes of calculation of overtime for Fire Service Personnel working 24 hour shifts and Sworn Police Personnel may differ from the standard workweek of other employees.

## 5.14. ATTENDANCE AND TIME CALCULATION

Punctual and regular attendance is necessary for the efficient operation of the City. 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 60 minutes (with the exception of emergency) of their regularly scheduled starting time. Employees should provide the reason for the absence and, if possible and anticipated return to work date. 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 existing bank of paid leave time available.

Every city employee has been assigned working hours. These scheduled hours are not the same for every employee or every department. This policy does not change those original assignments.

Some city employees are not required to use a time clock, but use time sheets. Employees who complete time sheets will be subject to the same regulations as those using a time clock, Employees assigned a time clock must not clock in more than seven (7) minutes prior to the beginning of the employee's work schedule, nor out more than seven (7) minutes after the end of the 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. The accumulation of extra time or overtime by virtue of early clock-in or late clock-out is prohibited.

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. Time accumulated on the time clock before or following the employee's scheduled work hours will not be considered as time worked – whether regular time or overtime – without written justification provided to the payroll office by the supervisor.

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 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, on other than work related business, the employee must clock out. Upon returning to work, the employee must clock-in.

If the time clock calculations result in less than the assigned work hours, the employee must claim vacation leave, funeral leave, family sick time, personal sick time, jury duty, or other excused absence for the lost time. (*NOTE: All of these must be approved, and some in advance.*) However, prior arrangements approved by the supervisor for lost time for anything other than reason listed may supersede that requirement. The employee shall be docked for lost time if no provision is made for any of the above reasons for absence. For any leave, an “Employee Leave Request” must be completed and approved by the supervisor in advance, except in the event of an emergency.

No city employee is to punch the time clock in/out for another employee. This will be deemed as falsification of records or documents, and shall be a violation of city policy that will result in both employees receiving disciplinary action. The first offense will result in suspension. Future offenses may result in termination<sup>xiii</sup>.

#### **5.14.1. BREAKS AND MEALS**

Coffee and snack breaks are compensable rest periods and cannot be excluded from hours worked as 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 snacks, 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.

Those employees on the job away from their department locations must begin and end their 15 minute break(s) at the worksite and include all travel time to and from the work location.

With the exception of the Police Department, Fire Department and Water Treatment Plant, whose schedules must cover 24-hour operation, city employees will observe a 40-hour work-week with times scheduled at the discretion of the Department Head and approved by the mayor with a one hour lunch break.

Full-time employees observing a 40 hour work schedule may take a fifteen (15) minute break in the morning and one in the afternoon, as may be worked into his/her schedule and not overly burden fellow employees.

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

### **5.15. GRIEVANCE PROCEDURES**

A grievance is defined as an expression of dissatisfaction, disagreement or dispute arising between a current employee and his/her supervisor and/or employer with some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting him/her.

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 appeal and review.

Employee(s) who have a grievance should first discuss it with their immediate supervisor, a higher-level supervisor, and/or the Department Head 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 an oral or written grievance with the immediate supervisor within five business days of the incident or immediately upon returning to work after a suspension. An employee should give the supervisor copies of any witness statements or other supporting documents. It is the responsibility of the immediate supervisor to promptly consider the grievance and take action. The supervisor shall inform the employee of his/her decision in writing within three business days. The supervisor shall provide a copy of his/her decision to the Department Head. Any supervisor in the chain of command shall attach a copy of his/her recommendation regarding the unresolved grievance if it proceeds to a higher level. No supervisor may hold a grievance longer than three 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. Before proceeding, an employee must reduce the request to writing and request 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 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 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.

### **5.16. TYPES OF SEPARATIONS**

#### **5.16.1. RESIGNATION**

In the event an employee decides to leave the City's employ, whenever possible, a two (2) week written notice shall be given to his/her supervisor. In such a case, employees must return any/or all City equipment assigned. Failure to provide appropriate written notice may render employee ineligible for rehire, upon approval by the Mayor. Unused vacation will be paid upon voluntary termination of employment with appropriate notice.

An unauthorized absence from work for a period of three consecutive working days will be considered a voluntary resignation.

All separating employees will have scheduled an exit interview with Human Resources or their department head. The main purpose of this interview is to ascertain whether the reason for an employee's separation is founded on a misunderstanding that might be corrected by either the city or the employee. Any information that may improve future working conditions in the city is always welcome.

#### **5.16.2. LAY-OFF/STAFF REDUCTION**

The Mayor or Department Head (upon approval from the Mayor) may lay-off an employee in the City's service when he/she deems it necessary by reason of shortage of funds, the elimination of a position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee. Unused vacation will be paid upon involuntary layoff/ staff reduction.

#### **5.16.3. TERMINATION**

An employee may be terminated for a number of reasons which may include, but not be limited to, misconduct, insubordination, failure to pass a drug test and the inability to satisfactorily perform the job. Upon involuntary

termination of employment, unused vacation will be calculated on a pro-rated basis (percentage of calendar year worked prior to separation). Prorated vacation will be paid out upon involuntary separation of employment.

#### **5.16.4. DISABILITY**

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

Action may be initiated by the employee or the City, but in all cases it must be supported by medical evidence acceptable to the Mayor and in accordance with Federal and State law. The City may require an examination by a licensed physician of its choice at the City's expense.

#### **5.16.5. 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 retirement system.

#### **5.16.6. 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.

### **5.17. STAFF REDUCTION POLICY**

#### **Purpose:**

1. To establish a formal process in determining the appropriate course of action, in the event and/or need for staff reduction measures for the City of Portland.
2. To implement a fair, consistent, yet practical and systematic policy that meets the needs of the city in an effort to execute the fiduciary responsibilities and business needs in accordance to the discretionary authority of city administration

#### **Covered Employees:**

All city employees/positions to include; exempt (Salaried), non-exempt (Hourly), full time classifications and/ or assignments

#### **I. Determining the Need for Staff Reduction**

The decision to initiate staff reduction conversation and/or measures is a proactive stance to ensure the ongoing perpetuity of day to day business operations. By studying and assessing the viability, success and the overall performance of the city through prudent business acumen and actuarial foresight, city administration is better able to determine the critical and vital impact to the city's fiduciary standing. If determined that staff reduction measures are needed, implementation of the process will be handled exclusively through the language in said policy to ensure fairness and consistency throughout the entire process.

Department Heads are required to provide written justification to the Mayor indicating the business necessity for staff reduction. Written justification must clearly outline the reason(s) for such action to include, but not limited to; budget, lack of work, reorganization, or reduction of staff positions beyond the city's control. The decision and/or recommendation to remove said positions or individuals will be handled in accordance to change in policy and



ordinance protocol as defined in the City of Portland Personnel Manual. Authority to execute staff reduction measures is deemed and/or vested by administrative privilege of the Mayor and the Board of Mayor and Aldermen.

## **II. Staff Reduction Types**

### **A. Short Term Temporary**

1. Defined as a temporary period of time as designated by city management
2. Layoff recall provisions may apply
3. Not to exceed ninety (90) Days

### **B. Permanent**

1. Indefinite layoff period with no defined recall provision(s)

## **III. Criteria Standards (Order of Criteria)**

### **A. Business Need**

The City reserves the right to make decisions and recommendations in an effort to sustain necessary business operation standards in the best interest of the City of Portland and its constituents.

### **B. Performance**

Staff Reduction measures may necessitate the need to utilize job performance reviews, disciplinary actions, attendance records and other performance-related data for placement decisions.

### **C. Length of Service**

Tenure and service time will be considered when implementing staff reduction measures, however, guaranteed placement is neither imposed nor implied through service length ranking.

## **IV. Notification Process**

Employees are notified via written communication upon administrative approval to implement staff reduction actions. **All staff reduction communication to include; notifications, correspondence, press/media releases and other related Inquiries will be handled exclusively through the City of Portland Department of Human Resources and the Office of the Mayor.**

## **V. Procedural Protocols**

### **A. Timeline(s)**

Employee(s) will receive written notification as soon as is practicable.

### **B. Compensation & Benefits**

1. The City of Portland will provide two (2) week's pay as a result of staff reduction measures.
2. Employee benefits will cease on the last day of the month of the impending staff reduction termination date. COBRA benefits will be offered accordingly. All COBRA regulations apply without exceptions.

3. Earned vacation time will be paid upon disbursement of the employee's final payroll check.

**C. Internal & External Resource Assistance**

1. Employees are entitled to apply for State Unemployment Insurance Benefits accordingly.
2. City of Portland Department of Human Resources will assist with internal job placement as applicable. Employees are able and encouraged to apply for current posted positions for which they qualify.

**VI. Reinstatement**

1. Displaced employees are eligible for future re-hire consideration, unless failing to work through appropriate notification period as designated; or for other unfavorable, inappropriate or unprofessional behavior that could result in formal corrective counseling action (up to and to include immediate termination of employment).
2. If an employee returns to work within ninety (90) days of their layoff date, they will be reinstated with no change to their benefit accrual dates and amounts. Salary will be issued in accordance to current wage standards set by City of Portland and in accordance to FLSA Wage & Hour governing provisions.

## SECTION 6 – BENEFITS AND LEAVE POLICIES

### 6.1. HOLIDAYS

All offices of the City of Portland, except emergency and necessary operations, will be closed and employees excused on the holidays listed below. New non-exempt employees are not eligible for paid holidays while serving their 90-day probationary period.

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

### 6.2. HOLIDAY PAY

Employees must work their last regularly scheduled shift before a holiday (or approved, City-observed holiday as applicable) and their first regularly scheduled shift after a holiday in order to receive Holiday Pay. In the event that a nationally-observed holiday falls on a weekend, work performed on that weekend will be compensated at holiday rate. Pre-approved vacation or pre-approved sick leave does not constitute forfeiture of holiday pay. Employees scheduled to work on the holiday, but who do not report to work (other than pre-approved or excused absence) as scheduled shall forfeit holiday pay.

