

Meeting of August 18, 2014

South Portland City Council
Position Paper of the City Manager

Subject:

ORDER #16-14/15 –Amending the Non-union Personnel Policy. Passage requires majority vote.

Position:

The current non-union Personnel Policy was amended on November 7, 2011. Since that time, sections of the policy need to be amended to maintain compliance and provide more detail and clarity. The changes being presented are from input from Corporation Counsel, Human Resources Director, Department Heads, Personnel Policy Committee, City employees and employment law attorneys.

These changes were presented to the City Council at its June 23, 2014 workshop. At that meeting, the City Council reviewed the changes and made some recommendations on the Political Activity, Workplace Romance, Health Insurance Premium Buy-Out Program, Educational Reimbursement and Workers' Comp.

Attached is a memorandum from Don Brewer in response to these questions. He will be at the meeting to answer any questions.

Requested Action:

Council passage of ORDER #16-14/15.

A handwritten signature in black ink, appearing to read "James H. Fairly". The signature is written in a cursive, flowing style with a large initial 'J' and 'F'.

CITY OF SOUTH PORTLAND, MAINE
HUMAN RESOURCES DEPARTMENT

Memorandum

TO: Mayor Jalbert and Members of the City Council

FROM: Donald I. Brewer, Human Resources Director

DATE: August 13, 2014

RE: **Recommendation for Adoption of Non-Union Personnel Policy Amendments**

The City administration has prepared a number of recommended amendments to the City's Non-Union Personnel Policy for the purpose of maintaining compliance with federal and/or state law, and to reflect changes, added detail and clarity in several sections. Several new sections have been added. The Policy was last amended in November, 2011.

I reviewed the proposed Personnel Policy amendments and responded to your questions at the City Council Workshop on June 23, 2014. City Councilors offered recommendations for further review and/or adjustments on several of the proposed amendment sections, including *Political Activity, Workplace Romance, Health Insurance Premium Buy-Out Program, Educational Reimbursement and Workers' Comp*. I will describe any recommended adjustments to each of these sections below. The area of biggest concern to the City Council was the revised section on Political Activity. Corporation Council Sally Daggett's office drafted the proposed Political Activity amendment in light of the Law Court's *Callaghan* decision of last year. I shared the questions and concerns of the City Council with Attorney Daggett following the workshop and asked her to provide a written response. Corporation Council Daggett is still comfortable with the language provided. I will elaborate on her position below.

The administration recommends your support for the amended Personnel Policy on August 18, 2014. Included with this memorandum is a marked version of the Policy that identifies the recommended amendments, including any adjustments made since the June 23rd Workshop. The Table of Contents and number sequencing will be corrected in the final, clean version.

Section V (G) – Workplace Romance

The administration maintains its recommendation to prohibit romantic and/or physical relationships between a supervisor and employee directly under their supervision.

Section VII (A)(6) – Health Insurance Premium Buy-Out Program

Deleted is the previous recommendation allowing the City to determine the annual reimbursement percentage or maximum buy-out amount. Members of the City Council recommended a fixed, known amount so employees could make an informed decision. The new recommendation is that health insurance buy-out amounts paid to employees are capped at those rates in effect on January 1, 2013. Those actual 2013 rates are now reflected in the Personnel Policy under this section for each eligible level of coverage.

Section VII (F) (4) – Workers’ Compensation

Previously recommended section to be deleted is reinstated.

Section X (B) – Political Activity

As I mentioned above, Corporation Council Daggett is still comfortable with her provided amendment language in light of the Law Court’s *Callaghan* decision of last year. In her email to me dated June 30, 2014, Sally elaborates as follows:

“Recall that Charter Sec. 208 already prohibits an employee from serving on the City Council, and the proposed Personnel Policy continues the existing prohibition on a City employee serving on the School Board. However, what has changed in light of the court case is that a City employee may run for City Council or School Board, and if elected [or appointed in the case of a School Board vacancy filled by City Council appointment under Charter Sec. 904], the employee will have to make a choice between employment and service on the City Council/School Board. First Amendment interests are not implicated by service in (as opposed to candidacy for) elective office. The Plaintiffs in the court case never argued as much. In short, the City used to have both a “resign-to-run” provision as well as a “resign-to-serve” provision in Section X (B); what is proposed here is only a “resign-to-serve” provision.”