**Full-Time Employees.** Full-time, non-exempt employees (other than Fire personnel working 24 hour shifts) who are required to work on a holiday shall receive one and one-half times regular pay (Holiday Bonus Pay) for the actual hours worked. Those hours worked will be counted as straight time hours for purposes of calculation of overtime. Eight (8) hours of holiday pay will also be recorded at the employee's straight time rate of pay.

**Fire Personnel.** Fire Department personnel required to work a 24-hour shift on a holiday shall receive holiday pay at a rate of a straight twelve (12) hour time period.

### 6.3. ANNUAL VACATION WITH PAY

All full-time employees of the municipality will be granted vacation leave annually based on continuous years of service to the city. Vacation leave will be available when the employee is hired full-time and may be used when the employee has completed twelve (12) months service, unless approved by the Mayor at time of hire. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum amount as shown in the table below:

Service Completed	Annual Award
1 Year	1 week
2 Years	2 weeks
5 Years	3 weeks
10 Years	4 weeks
20 Years	5 weeks

Each employee has the option to take pay for any **one** (1) week of vacation. If an employee is eligible for more than one (1) week of vacation and the employee opts to take pay, the employee can only be paid for one (1) week and must take the other time off; OR in lieu of cashing out said week, that week may be opted to carry over to the following year (must use in next year or lose).

Vacation leave shall be taken at a time approved by the employee's supervisor and may not be accumulated above the annual allowance (with the exception of approved one week carryover). Vacation scheduling shall be done on a seniority basis within departments. Leave may be taken in no less than 2 hour increments<sup>xv</sup> with the exception of intermittent or reduced schedule leave used under FMLA, which may be used in 1 hour increments.

Upon voluntary separation, employees are entitled to be reimbursed for any unused vacation leave, with submission of appropriate notice. Failure to provide appropriate notice may result in forfeiture of payout of vacation and classification as ineligible for rehire.

**Scheduling.** Vacations should be scheduled in advance for the mutual convenience of the employee and the City so 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 his/her department, and no employee may begin his/her vacation leave until his/her request has been approved by the Department Head.

**Termination of Employment.** An employee who voluntarily separates from the employment of the City shall only be paid for his/her unused vacation leave if the employee gives appropriate written notification and works the entire notification period. Vacation leave payout will be at the employee's straight time rate of pay. Payment of the unused accrued vacation will only be made after the return of any issued City property. Upon involuntary termination of employment, unused vacation will be calculated on a pro-rated basis (percentage of calendar year worked prior to separation). Prorated vacation will be paid out upon involuntary separation of employment and upon return of issued City property.

**Legal Holidays.** Legal holidays falling within a vacation period are not to be counted as vacation days.

#### 6.4. SICK LEAVE

All full-time employees shall accumulate (9.33) hours of sick leave with pay for each month of work completed for the municipality (total of 14 days per calendar year), with the exception of full time Fire Service employees working 24 hour shifts who shall accumulate 24 hours of sick leave per month. Employees may not draw from their sick leave until completion of their 90-day probationary period. For purposes of this provision only, the 90-day probation applies also to police personnel on 6 month and 1 year probation.

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

1. Personal illness or physical incapacity resulting from causes beyond the employee's control.
2. Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees.
3. Medical, dental, optical or other professional treatments or examinations for the employee.
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. To attend to a family member with exposure to contagious disease so that the family member might jeopardize the health of other people.
7. Medical, dental, optical or other professional treatments or examinations for family members.

There is no maximum accumulation of Sick leave. Resolution #2146 provides for any unused sick leave upon retirement 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 to 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 Mayor and department heads are required to satisfy themselves that the employee is genuinely ill before approving sick leave. The Mayor or department head may require a doctor's certificate for any absence for which the employee requests sick leave, (if, in the opinion of the Mayor or department head, such action is deemed appropriate).

**Eligibility and Waiting Period.** Sick leave may only be taken after the satisfactory completion of 90 days employment and only for the illness or injury of the employee, family member, or any FMLA or Maternity/Paternity Leave qualifying event. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

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 off days. Employees claiming sick leave while on annual 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 days shall require a doctor's return to work certification in order to return to work.

**Fire Personnel.** 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.

**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 three 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 absences.

## 6.5. 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.

Leave without pay may only be granted after an employee exhausts all applicable paid leave, and for a period not to exceed four months for good and sufficient reasons which are considered uncontrollable. Such leave shall require prior Department Head recommendation and approval of 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 until the employee returns to work for greater than half of their assigned shifts for the calendar month in which they return.

## 6.6. FUNERAL/BEREAVEMENT LEAVE

Full-time employees may take eight (8) hours per funeral leave for immediate grandparents-in-law, Aunts and Uncles. This eight (8) hour funeral leave is available for each of these relatives, per relative.

Full-time employees may take twenty-four (24) hours per funeral leave for the following relatives:

Children	Spouse	Parents	Mother-in-law	
Father-in-law	Step parents	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 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. The twenty-four (24) hours Funeral Leave is available for each of these listed relatives, per relative<sup>xvi</sup>. Bereavement Leave may be used non-consecutively as approved.

## 6.7. EMPLOYEE EDUCATION LEAVE

The Mayor and/or the City Council may require department heads to attend conferences, seminars, workshops or other functions that are intended to improve or upgrade the department head's job skills.

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

These benefits will be available to all employees on a first-come, first-served basis, subject to the availability of budgeted funds. Requests for education and training may be initiated by either the employee or department head. References to training requests and training received should be made on performance evaluation forms. Final decisions on requests for education and training will be made by the Mayor and department head.

Department heads may authorize or require employee attendance at conferences, seminars, workshops, or other functions of a similar nature that are intended to improve or upgrade the employee's job skills. Requests to attend training sessions should be made at least 15 days prior to the deadline for registration. The department head, based on the supervisor's recommendation, will determine who will attend conferences based on the availability of resources.

When a request for training is approved, the employee's cost for registration, tuition and publications, transportation, lodging, and other reasonable expenses will be covered by the city.

## 6.8. MILITARY LEAVE

Any employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her Department Head. Compensation for such leave will be paid pursuant to T.C.A., Section 8-33-109.

**Full-Time Employees.** All full-time employees will be allowed up to 20 eight hour days per calendar year. Employees working shifts greater than eight hours per day will be allowed up to a total of 160 hours military leave.

**Part-Time Employees.** Part time employees will be allowed military leave of up to 20 days at the average of their daily hours worked, not to exceed 8 hours per day.

The employee may choose to supplement military leave with vacation pay, if available, up to the amount of regularly scheduled average pay.

**Benefits.** These same employees who are covered under the City's health insurance policy will be allowed to continue the City's health insurance for the duration of active duty. For the first 31 days of military leave, the City will maintain contribution at the same level as was done prior to leave. It is the responsibility of the employee to pay their portion of the health insurance premium while on active military duty. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during their military leave shall provide a mailing address where notices of premium payments due may be sent. Past the initial 31 days, the employee will be responsible for payment of 102% of their total premium cost if coverage continuation is elected.

Both COBRA and USERRA generally allow individuals who leave work for military service to continue coverage for themselves and their dependents under an employment-based group health plan. COBRA provides for 18 months of coverage, with further extensions for certain events. COBRA applies to group health plans maintained by employers with 20 or more employees. USERRA, which applies to all employers, provides for 24 months of

coverage. If military service is for 30 or fewer days, you and your family can continue coverage at the same cost as before your short service. If military service is longer, you and your family may be required to pay as much as 102 percent of the full premium for coverage. If your plan is covered by COBRA, you should receive a notice from the plan explaining your rights.

Employees eligible for re-employment will be covered under the Uniformed Services Employment and Re-Employment Rights Act (USERRA).

**Reinstatement.** The process for reinstatement of employees returning from military leave begins when the employee requests reemployment. Said request must be submitted:

- on the first work day back for employees deployed 30 days or less;
- within 14 days of the end of service for employees deployed up to 180 days; and
- within 90 days of the end of service for employees deployed 181 days or longer

Extensions are available if employee can show that it was impossible or unreasonable, through no fault of the employee, to report or reapply.

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

## 6.9. 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 municipality.

Employees providing proper documentation as being 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, he/she 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.

## 6.10. FAMILY AND MEDICAL LEAVE

**Eligibility.** The Family and Medical leave policy is applicable to both male and female 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 highly compensated employees. People who are not covered include elected officials, volunteers, independent contractors, and legal advisors.

Employees may be eligible for Family and Medical Leave for one or more of the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;
- medical leave when the employee is unable to work because of a serious health condition;
- to care for an immediate family member (spouse, son, daughter or parent) injured while on active duty if that injury renders the service member unfit for military duty; and/or
- to handle a "qualifying exigency" relating from an employee's spouse or child being called to active duty.

**Paid / Unpaid Leave.** Family and medical leave runs concurrently with paid time off (i.e. sick and vacation). Payment during FMLA will be in accordance with current leave policies. If the employee does not have the time available or he/she exhausts paid time while out on family and medical leave, the remainder of the approved leave will be unpaid. When an employee is on "leave without pay" greater than half of their assigned shifts or more during any calendar month no sick leave accrues. The combination of sick leave, annual 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. The right to take leave applies equally to male and female employees who are eligible. 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).

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 weeks 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".

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

1. Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment.
2. 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.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. 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.
5. 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.
6. 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 he/she 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/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. Payment for the second opinion shall be borne by the employee. Payment for the third shall be divided between the employee and the City.

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. 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 percent highest paid workers, may be denied restoration.

Restoration may be denied 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
- in any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice

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 date an employee's first FMLA leave begins. *Effective January 1, 2014.*

**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 is not designated as FMLA.

**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. 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 during the unpaid 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 at the City's discretion.

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.

## 6.11. AMERICAN'S WITH DISABILITIES POLICY (ADA/ADAAA)

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 organization. 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.

### **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. The Human Resources department 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 manager, or the manager of the Human Resources department.

### **Requesting a Reasonable Accommodation**

An employee with a disability is responsible for requesting an accommodation from the Human Resources department, or his or 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. Typically, 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.

### **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 he or she may submit additional information and/or challenge the determination that he or she 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.

### **Complaint Procedure**

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 he or she 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.

## 6.12. 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 months for pregnancy, childbirth, adoption, and nursing an infant. Use of paid leave (sick, family sick or vacation) shall be used until exhausted for maternity/paternity purposes; otherwise, the employee will be granted a leave of absence without pay.

An employee desiring maternity/paternity leave shall notify her department head so a temporary replacement may be secured. Maternity/paternity leave will run concurrent with FMLA leave 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.

## 6.13. HEALTH BENEFITS / COBRA

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 annually approved Schedule of Benefits available in the Human Resource Department.

**Eligibility.** Eligibility of the medical and dental insurance is per each plan document. Eligible employees must enroll for coverage within 30 days of employment or probationary period or a qualifying event. Health coverage will be effective the 1<sup>st</sup> of the month following initial hire. Dental coverage will be effective the 1<sup>st</sup> of the month following completion of 30 days of service.

**Qualifying Events.** Employees are responsible to notify the City if they experience any significant life event such as birth, marriage, divorce, legal separation, adoption, legal placement of a child, change of address, reduction in employees regularly scheduled work hours, or a dependent change in status (i.e., school status). Some events will allow an employee to make changes to benefits including adding or dropping dependents or terminating or adding coverage. Employees should notify the City within 30 days of experiencing a qualifying event.

**COBRA.** COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health 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. It is ordinarily less expensive, though, than individual health coverage.

**Qualified Beneficiaries** - A qualified beneficiary generally is an individual covered by a group health plan on the day before a qualifying event who is either an employee, the employee's spouse, or an employee's dependent child.

In certain cases, a retired employee, the retired employee's spouse, and the retired employee's dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary. Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.

**Qualifying Events** - Qualifying events are certain events that would cause an individual to lose health coverage. The type of qualifying event will determine who the qualified beneficiaries are and the amount of time that a plan must offer the health coverage to them under COBRA.

Qualifying Events for Employees:

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in the number of hours of employment

#### Qualifying Events for Spouses:

- Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
- Reduction in the hours worked by the covered employee
- Covered employee's becoming entitled to Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

#### Qualifying Events for Dependent Children:

- Loss of dependent child status under the plan rules
- Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
- Reduction in the hours worked by the covered employee
- Covered employee's becoming entitled to Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

### 6.14. 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 your 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.

### 6.15. RETIREMENT BENEFITS

After six months of service, eligible employees of the City of Portland will be enrolled in the Tennessee Consolidated Retirement System. Employees are required to contribute a percentage of their wages as determined by the Tennessee Consolidated Retirement System<sup>xvii</sup>.

Whenever an employee meets the conditions set forth in the retirement system's regulations, and as adopted by City Council, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

All eligible employees and their covered dependents who retire from the City before age 65 will be allowed to continue health coverage until becoming eligible for Medicare. Retired employees must meet one of the following criteria to qualify for continuation of medical insurance coverage after retirement:

1. Age 55 with at least 20 years of service with the agency and be covered under the Plan for at least one full year immediately prior to retirement, or
2. Age 55<sup>xviii</sup> with at least 10 years of service with the City and be covered under the Plan for at least three full years immediately prior to retirement, or
3. 30 years of service and under the age of 65.  
The employee must be drawing a monthly retirement check in order to maintain his/her coverage. Should the City of Portland withdraw from the State's Health Insurance Plan, the retiree would no longer be eligible to continue the coverage.

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

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

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

According to regulations of the State of Tennessee's Health Insurance Program effective July 1, 2015, city employees and elected officials hired or elected on or after July 1, 2015 will NOT be eligible for the benefit of continuation coverage at retirement as outlined in this section. However, current employees, elected officials and retirees (hired, elected or retired prior to July 1, 2015) will be grandfathered into the previously covered health insurance plan for retirees. Other adjustments to this policy may apply as outlined in Tennessee Public Chapter #426. Information on eligibility requirements will be available from the State of Tennessee, Benefits Administration publications and website.

## 6.16. WORKERS' COMPENSATION

An employee of the City 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 by the State Compensation Insurance Fund in accordance with the Tennessee Worker's Compensation Act.

No compensation shall be allowed 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, compensation shall commence with the eight (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 exist for a period as long as n (14) days, then compensation shall be allowed beginning with the first day after injury.

Employees injured in an on-the-job accident may be compensated according to the fourteen following schedule of compensation:

1. Temporary Total Disability – For an injury-producing temporary total disability, sixty-six and two-thirds (66 2/3) percent of the average weekly wages shall be allowed.
2. Temporary Partial Disability – In all cases of temporary partial disability, the compensation shall be sixty-six and two-thirds (66 2/3) percent of the difference between the wage of the worker at the time of the injury and the wage such worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of such disability, but not beyond 400 weeks.
3. Permanent Partial Disability – In all cases of disability that are partial in character but adjudged to be permanent, the injured employee shall be paid, in addition to any medical benefits, sixty-six and two-thirds (66 2/3) percent of the employee's average weekly wages for the period of time during which they suffer temporary total disability. Other benefits may apply for loss of limbs.
4. Permanent Total Disability – For permanent disability, the injured employee shall receive sixty-six and two-thirds (66 2/3) percent of the injured employee's wages at the time of injury. This compensation shall be paid during the period of such permanent total disability until the employee reaches the ages of sixty-five (65). This is providing that, with respect to disability resulting from injuries occurring after the age of 60, regardless of the employee's age, permanent total disability benefits are payable for a period of 260 week. Such compensation shall be reduced by the amount of any old-age insurance benefits received under the Social Security Act.

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.

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<sup>xix</sup>.

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 he or she has knowledge of scheduled appointments, advise the supervisor of the date and times that he/she 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. However, HIPPA rules and regulations shall apply with the employee's medical provider for any and every person inquiring.

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, 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. This minimum per mile reimbursement rate shall be based on the last published comprehensive travel regulation promulgated by the department of finance and administration. Said employee is personally responsible for keeping accurate records of all mileage. (NOTE – This provision only applies to medical providers and appointments that are related to a workers' compensation related illness or injury.

Employee May Use City-Owned Vehicles for Doctor's 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<sup>xx</sup>.

## **6.17. OCCUPATIONAL SAFETY AND HEALTH**

The municipality shall provide job safety and health protection for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§ 656 et seq.) and the Tennessee OSHA Law (T.C.A. 50-3-101 et seq.). The city encourages all employees to take the necessary precautions, including available vaccinations and protective equipment, to insure their continued health and safety. Failure to utilize required personal protective equipment may be met with disciplinary action up to, and including, termination of employment.

## **6.18.**

### **CITY OF PORTLAND'S PROGRAMS for: EDUCATIONAL ASSISTANCE & TUITION REIMBURSEMENT PRE-PAID ACADEMY TRAINING FOR POLICE OFFICER CERTIFICATION PROFESSIONAL DEVELOPMENT TRAINING EXPENSES**

**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.



**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 PO 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.
- 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:**

- A. ***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 General Equivalency Diploma (GED). 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.
- 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. 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. There is no repayment agreement required.
- D. ***Grade Requirements for the reimbursement program*** -- If a written request is approved, the employee shall receive reimbursement for the cost of tuition, books and registration 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

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)** --

- a. 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.
- b. 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 their employee file.
- c. **Professional Development Training** -- the employee will provide a copy of the certificate of completion from the training provider to Human Resources for inclusion in their employee file.

**REPAYMENT REQUIREMENTS:** Employees participating in the Educational Assistance Reimbursement Program 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.

A. **Educational Assistance Reimbursement Program:** If an employee voluntarily resigns 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:**

- a. does not successfully complete any course with a grade of "C" or better, as evidenced by an official grade report, transcript, or equivalent form;
  - b. drops, withdraws, or takes an incomplete grade in the course(s);
  - c. does not continue full time employment with the City of Portland at the start and completion of any course
  - d. voluntarily resigns the City of Portland's employment within two years after completion of the final course.
- B. **Police Officer Certification Training:** If a police officer voluntarily resigns 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, every 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 must 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 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 compensatory time or vacation time. 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.

### **6.19. PERSONAL EDUCATION AND TRAINING**

Employees are encouraged to improve themselves through education or training, even if it is not related to their city work. The city will be unable to provide financial assistance for this type of education. 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 compensatory time or vacation time. This applies only so long as their absences will not cause hardship for their departments.

### **6.20. INCLEMENT WEATHER LEAVE**

When 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; and
3. The employee shall deduct the missed workday (or portion thereof) from accumulated vacation leave. Reporting this leave shall follow the same requirements as other leave.

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

### **6.21. ADDITIONAL BENEFITS**

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.

### **6.22. GENETIC INFORMATION AND NON-DISCRIMINATION ACT**

The City of Portland is committed to providing a work environment free of discrimination and harassment. It is The City of Portland's policy that all employees have a right to work in an environment free of discrimination and harassment based on genetic information or any other basis protected by federal, state, or local law. The City of Portland prohibits harassment of its employees in any form—by supervisors, co-workers, customers, or suppliers.

According to the Equal Employment Opportunity Commission (EEOC), genetic information includes:

- Information about an individual's genetic tests
- Information about the genetic tests of an individual's family members
- Family medical history
- Requests for, or receipt of, genetic services by an individual or a family member
- Genetic information about a fetus carried by an individual or a family member; or about an embryo legally held by the individual or family member using an assisted reproductive technology.

Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

Examples of genetic tests include tests to determine whether an individual has a certain genetic variant associated with an increased risk of acquiring a disease in the future (for example, genetic tests to determine a predisposition for breast cancer, or the risk of conditions such as cystic fibrosis). A test for HIV infection, a cholesterol test, and drug tests are not considered genetic tests.

GINA generally prohibits employers from requesting, requiring, or purchasing, an applicant's or employee's genetic information, even if it is never used. There are six exceptions:

- Information is acquired inadvertently (e.g., a supervisor receives genetic information in response to a question about an employee's general wellbeing)
- Information is acquired as part of an employee's voluntary participation in health or genetic services, including wellness programs (individualized information is provided only to the individual; aggregated information that does not identify individuals is provided to the employer)
- Family medical history is needed to comply with the certification requirements of the Family Medical and Leave Act (FMLA), state or local leave laws, or certain leave policies
- Information comes from publicly available sources such as newspapers, magazines, or electronic sources
- As part of genetic monitoring, information is required by law or provided on a voluntary basis (e.g., monitoring required by the Occupational Safety and Health Administration (OSHA))
- Employers conducting testing for law enforcement purposes (e.g., a forensic lab)

It is The City of Portland's policy to notify employees and health care providers not to provide genetic information when The City of Portland requests health-related information (e.g., to support an employee's request for reasonable accommodation under the Americans with Disabilities Act (ADA)). Generally, the notice will be included on request forms and/or provided on a separate form when employees or healthcare providers are asked to submit health-related information.

It is The City of Portland's policy to comply with GINA's confidentiality requirements by treating genetic information in the same way as medical information (i.e., keeping the information confidential in medical files that are separate from other employee records).

If you feel you have been discriminated against or harassed in any way, it is generally best to tell that person that you find such behavior offensive, that such behavior is against The City of Portland's policy, and that you want him or her to immediately stop. However, if you are uncomfortable taking this action, or if the conduct does not stop after you have warned the offending person, you should immediately contact your supervisor. If you feel you cannot seek help from your supervisor, then you should contact his or her supervisor or the Human Resources, or higher-level management for assistance.

Every complaint will be investigated as promptly, thoroughly, and impartially as possible. We will protect the confidentiality of complaints to the fullest extent possible. If the investigation determines that discrimination or harassment has occurred, The City of Portland will take immediate and appropriate action.

The City of Portland will not retaliate against any employee for complaining about discrimination or harassment. If you feel you have been retaliated against, follow the complaint procedure above.

The City of Portland will ensure that managers and supervisors take positive steps to comply with this policy. They are required to be aware of potential discrimination situations, quickly resolve any discrimination issues that arise, and refrain from retaliation or harassment against any employee involved in the filing, investigation, or resolution of a discrimination claim.

Managers, supervisors, and all other employees are required to cooperate fully with the investigation and resolution of all discrimination and harassment complaints.

### **6.23. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

The City of Portland will provide appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information (PHI) by safeguarding information from intentional or unintentional use or disclosure.

The City will use or disclose PHI:

- a. to the employee
- b. with a consent to carry out treatment, payment or health care options
- c. without consent if there exists an indirect treatment relationship with the employee or the provider who created or received the PHI

- d. without prior consent in emergency treatment situations (if required by law to treat the employee or if communication barriers prevent clear consent)
- e. with and in compliance with Authorization
- f. with the agreement of the employee
- g. when required by law or for public health activities:
  - i. situations involving victims of abuse, neglect, or domestic violence
  - ii. or health oversight activities
  - iii. for judicial and administrative proceedings
  - iv. for law enforcement purposes
  - v. for decedents
  - vi. for cadaver organ, eye, or tissue donation purposes
  - vii. for research purposes
  - viii. to avert a serious health threat to health or safety
  - ix. for specialized governments functions
  - x. for worker's compensation

The City shall not disclose PHI unless it has a valid, signed authorization that contains the following:

- a. a specific and meaningful description of the information to be used or disclosed
- b. the name or other specific identification of the person(s) or class of persons authorized to make the requested use or disclosure
- c. the name or other specific identification of the person(s) or class of persons to whom the City may make the requested use or disclosure
- d. an expiration date or event that tells the employee the purpose of the use or disclosure
- e. a statement of the employee's right to revoke the authorization in writing and exceptions to the right to revoke, together with a description of how the employee may revoke the authorization
- f. a statement that information used or disclosed according to the authorization may be subject to re-disclosure by the recipient and no longer be protected by this resolution
- g. signature of the employee and date
- h. if the authorization is signed by a personal representative of the employee, a description of such representative's authority to act for the employee.

To file a complaint, employees shall submit, in writing, as many details such as names and dates as possible.

Documentation on all complaints received and their disposition will be kept in the Human Resources office.

The City will take appropriate disciplinary action against any members of the workforce who fail to comply with the privacy policies and procedures.

The City will document the actions.

The City will mitigate any harmful effect that is known to the City of a use or disclosure in violation of the policies and procedures.

The City shall refrain from intimidating, threatening, coercing, discriminating or retaliatory acts against employees who exercise their rights under the Act including:

- a. filing a complaint
- b. testifying
- c. assisting or participating in an investigation, compliance review, proceedings or hearing
- d. opposing any act or practice made unlawful by this resolution, provided the employee has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI.

Appropriate employees shall receive training on the policies and procedures with respect to protected health information (PHI) as necessary and appropriate for the employees to perform their jobs.

Training shall be provided to each current employee and thereafter to new members of the workforce within a reasonable time after the person joins the staff and to each member of the workforce whose functions are affected by a change in the policies or procedures. All training shall be documented by the Human Resources office. The HIPAA rules do not interfere with City's the ability to obtain health information necessary to process worker' compensation

claims; however, the rules may interfere slightly with the amount of information that a health care provider initially is willing to disclose.

## **SECTION 7 – CONDUCT OF EMPLOYEES**

### **7.1. CODE OF 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 guideline to employees as to what is acceptable behavior and what is prohibited behavior. Violation of any of these rules shall be sufficient cause for counseling, reprimand, suspensions, and/or dismissal of any City employee. Employees may hold their positions during good behavior and efficient service, but may be removed for, but not limited to, the following reasons: Incompetence, Inefficiency, Dishonesty, Insubordination, Discourteous Treatment of the Public, Neglect of Duty.

#### **EXAMPLE RULES OF CONDUCT**

##### **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).

##### **Rule 2 -- UNBECOMING CONDUCT**

Employee 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.

##### **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.

##### **Rule 4 -- CONFORMANCE TO LAWS**

Employees shall 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. Employees, for all duty assignments, shall wear the approved uniform if required.

##### **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, these Rules of Conduct or any other orders, 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, 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.

In addition to other indicators of unsatisfactory performance, the following will be considered evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders.

**Rule 11 -- INSUBORDINATION**

Employees shall promptly obey any lawful directives of a supervisor.

**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 municipality:

1. For the purpose of influencing the performance of an act, or refraining from performance of an act (nominal gifts of appreciation excluded), that he would be expected to perform, or refrain from performing in the regular course of his duties; or
2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

**Rule 13 -- ABUSE OF POSITION**

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

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 municipality.
2. Avoiding consequences of illegal acts.

Employees shall not lend to another person their identification card or badges 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. 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, even in the face of extreme provocation. In the performance of their duties, members shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any prejudice concerning race, sex, religion, politics, national origin, life style, or similar personal characteristics.

**Rule 17 -- PERSONNEL RECORD STORAGE AND CHANGES**

Personnel records for each employee are kept on file and maintained in the Human Resources Department. It is the responsibility of each employee to update personal information by notifying the Human Resources Department of any changes. Employee changes (i.e. address, telephone number, pay rate, title, etc.) shall be submitted to the Human Resources Department. The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits results from the failure of any employee to keep personnel records current.

**Rule 18 -- 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 19 -- 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.

**Rule 20 -- USE OF CITY OWNED PROPERTY/CELL PHONES**

The personal use of City-owned property is discouraged. City-owned property includes, but is not limited to, use of copiers, fax machines, telephones, computers, business cards, work badges, uniforms, and logo attire.

Employees issued a City-owned cellular phone due to the nature of their position shall be able to receive and initiate personal calls. However, should personal minutes or data usage exceed the number of minutes allowed by the City's cellular phone plan, the employee may be held responsible for reimbursement to the City for the overage of charges.

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. Intentionally defacing or damaging City property is not permitted.

Employees using personal equipment, such as cameras, tape recorders, tape measures, etc., do so at their own risk and no liability shall extend to the city for the loss or damage of such equipment.

**Rule 21 -- TRUTHFULNESS**

Upon the directive of the Mayor, Department Head, 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 22 -- BULLETIN BOARDS**

The City maintains bulletin boards at numerous locations on which important information connected with an employee's work is posted. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate supervisor before it is posted.

No employee shall mark, alter, or otherwise deface any notice or information, which has been posted for viewing within City buildings or on City property.

**Rule 23 -- SOLICITATION**

Charitable solicitations by employees shall be limited to before/after working hours or during an employee's lunch break.

**Rule 24 -- PARKING**

Parking is provided for employees. Employees should lock their vehicles when left parked. The City does not assume responsibility for loss or damage at any time to employee's vehicles or their contents.

**Rule 25 -- LOCKERS**

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 26 -- CODE OF ETHICS**

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 related 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 (See Appendix A)

## **7.2. DRUG FREE WORKPLACE GENERAL RULES**

**7.2.1.1.** City employees shall not take or be under the influence of any drug unless prescribed by the employee's licensed physician. Employees who are required to take prescribed or over-the-counter medication shall notify the immediate supervisor should the medication produce any adverse effects which might limit the employee's ability to perform their job.