“If the City Council wants to make a different policy decision and to allow City employees to serve on either the City Council or the School Board, it is free to do so. To allow an employee to serve on the City Council would require a Charter amendment or revision; to allow an employee to serve on the School Board could be done via an amendment to Sec. X (B) of the Personnel Policy.”

Section XIV (F) – Educational Reimbursement Policy

Deleted is the previously recommended amendment allowing the City to establish annual maximum reimbursement amounts per employee based on employee demand and/or budgetary and economic conditions.

Revised amendment stipulates that any employee who leaves employment with the City within two years of receiving an educational reimbursement shall reimburse the City the prorated share of the amount in proportion to the number of months left in that two (2) year period from the date of the educational reimbursement. Revised language:

“An employee that leaves employment with the City for any reason, including voluntary resignation, termination, or retirement, within ~~one~~ two years of receiving an educational reimbursement for tuition, fees and/or books shall ~~repay~~ reimburse to the City the full amount (100%) of such reimbursement, the prorated share of the amount of the educational reimbursement paid to the employee in proportion to the number of months left in that two (2) year period from the date of the educational reimbursement.

~~The City may establish annual maximum reimbursement amounts per employee based on employee demand and/or budgetary and economic conditions.”~~

I will be available at the August 18, 2014 City Council meeting to answer any further questions regarding the proposed Personnel Policy amendments.

Thank you.



CITY OF SOUTH PORTLAND

GERARD A. JALBERT
Mayor

JAMES H. GAILEY
City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

SUSAN M. MOONEY
City Clerk

IN CITY COUNCIL

ORDER #16-14/15

District One
MICHAEL R. POCK

District Two
PATRICIA A. SMITH

District Three
MELISSA E. LINSKOTT

District Four
LINDA C. COHEN

District Five
GERARD A. JALBERT

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

ORDERED, that the City's Non-union Personnel Policy be and hereby is amended as shown attached.

Fiscal Note: Less than \$1,000

Dated: August 18, 2014



PERSONNEL POLICY

~~November 7, 2011~~

~~November 8, 2011~~ _____, 2014

Dear Employee,

This Personnel Policy manual is an overview and summary of the City of South Portland's personnel policies and procedures currently in effect as adopted by the South Portland City ~~e~~Council on ~~November 7, 2011~~ _____. As policies and benefits are revised, changes will be communicated to you through updated sections of the Personnel Policy. **Any new policy or manual supersedes previously issued written or verbal policies or manuals.**

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

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

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

Sincerely,

James H. Gailey
City Manager

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CITY OF SOUTH PORTLAND PERSONNEL POLICY

I. INTRODUCTION

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

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

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

II. GENERAL PRINCIPLES

A. Applicability of the Policy

This Policy shall apply to all employees of the City appointed by the City Manager or the City Manager's designee, unless otherwise provided in collective bargaining agreements, or a different standard or procedure is established by Council Order, the Code of Ordinances, the Charter, or State or Federal law. The respective Chiefs **and Deputy Chiefs** of the Police and Fire Departments shall receive the same vacation, holiday and sick leave benefits and pay-out provisions as members of the command rank union employees within their respective departments. **Unless otherwise written in a contract, the** Policy shall also apply to the ~~three~~ **two** Council appointees (City Manager, **and** City Clerk, ~~Corporation Counsel~~) in regard to insurance, retirement and similar benefits (Art. VII), employment leaves (Art. IX) and conditions of employment (Art. X), except to the extent that particularized Council orders and City Charter state otherwise. For Council appointees, the City Council shall make the decisions otherwise delegated to the City Manager.