**7.2.1.2.** City employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on City property or in City vehicles.

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

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

**7.2.1.4.** 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.

**7.2.1.5.** Failure to comply with the intent or provisions of this directive may be used as grounds for disciplinary action up to, and including, termination of employment.

### **7.2.2. EMPLOYEE TESTING**

All employees in safety-sensitive positions (such as gas employees, equipment / vehicle operators that require a Commercial Driver's License, Police and Fire department employees<sup>xxi</sup>, 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).

Employees shall not take or be under the influence of any narcotics or dangerous substances unless prescribed by the employee's licensed physician. Employees who are required to take prescription medicine shall notify their immediate supervisor of the medication prescribed and the nature of the illness or injury.

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.

Employees are prohibited from the use, possession, manufacturing, distribution and sale of drugs, alcohol, or any other controlled substance on municipal government property or in city vehicles.

All property belonging to the municipality may be subject to inspection at any time without notice as there may be no expectation of privacy in such property.

- 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 subject to inspection by the employee's supervisor after reasonable advance notice and in the presence of the employee.

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<sup>xxii</sup>.

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 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.

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.

### **7.2.3. REFUSAL TO CONSENT**

An employee who refuses to consent to a drug or alcohol test after a work-related accident or incident, if drawn during random selection, or when reasonable suspicion of drug or alcohol use has been identified may be terminated.

### **7.2.4. CONFIRMATION OF TEST RESULTS**

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 to a final determination. Test results are then forwarded to Human Resources for appropriate action.

### **7.2.5. CONSEQUENCE OF A CONFIRMING POSITIVE TEST RESULT: JOB APPLICANTS**

Job applicants will be denied employment with the City if their pre-employment test result has been confirmed positive.

### **7.2.6. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES**

Current employees will be subject to disciplinary action up to and including termination of employment if their test result has been confirmed positive.

### **7.2.7. CONFIDENTIALITY OF TEST RESULTS**

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.

## **7.3. TRAVEL POLICY**

All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by T.C.A. 6-54-901.

### **7.3.1. GENERAL RULES**

The Mayor or his/her designee shall be responsible for the enforcement of the following travel regulations.

- 7.3.1.1.** In the interpretation and application of this policy, the term “traveler” or “authorized traveler” means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this policy. “Authorized traveler” shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on City business, unless the person(s) otherwise qualifies as an authorized traveler under this policy.
- 7.3.1.2.** Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the City. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the Mayor. Under certain conditions, entertainment expenses may be eligible for reimbursement.
- 7.3.1.3.** Authorized travelers can request either a travel advance for the projected cost of authorized travel, and/or advance billing directly to the City for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the City. It will be the responsibility of the Mayor to initiate action to recover any undocumented travel advances.
- 7.3.1.4.** Travel advances are available only for special travel and only after completion and approval of the travel authorization form.
- 7.3.1.5.** The travel expense form will be used to document all expense claims.
- 7.3.1.6.** To qualify for reimbursement, travel expenses must be:
- Directly related to the conduct of the City business for which travel was authorized, and
  - Actual, reasonable, and necessary under the circumstances. The Mayor may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.
- 7.3.1.7.** Claims of \$5 or more for travel expense reimbursement must be supported by the *original* paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.
- 7.3.1.8.** Any person attempting to defraud the City or misuse City travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances, as well as disciplinary action.
- 7.3.1.9.** Mileage and motel expenses incurred within the City are not ordinarily considered eligible expenses for reimbursement.

### **7.3.2. TRAVEL REIMBURSEMENT RATE SCHEDULE**

Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The City’s travel reimbursement rates will automatically change when the rates are adjusted. The City may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs.

### **7.3.3. TRAVEL REQUESTS**

To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the City travel policy. All costs associated with the travel should be reasonably estimated and *shown* on the Authorization for Travel Form. An approved authorization form is needed before advanced expenses are paid or travel advances are authorized. A copy

of the conference program, if applicable, should be attached to the authorization form. If the program is not available prior to the travel, you must attach it to your Statement of Expense Claims Form.

#### **7.3.4. TRAVEL DOCUMENTATION**

It is the responsibility of the authorized traveler to:

- 7.3.4.1. prepare and accurately describe the travel;
- 7.3.4.2. certify the accuracy of the reimbursement request;
- 7.3.4.3. note on the reimbursement form all direct payments and travel advances made by the City; and
- 7.3.4.4. file the expense form with the necessary supporting documents and original receipts. The expense form should be filed with the finance department within 10 days of return or at the end of the month, whichever is more practical

#### **7.3.5. TRANSPORTATION**

All potential costs should be considered when selecting the modes of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost-beneficial, air travel is encouraged. If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

**Exceptions:** When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of the:

- 7.3.5.1. actual expenses incurred; or
- 7.3.5.2. the amount that would have been incurred for the business portion only. The calculations for the business portion of the trip must be made using the least expensive rates available. All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form

##### **7.3.5.2.1. AIR**

When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government, or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The City will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of discount fares. Airline travel can be paid by direct billing to the City. Mileage credits for frequent flyer programs accrue to the individual traveler. However, the City will not reimburse for additional expenses—such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class—for travelers to accumulate additional mileage or for other personal reasons. The City will not reimburse travel by private aircraft unless authorized in advance by the Mayor.

##### **7.3.5.2.2. RAIL OR BUS**

The City will pay for actual cost of ticket.

##### **7.3.5.2.3. VEHICLES**

Automobile transportation may be used when a common carrier cannot be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two or more City employees traveling together.

**Personal Vehicle.** Employees should use City vehicles when possible. Use of a private vehicle must be approved in advance by the supervisor. The City will pay a mileage rate not to exceed the rate allowed by the state schedule. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official City business will be reimbursed. If an indirect route is taken, MapQuest mileage will be used to determine the mileage to be reimbursed. If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance to hold harmless the City for any liability from the use of the private vehicle. In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available air fare and associated air fare travel costs. Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

**City Vehicle.** The City may require the employee to drive a City vehicle. If a City vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the City vehicle when proper documentation is provided. Out-of-City repair cost to the City vehicle in excess of \$100 must be cleared with the proper City official before the repair is authorized.

**Rental Cars.** Use of a rental car is not permitted unless it is less expensive or otherwise more practical than public transportation. Approval of car rental is generally required in advance by the Mayor. Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out of-state travel must obtain liability coverage from the vendor.

- Fines for traffic or parking violations will not be reimbursed by the City.
- Reasonable tolls will be allowed when the most direct travel route requires them.

#### **7.3.5.2.4. TAXI, LIMOUSINE, AND OTHER TRANSPORTATION FARES**

When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The City will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required. For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, *original* receipts are required for claims of \$5 or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable. Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare.

#### **7.3.6. LODGING**

The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the state rate schedule.

- 7.3.6.1** Tennessee's reimbursement rate varies according to location and does not include appropriate taxes. State rates for travel reimbursement can be found in the state regulations online at <http://www.state.tn.us/finance/act/policy8.pdf>.
- 7.3.6.2.** Original lodging receipts must be submitted with the expense form. *Photocopies are not acceptable.*
- 7.3.6.3.** If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.
- 7.3.6.4.** If the best rate is secured, and it still exceeds the maximum lodging per diem, the supervisor may authorize a higher reimbursement amount. Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to

provide documentation of the “officially designated meeting site” room rates, if these rates are higher than the normal reimbursable amounts.

- 7.3.6.5. If two or more City employees travel together and share a room, the lodging reimbursement rate will be the maximum of two single rooms. If an employee shares a room with a non-employee, the actual cost will be allowed up to the maximum reimbursable amount. The receipt for the entire amount must be submitted with the expense form.

**7.3.7. MEALS AND INCIDENTALS**

Receipts are not required for meals and incidentals. The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler will not be reimbursed more than this. Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler’s official station is home or work, whichever produces the least cost to the City.

When partial day travel is involved, the current per diem allowance is determined as follows:

MEAL	IF DEPARTURE BEFORE	IF DEPARTURE AFTER
Breakfast	7:00 a.m.	8:00 a.m.
Lunch*	11:00 a.m.	1:30 p.m.
Dinner**	5:00 p.m.	6:30 p.m.

Departure time is determined by using the start time for the class or event less the estimated travel time from [www.mapquest.com](http://www.mapquest.com)

*\*Generally, lunch will not be reimbursed unless overnight travel is involved. Lunch may be reimbursed if departure is before 11 a.m. and the employee is eligible to be reimbursed for dinner.*

*\*\* When overnight travel is involved, dinner reimbursement is made regardless of departure time*

Regardless of which reimbursement rate the City uses, the amounts include tip, gratuity, etc. The hour and date of departure and return must be shown on the expense form.

The excess cost of an official banquet may be allowed provided proper documentation or explanation is submitted with the expense form. If a meal is included as part of a conference or seminar registration, or is included with the air fare, then the allowance for that meal should be subtracted from the total allowance for the day. For example, if a dinner is included as part of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount.

**7.3.8. MISCELLANEOUS EXPENSES**

- 7.3.8.1. Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel request form and can include a request for preregistration fee payment.
- 7.3.8.2. The traveler may be reimbursed for personal phone calls while on official travel, but the amount will be limited as defined in State of TN guidelines and City Travel Policy.
- 7.3.8.3. An allowance as defined in State of TN guidelines and City Travel Policy will be reimbursable for hotel/motel check-in and baggage handling expenses
- 7.3.8.4. Laundry, valet service, tips, and gratuities are considered personal expenses and are not reimbursable.
- 7.3.8.5. For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt.

### 7.3.9. ENTERTAINMENT

The City may pay for certain entertainment expenses provided that the

- entertainment is appropriate in the conduct of City business;
- entertainment is approved by the Mayor;
- group or individuals involved are identified;
- documentation is attached to the expense form to support the entertainment expense claims

To request reimbursement for authorized entertainment expenses, be sure to include with the expense form.

**Required receipts.** All requests must be supported by original receipts from the vendor (restaurant, caterer, ticket office, etc.) Reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

A disclosure and explanation statement, explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group). If the Mayor is the person filing the claim, then it must be approved by the governing board before the finance officer authorizes payment.

### 7.3.10. TRAVEL RECONCILIATION

**7.3.10.1.** Within 10 days of return from travel, or by the end of the month, the traveler is expected to complete and file the Statement of Expense Claims Form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, if the City provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and City pre-payments indicated. The balance due the traveler or the refund due the City should be clearly shown below the total claim on the form or in a cover memo attached to the front of the form.

**7.3.10.2.** If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the City for that difference.

**7.3.10.3.** The Mayor will address special circumstances and issues not covered in this policy on a case-by-case basis.

### 7.3.11. TRAVEL VIOLATIONS

Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees.

## 7.4. USE OF CITY VEHICLES AND EQUIPMENT

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 municipality. Decisions about aid to charitable, civic or other organizations will be made exclusively by the Mayor and the City Council.

Due to the need for various departments to have on-call employees available to deploy in emergency situations, the following positions will be allowed to take a city vehicle home during nights, holidays and weekends:

#### **Public Safety Department**

- Fire Chief
- Any eligible, sworn, police officer residing inside a 25 mile radius of the Portland Police Department, officers who live at a greater distance may be able to park their car at a participating local police department, subject to the assigned vehicle programs outlined by Police Department Standard Operating Procedures/Standard Operating Guidelines

## **Public Works and Utilities Department**

- Public Works Superintendent
- City Engineer
- Departmental supervisor residing inside the planning region of Portland
- The on-call employee of each department
- Assistant Public Works Superintendent

There will be exceptions for other employees whose duties may require that they take a city vehicle home occasionally, and these will require written approval, signed by the Mayor and Supervisor<sup>xxiii</sup>.

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, or approved by the Mayor or Department Head.

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. This 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<sup>xxiv</sup>. No smoking/tobacco use shall be allowed in city vehicles at any time.

## **7.5. SEXUAL HARASSMENT<sup>xxv</sup>**

### **7.5.1. PURPOSE**

The City may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The City will take immediate, positive steps to stop such harassment when it occurs. The City is responsible for acts of sexual harassment in the workplace when the City (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the City took immediate and appropriate corrective action. The City may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the City (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the City of Portland, including but not limited to, full- and part-time employees, elected officials, regular and temporary employees, and employees working under contract for the City.

### **7.5.2. DEFINITIONS**

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

- sexual harassment or unwelcome sexual advances;
- requests for sexual favors;
- verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- explicit or implied job threats or promises in return for submission to sexual favors;
- sex-oriented comments on appearance;
- sex-oriented stories;
- displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
- sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees

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.



### 7.5.3. MAKING SEXUAL HARASSMENT COMPLAINTS

Prevention is the best tool for the elimination of sexual harassment. An employee who feels subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- the employee's immediate supervisor,
- the employee's department head,
- the recorder,
- the mayor, and/or
- the board of mayor and aldermen/commission/council
- Human Resources

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless of which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- is/her name, department and position title;
- the name of the person or persons committing the sexual harassment, including their title(s), if known;
- the specific nature of the sexual harassment, how long it has gone on, and 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;
- witnesses to the harassment;
- whether the employee has previously reported the harassment and, if so, when and to whom

### 7.5.4. REPORTING AND INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

The Human Resource Director, or appropriate counsel, is the person designated by the City to be the investigator of complaints of sexual harassment against employees.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall:

- a. separate the complainant and accused party for the duration of the investigation; upon the approval of the Department Head and Mayor.
- b. 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.
- c. immediately prepare a report of the complaint according to the preceding section and submit it to the mayor and Human Resource Director;
- d. make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
  - i. verbal responses made to the investigator by the person complaining of sexual harassment,
  - ii. witnesses interviewed during the investigation,
  - iii. the person against whom the complaint of sexual harassment was made, and
  - iv. any other person contacted by the investigator in connection with the investigation
- e. within ten (10) days of receiving the complaint, the Human Resource Director prepares and presents the findings to the Mayor in a report, which will include:
  - i. the written statement of the person complaining of sexual harassment,
  - ii. the written statements of witnesses,
  - iii. the written statement of the person against whom the complaint of sexual harassment was made, and
  - iv. all the investigator's notes connected to the investigation

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the

investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present it to the Mayor. The report shall include the written statement of the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

#### **7.5.5. ACTION ON COMPLAINTS OF SEXUAL HARASSMENT**

If it is determined that the complaint of harassment is founded, immediate and appropriate corrective action against the employee guilty of sexual harassment will be taken by the Mayor, consistent with this authority under the municipal charter, ordinances or rules governing the authority to discipline employees.

The disciplinary action shall be consistent with the nature and severity of the offense. The disciplinary action may include referral to mandatory EAP, demotion, suspension, warning, reprimand, or termination. A determination of the level of disciplinary action shall be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee named in a sexual harassment investigation shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a City employee in the workplace, the Human Resources Director or Mayor shall take whatever lawful action against the non-employee that is necessary to bring the sexual harassment to an immediate end.

#### **7.5.6. OBLIGATION OF EMPLOYEE**

Employees are not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

### **7.6. COMPUTER USE AND MONITORING**

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 discouraged. 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 all computers in order to ascertain any abuse.

#### **7.6.1. General Computer Policies**

- 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.

- 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.
- 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.

### **7.6.2. 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.
- 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.

### **7.6.3. E-Mail Usage**

- 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.

## 7.7. WORKPLACE VIOLENCE AND HARASSMENT

The City of Portland strictly prohibits any harassment on the basis of race, color, religion, gender, national origin, age or disability as such actions constitute discrimination. No City employee shall engage in harassment of any form.

Harassment is defined as unwelcomed or unsolicited speech or conduct based upon membership in a protected class including race, gender, creed, religion, national origin, age, color, or handicapping conditions as defined by the American with Disabilities Act that centers on hostile work environment or circumstances involving quid pro quo. Any city employee who believes he or she may have a complaint of harassment should report it to their immediate supervisor or should file a complaint within 30 days of the occurrence directly with Human Resources, the Mayor or Department Head. The Human Resource Director, or applicable counsel, will conduct an investigation into any allegations of harassment. The Human Resource Director, or appropriate counsel, will advise the employee of the outcome of the investigation. The Mayor will take any action deemed necessary to preserve the integrity of the organization and to ensure the efficiency and effectiveness of the town's operations.

Employees witnessing harassment shall also report such conduct to the appropriate department head, Human Resource Director or Mayor. Retaliation toward any employee exercising their right and duty to address perceived harassment will not be tolerated<sup>xxvi</sup>.

Employees are not only encouraged to report instances of harassment; they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment.

Disciplinary action may also be taken against any 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.

The City maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the City. The City recognizes that each employee is entitled to a safe and secure work environment that is free from intimidation, threats, or violent acts, and will not tolerate verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

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:

- **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.
- **Physical Harassment.** Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
- **Visual Harassment.** Displaying derogatory or offensive posters, cartoons, publications or drawings.

Charges of violence and harassment may be reported to any supervisory employee of the City, including, but not limited to, the Human Resources Director, the Mayor, and the City Recorder. The Director of Human Resources, or appropriate counsel, is the party designated to investigate any claims of workplace violence.

Upon completion of an investigation, a written report will be presented to the Mayor. If it is determined that the information is correct, immediate and appropriate disciplinary action will be taken against the employee guilty of workplace violence or harassment. The disciplinary action may include mandatory management referral to the Employee Assistance Program (EAP)<sup>xxvii</sup>, demotion, suspension, warning, reprimand or termination. A determination of the level of action shall be made on a case-by-case basis. It is in direct violation of this policy to engage in any act of workplace violence or harassment.

Employees who have knowledge of an act of workplace violence or of another employee's intent to commit an act of violence against a co-worker, supervisor or citizen have an obligation to report such information to their supervisor. Failure to report or refusal to cooperate in an investigation regarding workplace violence or harassment may result in disciplinary action. Any employee who acts in good faith by reporting real or implied violent behavior

or harassment will not be subject to any form of retaliation or harassment. Any action of this type resulting from a report of violent behavior must be reported to Human Resources for investigation.

Should an employee become a victim of an incident of workplace violence or harassment, Human Resources may offer contact through the Employee Assistance Program (EAP) to assist in coping with any effects of the incident. The City must be informed of individuals who have been ordered legally to stay away from any City employee or City location. Any employee who applies for or obtains a protective or restraining order shall provide in confidence to Human Resources the appropriate information and/or documentation.

## **7.8. SOCIAL MEDIA**

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 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 county laws, regulations, and policies, as well as all applicable City policies. This includes adherence to established laws and policies regarding copyright, records retention, the Freedom of Information Act (FOIA), 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 M

## SECTION 8 – DISCIPLINARY PROCEDURES

### 8.1. DISCIPLINARY SYSTEM

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors should inform employees promptly and specifically of such lapses. The steps and order of disciplinary action are listed below. A reasonable period of time for improvement may be allowed first, and if there is no improvement, then disciplinary action should be taken.

The supervisor and/or the Mayor shall offer the employee counsel and assistance through the employee assistance program (EAP) when appropriate for the desired improvement. If justified by the seriousness of the first or subsequent violation, the employee may be required by the Mayor and/or Human Resources Director to participate in the EAP. However, the action to be taken depends on the seriousness of the incident and pattern of past performance and conduct. If it is required and the employee refuses, it shall be deemed as grounds for dismissal.<sup>xxviii</sup>

The types of disciplinary action are:

1. *ORAL REPRIMAND* - Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. The supervisor will place a copy of the appropriate correction notice, following review with employee, in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

It is recommended that the affected employee sign the oral 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 oral reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

2. *WRITTEN REPRIMAND* - In situations where an oral warning has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall, after review with the employee, be placed in the employee's personnel folder. The supervisor administering the reprimand shall advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite 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 corrective actions and identify dates by which the corrective actions shall be taken.