B. Management Rights

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

pay increases for promotions when deemed by the City Manager to be in the best interest of the City.

C. EEO/~~Non~~Anti-Discrimination Policy

It is the policy of the City not to discriminate against any applicant or employee because of race, creed, color, age, gender, sex, sexual orientation, **gender expression, gender identity,** national origin or ancestry, religion, genetic information, physical or mental disability (except where such disability manifestly disqualifies an individual for the particular position), workers' compensation history, whistleblower ~~history~~ **status, veteran status,** use of tobacco products outside the course of employment, previous or present union activities, ~~or~~ union membership, **or any other legally protected category.** See also Article XIII.

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

D. Merit Principle

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

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

III. TYPES OF EMPLOYMENT

A. **Permanent Employment**

~~1A.~~ **Permanent-Full-time Employment** is appointment to a position to work a standard work week of no less than 35 hours per week, as set forth in the pertinent job description, on a continuing ~~and indefinite~~ basis (i.e., with no pre-set termination date). Such ~~permanent~~ full-time employees receive all benefits as provided herein upon the effective date of employment unless otherwise specifically provided for in this policy.

In the event that an individual employee is employed in two ~~permanent~~ **regular** part-time positions, but whose hours consistently equal or exceed 35 hours per week, that employee shall be considered a ~~permanent~~ full-time employee, and be eligible for all of the benefits of a ~~permanent~~ full-time employee.

- ~~2B.~~ ~~Permanent~~ Part-time Employment - at least 20 hours per week is appointment to a position to work less than the standard work week, but on a continuing ~~and indefinite~~ basis as above. ~~Permanent P~~part-time employees who are regularly scheduled to work at least 20 hours but less than 35 hours per week shall receive the benefits as described herein. For the purposes of calculating vacation and sick time benefits, a pro-rated accrual (based on 40 hours per week) will be applied to determine the annual accruals.
- ~~3C.~~ ~~Permanent~~ Part-time Employment - less than 20 hours per week is appointment to a position to work less than the standard work week, but on a continuing ~~and indefinite~~ basis. ~~Permanent P~~part-time employees who are regularly scheduled to work less than 20 hours per week are ineligible for vacation, sick, MainePERS and deferred compensation benefits and shall only receive the benefits as described herein. ~~Permanent P~~part-time employees who are regularly scheduled to work less than 20 hours per week and were employed with the City prior to December 1, 2010, and previously received vacation, sick, or deferred compensation benefits, shall continue to do so until their employment with the City ends.

B. Non-permanent Employment

- ~~4D.~~ Temporary employment is appointment to work a standard workweek or less on a regular basis but for a limited period of time, usually not to exceed six months. Extensions may be granted by the City Manager or the Human Resources Director for up to three additional months. All temporary appointments require the prior approval of the City Manager or the Human Resources Director. Temporary employees are paid for hours worked and receive no other benefits except those mandated by State or Federal law. **(Example: an appointment to temporarily fill the position of a full-time or part-time employee on an approved leave of absence.)**
- ~~5E.~~ Seasonal employment is appointment to a position in an industry designated by the State of Maine as a seasonal industry. Employees are terminated at the end of the applicable season. They are paid only for hours actually worked and are not eligible for any other benefits except those mandated by State or Federal law.
- ~~6F.~~ On-call employment is appointment to work on an intermittent and as-needed basis. Employees who are on-call do not have a regular schedule but work as available and as needed. Such employees are paid only for hours worked or by annual stipend and are not eligible for any other benefits except those mandated by State or Federal law.
- ~~7G.~~ Project employment is appointment to work on a special project of limited duration. Project employees may work a standard workweek or less and are eligible for the same benefits provided as described in the appointment

agreement. Project employees will be terminated upon completion of the special project for which they were hired.