At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. 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.

3. *SUSPENSION* - An employee may be suspended with or without pay by his/her department head with the approval of the mayor. The suspension will not exceed a total of 30 days in any 12-month period. A written statement of the reason for suspension shall be submitted to the employee affected at least 24 hours prior to the effective date of suspension. This is providing that, during the advance-notice period, the employee may be retained in active-duty status, placed on leave, or suspended with or without pay at the discretion of the mayor. The employee will be granted a hearing before the Mayor upon request. An employee determined to be innocent of the charges shall be returned to duty with full pay for the suspension period. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances, an employee may be suspended without 24-hour notice, if in the best interest of the city and/or public interest or safety issues.

4. *DISMISSAL* - The mayor may dismiss an employee for reasonable cause, subject to the provisions of the city charter, and that is for the good of the city service. Reasons for dismissal may include, BUT SHALL NOT BE LIMITED TO: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsifying records, or refusing to seek assistance through an EAP when it is required by the Mayor and/or Human Resources Director, or violating any of the charter provisions, ordinances, or these rules.<sup>xxix</sup>

Examples include: incompetency or inefficiency in performing duties; conviction of a criminal offense or of a malfeasance involving moral turpitude; violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline; being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty; theft, destruction, carelessness, or negligence of city property; disgraceful personal conduct or language toward the public, fellow officers, or employees; unauthorized absences or abuse of leave privileges; incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated; accepting any valuable consideration that was given with the expectation of influencing the employee in performing his/her duties; falsifying records or using official position for personal advantage; loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing his/her duties; or violating any of the provisions of the city charter, personnel ordinance, or these rules.

The employee, prior to dismissal action, shall be provided a notice of charges and offered a pre-termination hearing in order to respond to the charges; and for the City to verify the facts related to the potential dismissal. The employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and their right to a pre-termination hearing before the Mayor. Requests for pre-termination hearings shall be in writing. When possible, the notice of charges shall be furnished at least one calendar week prior to the proposed effective date of the action. During this period, the employee may be retained on duty status, placed on administrative leave, or suspended with or without pay at the discretion of the Mayor. If the employee fails to respond to the advance notice, the proposed action shall be effective on the date specified with no need for further action.

If the charges presented in the pre-termination hearing are sustained by the Mayor, he may present to the City Council his recommendation for termination. The employee may request in writing a full evidentiary hearing before the City Council within 3 calendar days of being notified in writing of the intent of the Mayor to recommend termination. In this hearing the employee may have representative counsel if they choose, and they or their representative counsel may confront and cross examine witnesses prior to final decision by the City Council.

## **8.2. MAINTENANCE OF RECORDS**

The Human Resources Department is responsible for maintaining a folder for each employee. All records of disciplinary action are to be forwarded within three business days following the action taken. These records include, but are not limited to, original written counseling, notice of charges, and Performance Correction Notices, etc.

Copies of records may be kept at the department level and copies may be given to the employee upon request.

## SECTION 9 – MISCELLANEOUS POLICIES

### 9.1. COMMERCIAL DRIVER LICENSE

All employees required to drive (1) a vehicle with a gross weight of more than 26,000 pounds; (2) a trailer with a gross weight of more than 10,000 pounds; (3) a vehicle designed to transport more than 15 passengers, including the driver; and (4) any size vehicle hauling hazardous waste requiring placards 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.

### 9.2. EMPLOYEE RIGHT TO CONTACT ELECTED OFFICIALS

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

### 9.3. VOTING

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 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.

### 9.4. POLITICAL ACTIVITY AND THE HATCH ACT

Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform **nor use municipal equipment or supplies in any campaign or election** (T.C.A. 7-51-1501) *The 'Little' Hatch Act*.

The Federal Hatch Act (5 U.S.C. §§ 7321-7326) restricts the political activity of individuals principally employed by state or local executive agencies who work in connection with programs financed in whole or in part by federal loans or grants. The Hatch Act applies to any city employee "whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency..." 5 U.S.C.A. § 1501(4)

Permitted and Prohibited Activities of the Hatch Act:

- May be a candidate for public office in a nonpartisan election
- May campaign for and hold elective office in political clubs and organizations
- May actively campaign for candidates for public office in partisan and nonpartisan elections
- May contribute money to political organizations or attend political fundraising functions
- May participate in any activity not specifically prohibited by law or regulation
  
- May not be a candidate for public office in a partisan election
- May not use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office
- May not directly or indirectly coerce contributions from subordinates in support of a political party or candidate



An election is partisan if any of the candidates in the election are running as a representative of a political party whose presidential candidate received votes in the preceding election at which Presidential electors were selected.

An employee's conduct is also subject to the laws of the state and the regulations of the employing agency. Prohibitions of the Hatch Act are not affected by state or local laws.

#### **9.5. NON SMOKER 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 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.

The following areas will be designated as smoke free: (1) Water Distribution Building Offices, Street/Sanitation Office area inside of the Shop, Gas Shop Office areas inside of building, Mechanic Shop Office area only, Waste Water Treatment Plant entire building, Water Treatment Plant entire building, Parks Department including community center, gymnasium, restrooms (both Richland and Meadowbrook Parks) <sup>xxx</sup>.

#### **9.6. IDENTITY THEFT<sup>xxxi</sup>**

The risk to the municipality, its employees and customers for data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor. The municipality adopts this sensitive information policy to help protect employees, customers, contractors and the municipality 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);
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 encouraged to use common sense judgment in securing confidential information to the proper extent. If an employee is uncertain of the sensitivity of a particular piece of information, he/she should contact their supervisor. In the event that the municipality cannot resolve a conflict between this policy and the Tennessee Public Records Act, the municipality will contact the Tennessee Office of Open Records.

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

1. Files 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 municipality 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 municipality or its customers. The City Recorder 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.

## **9.7. DRESS CODE**

Those employees in the Police, Fire, Parks and Public Works Departments are furnished uniforms. These must be worn on the job at all times. All other employees, male and female, should wear clothing suitable to the type of work done and the environment in which they work. Clothes should be neat, clean and in good taste, and should not constitute a safety hazard. Interpretation of this rule will be left to the supervisor of the employee whose attire may be in question.

For female employees, skorts may be permitted if the length is appropriate. No shorts are to be worn by those in an office setting; male or female. No shorts, sneakers, flip-flops, t-shirts, sweat suits, or any other item of casual clothing that, in the opinion of the supervisor are inappropriate for the work environment or disruptive to other employees, will be permitted.

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.

Fridays may be observed as “Casual” day, when neat, clean sneakers, t-shirts, blue jeans and sweat shirts may be worn by office personnel. However, no item of casual clothing will be permitted bearing offensive slogans and/or prints.

## **9.8. CONFIDENTIALITY**

By law, most city records are "public records" subject to T.C.A. 10-7-501 – 515, and may be viewed by those who request to do so. However, some records are not public and there are issues dealt with on a daily basis within the city that employees are not at liberty to speak freely of. Information obtained in your capacity with the city should not be the object of open conversation, nor should this information be taken outside the workplace. Any employee who practices such may be subject to disciplinary action up to and including termination.

## **SECTION 10 - AMENDMENT OF PERSONNEL RULES**

### **10.1. AMENDMENTS**

Amendments or revisions of these rules may be recommended for adoption to City Council by the Mayor. Such amendments or revisions of these rules shall become effective after approval by Ordinance of the City Council.

### **10.2. SPECIAL NOTE**

These personnel policies are believed to be written within the framework of the Charter of the City of Portland but in case of conflict, the Charter takes precedence.

**SECTION 11 – EFFECTIVE DATE**

This Ordinance takes effect upon its passage and supersedes any personnel policy, Resolution, or Ordinance previously adopted.

DATE ADOPTED: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST  
:

\_\_\_\_\_  
CITY RECORDER / CLERK

APPROVED AS TO FORM:

Date Notice Published:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_



**SECTION 13 – ACKNOWLEDGEMENT OF RECEIPT - EMPLOYEE**



Employee Name: \_\_\_\_\_

Employee #: \_\_\_\_\_

I acknowledge that I have received a copy of the City of Portland, TN Personnel Manual. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the Handbook. 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. I understand and agree that, other than the Mayor, approved by the City Council, in a signed writing, a manager or representative of the City has no authority to enter into any agreement, express 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 or resolution by the City Council. My continued employment indicates my agreement to work under those changes.

**My signature below certifies that I understand that this agreement is the sole and entire agreement between me and the City concerning the duration of my employment and the circumstances under which my employment may be terminated. It supersedes all prior agreements, understandings and representations concerning my employment.**

This Acknowledgment of Receipt is provided in duplicate. Please sign both copies and retain one for your records. Please forward the duplicate original to Human Resources.

Delivered to Employee by: \_\_\_\_\_

Date: \_\_\_\_\_

Employee's Printed Name: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX A

## TITLE 4 – MUNICIPAL PERSONNEL CHAPTER 8 – CODE OF ETHICS

### SECTION

- 4-801. Applicability.
- 4-802. Definition of "personal interest."
- 4-803. Disclosure of personal interest by official with vote.
- 4-804. Disclosure of personal interest in non-voting matters.
- 4-805. Acceptance of gratuities, etc.
- 4-806. Use of information.
- 4-807. Use of municipal time, facilities, etc.
- 4-808. Use of position or authority.
- 4-809. Outside employment.
- 4-810. Ethics complaints.
- 4-811. Violations.