8H. Contract employment is employment under a written personal services contract between the City and an individual. Such an individual receives compensation and benefits pursuant to the negotiated contract and has no claim to the benefits of this Policy, except as specifically negotiated. Contract employment shall not be used to avoid the benefits negotiated as collective bargaining benefits or as specified in this Policy, but only in unique circumstances. It is anticipated that most personal services contracts will not result in employment status, but will be as independent contractors to the City.

9I. Student employment is employment of students during their enrollment in schools, including summer employment, as part of special internship or apprentice programs, work-study programs or similar arrangements involving the school of enrollment. Students under student employment will be paid as determined by the Human Resources Director and as legally required or permitted for such student programs. Student employees are not eligible for benefits other than those mandated by State and Federal law.

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

J. Employment Contract Disclaimer

All employees except for the City Manager, ~~and~~ City Clerk, ~~and Corporation Counsel~~ shall have no employment contract with the City, written, verbal, implied or otherwise, other than as described in Section (B)(58) of this Article. **Employment is at will, and terminable at will by either the employee or the City at any time, for any lawful reasons, without cause and without advance notice.** Any verbal statements of any person of the City to the contrary are void.

Permanent eEmployees may be discharged for reasons of performance or conduct under the provisions of Article XI, Disciplinary Action. **Probationary and non-permanent employees are “at-will” employees.**

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

IV. RECRUITMENT, SELECTION, ORIGINAL APPOINTMENTS

A. Application for Employment

Application for employment, except for Civil Service positions, shall be made on a standard application form provided by the City or such other forms as may be prescribed by the Human Resources Director, and may be submitted on-line. The City may require the submission of resumes in lieu of or in addition to the standard application form. ~~Once a position is filled, submitted applications will be kept on file for six (6) months for consideration for vacancies within that time period~~

The recruitment, advertising and application for Civil Service positions shall be governed by the Civil Service Ordinance.

B. Application Period

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

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

C. Recruitment Procedures

When a ~~permanent~~ **full-time or part-time** position is vacant or newly created, announcements of the position shall be sent to all department heads in the City and posted, except as provided by V(F)(3). The Human Resources Director shall have the authority to determine the advertising strategy and appropriate medium that would attract an adequate number of qualified applicants for vacant positions. Job descriptions shall be on file in the Human Resources Office and available to all interested persons without charge. The position shall be described as to classification, whether ~~permanent~~ full-time or ~~permanent~~ part-time, or some other category, and whether exempt or non-exempt.

D. Job Descriptions

Job descriptions shall be developed and maintained for all City positions. A copy of all descriptions shall be kept in the Human Resources Office.

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

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

V. PERSONNEL ACTIONS

A. Original Appointments

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

The City reserves the right to offer an applicant employment conditioned on the applicant's passing a post job offer physical examination, a drug and alcohol screening, driver's license and criminal conviction background check. The City shall assume the cost of such examinations.

B. Promotions

It is a policy of the City that persons serving as employees of the City be given ample opportunity for advancement. Promotional opportunities are available to all City employees through the normal selection process. When a non-union employee is promoted from one non-union position within the City to another of a higher classification, the employee will be placed at the lowest step in that range that provides a minimum of an eight percent (8%) increase in pay.

C. Probationary Period

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

An evaluation of the probationary employee shall be completed by the Department Head or designee, or the City Manager if a new Department Head, prior to expiration of the probationary period. The Department Head shall, if appointing authority has been delegated by the City Manager, make a determination as to whether the employee has successfully completed the probationary period and is likely to be an asset to the employment service of the City. If the Department Head has not been delegated appointing authority, the Department Head shall make a

recommendation to the City Manager regarding continued employment and the City Manager shall act prior to the expiration of the six-month probationary period.

Employees may not use vacation time during the probationary period except with the approval of the Department Head for special circumstances, ~~and if dismissed during their probationary period, they will not receive pay for accrued vacation time.~~ Upon successful completion of a probationary period, employees will be eligible to use accrued vacation time. Accrued sick time and **compensation compensatory** time in lieu of overtime may be used during an employee's probationary period.

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

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

D. Performance Evaluations.

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

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

Additional evaluations of employees may be performed by Department Heads or the City Manager.

Evaluations shall take place on or near the anniversary date of appointment to the position. If a merit raise is earned, it shall be retroactive to the anniversary date.

E. Employment of Relatives

The City prohibits the employment of **permanent full-time or part-time** employees to work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family. Immediate family shall include:

spouse, domestic partner, parents, children, siblings, grandparents and grandchildren, whether by natural heritage or law. "Direct or indirect line of supervision" includes authority to assign and evaluate work, grant benefits such as vacation leave, hear grievances and/or discipline an employee, or review such assignments, evaluations, benefit determinations, grievances and/or discipline. Notwithstanding the foregoing, in the event an employee's proposed hiring or promotion within the City would violate this provision, the Director of Human Resource shall condition such hiring or promotion upon development and implementation of a written plan for assignment, evaluation, granting of benefits, hearing grievances and discipline which avoids the conflict of interest. The foregoing conditions shall also be applied in the event of a change in family status between two employees, e.g. marriage. No officer or employee of the City shall be involved in the hiring process for any position if it involves a member of his or her immediate family.

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

F. Job Reductions; Lay-off of ~~permanent regular~~ personnel.

1. Principles governing lay-off of ~~permanent regular~~ employees.

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

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

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

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

a) Waives recall rights in writing; or

- b) Resigns or retires.
- c) **Fails to respond within seven (7) days upon receiving a recall notice mailed to the last known address on file. Employees are responsible to notify the Human Resources Department of changes in mailing address and other such contact information.**

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

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

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

G. Workplace Romance

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

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

VI. COMPENSATION PLAN FOR PERMANENT EMPLOYEES

A. Compensation Plan

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

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

B. Principles of Compensation

1. Pay equity. All **permanent regular full-time and part-time** employees shall be paid according to the same compensation plan, with ~~permanent~~ part-time employees paid the same hourly rate as a full-time ~~permanent~~ employee in a similar classification.
2. Annual adjustment. The City Council may grant an annual adjustment in the compensation plan, taking into consideration such items as the City staffing patterns, the relevant labor market, the rate of inflation, adjustments to compensation packages in bargaining agreements and financial and budgetary considerations.
3. Merit raises. The Pay Plan shall provide a series of steps ~~or half-steps~~ within an established pay range. Each pay range will consist of ten levels. Employees shall be eligible for raises on the merit basis based upon evaluations of their performance. Effective January 1, 2012, all step level increases will be based solely on merit.

C. Payroll

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

In the event that the City overcompensates an employee through employer error, pursuant to State law, the City may withhold up to ten percent of the net amount of **the overcompensation any during** subsequent pay **periods** without the employee's written permission **until the overcompensation error is corrected in full,** ~~except~~

~~that, if~~ If the employee voluntarily terminates employment, the City may deduct the full amount of overcompensation from final wages and benefits accrual pay-out.due. The City may deduct more than ten percent of net pay if:

1. The employee agrees in writing;
2. The employee voluntarily quits, or
3. The employee "knowingly accepts" the overcompensation.

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

D. Hours of Work

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

Safe Harbor Policy:

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

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

For purposes of overtime eligibility, "hours worked" shall mean only the following:

- a. hours actually worked for the City;
- b. hours compensated by holiday base pay; ~~and~~
- c. hours compensated by vacation pay; and

~~Accrued compensatory time up to forty (40) hours will be paid upon termination of employment for non-exempt employees.~~ **Employees are entitled to be paid upon separation of employment for all accrued compensatory time.**

Compensatory time off is subject to the following:

- a. Management approval. The City has the right to **approve**, schedule, **pay off**, reschedule or deny compensatory time **off** depending on available personnel so as to not unduly disrupt normal workflow requirements. **Under normal circumstances, employees requesting to use accumulated compensatory time off ("CTO") shall be granted approval to use such CTO within a reasonable period after making the request if the use of the CTO does not unduly disrupt the operations of the Department and/or City.**
 - b. Employees shall request compensatory time off within at least forty-eight (48) hours of the requested time off.
 - c. ~~No overtime is created by the scheduling of said compensatory time off.~~ Shall be approved or used on a first come, first serve basis.
3. Hours of Work Determined. The hours of work for all non-union employees shall be determined by the City Manager. Non-exempt employees shall receive overtime pay at a rate of time and one half for ~~authorized~~ time worked in excess of forty hours in one week or compensatory time as described above.