**4-801. Applicability.** This chapter is the code of ethics for personnel of the City of Portland. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "city" or "City of Portland" includes these separate entities.

**4-802. Definition of "personal interest."** (1) For purposes of §§ 4-803 and 4-804, "personal interest" means: Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

**4-803. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.

**4-804. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

**4-805. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

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(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

**4-806. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

**4-807. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the city council to be in the best interests of the city.

**4-808. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city.

**4-809. Outside employment.** A full-time employee of the city may not accept any outside employment without written authorization from the mayor.

**4-810. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request the city council to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the city council, the city council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the city council determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city council.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics

**4-811. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.



## **APPENDIX B**

### **Impacted Ordinances and Resolutions – Personnel Manual Revision 2013**

Ordinance No. 600 – An Ordinance Establishing the Compensation for the Mayor and for Members of the City Council of the City of Portland; Approved May 3, 1999

Resolution No. 10-10. Resolution to Reduce the Rate Paid to Volunteer Fire Fighters for Medical Calls; Approved January 26, 2010.

Resolution No. 10-45; A Resolution to Establish a Plan to Provide Constant Oversight of Monies Paid for Overtime; Approved – April 5, 2010.

Resolution No. 09-93; A Resolution to Establish a Procedure for Paying Overtime in Accordance with the Fair Labor Standards Act. Approved – September 1, 2009.

Resolution No. 5254: A Resolution to Add Animal Control Personnel to the City of Portland’s Existing On-Call Policy. Approved December 6, 2006.

Resolution No. 10-11 – A Resolution to amend the Personnel Policies, Section 6, Subsection E, to exclude full-time firefighters from the two hour minimum for medical call while off duty and guarantee a one hour minimum – Approved – January 26, 2010.

Resolution No. 5235 – A Resolution to Establish “On Call” Policy for Certain Positions for The City of Portland; Approved October 2, 2006. [and] Resolution 5317 – A Resolution to Establish ‘On Call’ Holiday Pay Policy for Certain Positions for the City of Portland – Approved May 7, 2007.

Resolution No. 4334 – A Resolution Requesting Approval of Guidelines for the Public Notice of Job Vacancies (Rescind Resolution Nos. 2228 and 3072); Approved September 7, 2000.

Resolution No. 4334 – A Resolution Requesting Approval of Guidelines for the Public Notice of Job Vacancies (Rescind Resolution Nos. 2228 and 3072); Approved September 7, 2000.

Resolution No. 4825 - Resolution amending Resolution 3825 regarding legislative body of the City Council. Approved – March 1, 2004.

Resolution No. 4961 - Resolution amending Resolution 4329 by replacing Nepotism Policy; Approved – January 6, 2005.

Resolution No. 4058 - Resolution amending Resolution 3825 by including a paragraph relative to employee transfers; Approved – May 3, 1999.

Resolution No. 10-50 – A Resolution to establish a uniform method of keeping and calculating time for all city employees and include it in the personnel policy; Approved April 5, 2010.

Resolution No. 4240 - Resolution amending Resolution 3825 by adding Veterans Day as a holiday for employees; Approved – January 3, 2000.

Resolution No. 09-126 - Resolution amending Resolution 3825 by modifying the vacation leave Policy. Approved – November 2, 2009.

Resolution No. 5090. Resolution amending Resolution 3825 by modifying the Funeral Leave Policy. Approved – November 7, 2005.

Resolution No. 10-06. Resolution to Extend TCRS benefit with an increase of .5% for employees of the City of Portland; Approved February 1, 2010.

Resolution No. 4430 – Resolution amending Resolution 3825 by adding a Worker’s Compensation leave of Absence Policy; Approved – March 5, 2001.

Resolution No. 08-139; A Resolution to Clarify Workers’ Compensation Issues That Involve City of Portland Employees; Approved - November 3, 2008.

Resolution No. 3967 - Resolution amending Resolution 3825 by adopting a drug testing policy for the police and fire departments; Approved – December 7, 1998.

Resolution No. 09-99, Resolution amending Resolution 3825, 5207, 5377 and 08-98 setting forth the results of the Drug Free Workplace Act; Approved October 5, 2009.

Resolution 10-44 – A Resolution to Establish a Vehicle Policy for Certain Departments of the City of Portland; Approved – April 5, 2010.

Resolution No. 4571 – A Resolution to Establish a Vehicle Policy for Certain Positions of the City of Portland; Approved – June 3, 2002.

Resolution 3951 – A Resolution to Adopt a Sexual Harassment Policy for the Portland Police and fire Departments; Approved November 11, 1998.

Resolution No. 09-26 – Resolution amending Resolution 3825 by add the Workplace Harassment Policy. Approved – March 2, 2009.

Resolution No. 10-42. A Resolution to Add a Section to the Existing Personnel Policy Requiring Employees to Participate in an Employee Assistance Program (EAP) as a Part of the Disciplinary Process; Approved – April 5, 2010.

Resolution No. 4429 - Resolution amending Resolution 3825 by establishing a smoke-free workplace in all offices; Approved – March 5, 2001.

Resolution No. 09-63 – Resolution Adopting an Identity Theft Policy; Approved June 1, 2009.

Resolution 10-107 – A Resolution to Establish a Vehicle Policy for Certain Departments of the City of Portland; Approved – October 4, 2010.

Ordinance 02-36 – Ordinance to Amend the Portland Municipal Code, Title 4, Chapter 3, Section 4-301 by Amending Paragraph (1) (b); Ord. #557, Jan. 1998, as amended by Ord. #02-36, Nov. 2002

## APPENDIX C ENDNOTES OF PREVIOUS ORDINANCES AND RESOLUTIONS\*

- <sup>i</sup> Ordinance No. 600 – An Ordinance Establishing the Compensation for the Mayor and for Members of the City Council of the City of Portland; Approved May 3, 1999
- <sup>ii</sup> Resolution No. 10-10. Resolution to Reduce the Rate Paid to Volunteer Fire Fighters for Medical Calls; Approved January 26, 2010.
- <sup>iii</sup> Resolution No. 10-45; A Resolution to Establish a Plan to Provide Constant Oversight of Monies Paid for Overtime; Approved – April 5, 2010.
- <sup>iv</sup> Resolution No. 09-93; A Resolution to Establish a Procedure for Paying Overtime in Accordance with the Fair Labor Standards Act. Approved – September 1, 2009.
- <sup>v</sup> Resolution No. 5254: A Resolution to Add Animal Control Personnel to the City of Portland’s Existing On-Call Policy. Approved December 6, 2006.
- <sup>vi</sup> Resolution No. 10-11 – A Resolution to amend the Personnel Policies, Section 6, Subsection E, to exclude full-time firefighters from the two hour minimum for medical call while off duty and guarantee a one hour minimum – Approved – January 26, 2010.
- <sup>vii</sup> Resolution No. 5235 – A Resolution to Establish “On Call” Policy for Certain Positions for The City of Portland; Approved October 2, 2006. [and] Resolution 5317 – A Resolution to Establish ‘On Call’ Holiday Pay Policy for Certain Positions for the City of Portland – Approved May 7, 2007.
- <sup>viii</sup> Resolution No. 4334 – A Resolution Requesting Approval of Guidelines for the Public Notice of Job Vacancies (Rescind Resolution No.s 2228 and 3072); Approved September 7, 2000.
- <sup>ix</sup> Resolution No. 4334 – A Resolution Requesting Approval of Guidelines for the Public Notice of Job Vacancies (Rescind Resolution No.s 2228 and 3072); Approved September 7, 2000.
- <sup>x</sup> Resolution No. 4825 - Resolution amending Resolution 3825 regarding legislative body of the City Council. Approved – March 1, 2004.
- <sup>xi</sup> Resolution No. 4961 - Resolution amending Resolution 4329 by replacing Nepotism Policy; Approved – January 6, 2005.
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- <sup>xvii</sup> Resolution No. 10-06. Resolution to Extend TCRS benefit with an increase of .5% for employees of the City of Portland; Approved February 1, 2010.
- <sup>xviii</sup> Ordinance 02-36. Ordinance to Amend the Portland Municipal Code, Title 4, Chapter 3, Section 4-301 by Amending Paragraph (1) (b). Ord. #557, Jan. 1998, as amended by Ord. #02-36, Nov. 2002
- <sup>xix</sup> Resolution No. 4430 – Resolution amending Resolution 3825 by adding a Worker’s Compensation leave of Absence Policy; Approved – March 5, 2001.
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- <sup>xxi</sup> Resolution No. 3967 - Resolution amending Resolution 3825 by adopting a drug testing policy for the police and fire departments; Approved – December 7, 1998.
- <sup>xxii</sup> 5090 Resolution No. 09-99, Resolution amending Resolution 3825, 5207, 5377 and 08-98 setting forth the results of the Drug Free Workplace Act; Approved October 5, 2009.
- <sup>xxiii</sup> Resolution 10-107 – A Resolution to Establish a Vehicle Policy for Certain Departments of the City of Portland; Approved – October 4, 2010.
- <sup>xxiv</sup> Resolution No. 4571 – A Resolution to Establish a Vehicle Policy for Certain Positions of the City of Portland; Approved – June 3, 2002.
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- <sup>xxviii</sup> Resolution No. 10-42. A Resolution to Add a Section to the Existing Personnel Policy Requiring Employees to Participate in an Employee Assistance Program (EAP) as a Part of the Disciplinary Process; Approved – April 5, 2010.
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- <sup>xxx</sup> Resolution No. 4429 - Resolution amending Resolution 3825 by establishing a smoke-free workplace in all offices; Approved – March 5, 2001.
- <sup>xxxi</sup> Resolution No. 09-63 – Resolution Adopting an Identity Theft Policy; Approved June 1, 2009.

\*This list is exemplary of Ordinances and Resolutions superseded by this ordinance, and is not intended to be exhaustive