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

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

E. Call-In Pay

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

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

F. Work Outside of Classification

1. Short-term work. For a period not to exceed six (6) months, employees may be assigned to perform work out of their job classification on a short-term basis by the Department Head or the City Manager. If such an assignment extends beyond ten (10) consecutive work days, the employee will be compensated for the work performed at the entry level rate of pay for the higher classification or four percent (4%) above the current pay step, whichever is higher, commencing with the fourth day. Non-productive time (i.e., sick leave, holidays, **personal leave,** bereavement leave, **compensatory time** and vacation leave) shall be paid during the short-term work assignment at the higher classification rate except termination pay upon termination of employment.

2. Acting Capacity of Department/Division Heads. Employees who are appointed in an "acting capacity" by the City Manager during the period of the acting capacity shall be compensated at the lowest step of the higher classification or at least eight percent (8%) above the current base weekly rate except upon termination of employment and termination pay.

G. Amendments to Pay Plan.

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

H. Reclassifications

Reclassification is the procedure of assigning or reassigning a non-union position to a classification and pay range because the assigned range is significantly different from a comparable position in the current labor market, hampering recruitment and

retention of qualified employees; the relationship to other positions within the pay range; or when substantive changes are made in the responsibilities of a non-union position and the job description is amended. A reclassification will only occur upon the recommendation of the Director of Human Resources with the approval of the City Manager.

When substantive changes are made in the responsibilities of a non-union position, a new job description, and a narrative describing the changes and justification for why a new classification change should be approved must be completed by the Department Head and submitted to the Human Resources Department during the month of January. The proposed reclassification will be reviewed and evaluated during the budget review process. The City Manager will make the final decision regarding the request. When a reclassification request to a higher pay grade is approved, the employee will be placed at the lowest step in the higher pay grade or receive a four percent (4%) increase, whichever is greater. The effective date of the approved reclassification and pay increase will begin the first pay period at the start of the new fiscal year in July. Reclassified employees annual performance review date will be adjusted accordingly to coincide with the effective date.

VII. INSURANCE, RETIREMENT AND OTHER BENEFITS

A. Health Insurance

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

~~Except as provided for, persons~~ Employees hired ~~on or after~~ prior to December 1, 2010, ~~all permanent employees and~~ working twenty (20) hours or more per week are eligible to participate and receive the benefits of the City's health and hospitalization benefit coverage as described in a separate plan documents (~~Indemnity Choice, Maine Municipal Employee's Health Trust (MMEHT) Traditional Point of Service Plan A Point of Service (POS A), and Comprehensive Point of Service Plan C Point of Service (POS C) and Preferred Provider PPO 500 Plan~~). Health and Hospitalization coverage shall commence on the first day of the next month following the date of employment for eligible employees who ~~agree to participate~~ enroll in the a plan, as described by the provisions of this section.

~~All~~ Employees eligible for health insurance ~~who are~~ hired on or after December 1, 2010, are only eligible to participate in the MMEHT POS C Plan or PPO 500 Plan offered by the City, and are not eligible to participate in ~~either the indemnity Plan or the POS A Plan~~. ~~All~~ employees eligible for health insurance ~~who were hired prior to that date are eligible to participate in any of the three plans offered by the City and~~ may change plans during any open enrollment period.

2. Payment of health insurance premiums.

a. **Permanent Regular full-time employees.** The City shall pay 100% of the single premium level for all full-time **permanent** employees **enrolled in the MMEHT PPO 500 plan.** All employees who have family or dependent children coverage shall, as a condition of receiving benefits under this section, contribute through weekly payroll deduction one half of all future premium rate increases beginning January 1, 1991 above the single person rate not to exceed an annual increase of more than **nine ten** (\$**910**.00) dollars per week for employees with family coverage or **seven eight** (\$**78**.00) dollars per week for employees with dependent only coverage.

Effective January 1, 2014, employees enrolled in the MMEHT POS-A plan shall pay 2% of the premium for single coverage. Employees enrolled in the MMEHT POS-C plan shall pay 1% of the premium for single coverage.

Effective January 1, 2015, employees enrolled in the MMEHT POS-A plan shall pay 3% of the premium for single coverage. Employees enrolled in the MMEHT POS-C plan shall pay 1.5% of the premium for single coverage

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

Permanent Regular part-time employees working 20 or more hours per week but less than 35 hours may elect to purchase family or dependent child coverage through the City's group plan, without a City contribution to the cost of the family or dependent child coverage.

3. Premium contributions for health plan participants

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

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

- a. the employee revokes the election to have health insurance coverage;
 - b. the employee cancels or modifies the election during the annual enrollment period;
 - c. the employee's employment with the City of South Portland terminates;
 - d. the City of South Portland terminates, suspends, or modifies the plan;
- or
- e. the employee has a qualifying change in family status.

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

4. Section 125 Cafeteria Plan Participation.

~~So long as the City elects to~~ The City may sponsor offer a cafeteria plan as ~~described set forth~~ in Section 125 of the Internal Revenue Code ~~in order~~ to allow full-time and benefit-eligible part-time employees the ability to select and pay for City offered health benefits through pre-tax (gross income) payroll deduction. using pre-tax (gross) income. ~~to pay their portion of the cost of the medical plan with pre-tax dollars, all permanent full-time employees shall be eligible to participate in the offered cafeteria plan. Any employee who chooses to participate in the medical plan shall direct the City to pay the employee portion (if any) of the cost of the medical plan with pre-tax dollars deducted from the employee's gross pay that are contributed to the cafeteria plan. Some of the qualified health benefits include health insurance, flexible spending accounts, dental insurance, vision insurance, life insurance, and a retirement plan.~~

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

5. Flexible Spending Account (FSA)

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

6. Continuation of Health Insurance.

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

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

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

status		

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

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

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

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

6. Health Insurance Premium Buy-Out Program.

~~Permanent f~~**Full-time** employees who are eligible for health insurance coverage under a non-City plan ~~will be given an opportunity to~~ **may** elect no medical coverage or reduced medical coverage. If an employee elects no medical coverage or reduced coverage from the coverage the employee is **entitled eligible** to receive under the terms of the City's health insurance plan, and provides proof **each year prior to January 1st**, that he or she is ~~otherwise covered~~ **under a non-City plan**, the City will reimburse the employee **an amount based upon the level of coverage the employee is eligible for in relation to the level of coverage the employee elects; either no coverage or reduced coverage. one half a portion** of the premium the City saves as a result of the election of reduced or no coverage. ~~The City shall determine the reimbursement percentage and/or maximum amount on an annual basis.~~

Annual health insurance buy-out amounts paid to non union employees are frozen at those rates then in effect on January 1, 2013.

Traditional Point of Service Plan A (POS-A) / Non union employees hired prior to November 30, 2010:

<u>From Family to:</u>	<u>Annual</u>
<u>No Coverage</u>	<u>\$7,621.35</u>
<u>Single Coverage</u>	<u>\$3,341.61</u>
<u>Employee & Dependent</u>	<u>\$1,673.98</u>
<u>From Employee & Dependent to:</u>	
<u>No Coverage</u>	<u>\$5,947.37</u>
<u>Single Coverage</u>	<u>\$1,667.63</u>
<u>From Single to:</u>	
<u>No Coverage</u>	<u>\$4,279.74</u>

Comprehensive Point of Service Plan C (POS-C) / Non union employees hired on or after November 30, 2010:

<u>From Family to:</u>	<u>Annual</u>
<u>No Coverage</u>	<u>\$7,209.14</u>
<u>Single Coverage</u>	<u>\$3,442.94</u>
<u>Employee & Dependent</u>	<u>\$1,693.57</u>
<u>From Employee & Dependent to:</u>	
<u>No Coverage</u>	<u>\$5,515.57</u>
<u>Single Coverage</u>	<u>\$1,749.37</u>
<u>From Single to:</u>	
<u>No Coverage</u>	<u>\$3,766.20</u>

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

B. Employee Assistance Program

1. Philosophy

Permanent full-time and **permanent** part-time employees working twenty (20) hours or more per week are eligible for the City of South Portland's Employee Assistance Program (EAP) **with Anthem EAP. Anthem EAP is provided at no cost to employees and members of their household by the Maine Municipal Employees Health Trust (MMEHT.)** ~~The City recognizes that a~~ **Anthem EAP is one place you can turn for help from caring, experienced professionals who can offer information, resources and advice to help you solve and cope with a wide range of personal problems which** can have an effect on an employee's

job performance, everything from relationship and family concerns to anxiety, depression, alcohol and drug abuse, stress, grief, and even financial or legal issues. This applies whether the problem is one of physical illness, mental or emotional illness, finances, marital or family distress, alcoholism, drug abuse, legal problems or other concerns.

~~The City believes it is in the interest of the employee, the employee's family and the City to provide an employee service which deals with such persistent problems within the framework of an Employee Assistance Program (EAP).~~

~~The cost of the initial (up to three sessions within a calendar year) EAP counseling and referral service is free and confidential.~~

2. Policies

a. Employees are assured that their job ~~future~~ or reputation will not be jeopardized by utilizing ~~this employee service~~ the Employee Assistance Program. Privacy is important. Utilization of the Anthem EAP and the EAP counselors' records ~~will be~~ are confidentially protected and maintained.

b. Employees are encouraged to seek counseling and information voluntarily on a self-referral basis.

c. ~~For the employee who uses EAP on a self-referral basis, no information regarding the referral will be disclosed to anyone employed by the City, unless the employee requests it and signs a release form.~~

~~dc.~~ It will be the decision of the employee whether to voluntarily accept or decline the ~~recommendation of the~~ Department Head or Supervisor referral to EAP. The employee is not required to comply with an EAP referral. It is only a recommendation and the fact that a referral has been made and whether it has been accepted— Any decision to accept or decline an EAP referral made by their supervisor(s) will may not be used as grounds for discipline or dismissal, provided, ~~h~~However, the behavior, misconduct or work performance which ~~resulted in~~ triggered the EAP referral may be grounds for disciplinary action.

~~ed.~~ ~~There is no charge to the employee for the services of the EAP counselor for up to three counseling sessions. Anthem EAP services are provided at no cost for up to three visits for each issue an employee or household member is facing.~~ Any subsequent ~~referral(s)~~ visits or ongoing assistance will be the financial responsibility of the employee. The cost ~~beyond the services of the EAP counselor~~ may be an eligible expense under

the provisions of the Employees' Health Insurance Program, which includes responsibility for deductible(s) and co-insurance.

fe. Employees may use accrued sick time for EAP appointments.

3. Procedures

- a. Employees may independently **and confidentially** contact the City's EAP provider **24 hours a day, every day of the year,** by calling **~~Affiliated Employee Assistance Program~~ Anthem EAP at 1-800-769-9819 1-800-647-9151; or www.anthemEAP.com (login MMEHT.)** ~~or such other vendor as may be specified by the City.~~ **After an employee or household member makes the first phone call, Anthem EAP will refer them to a licensed counselor in their area.** Appointments are scheduled at the convenience of employees.
- b. ~~Normal hours for appointments are 8:00 am to 5:00 p.m., Monday through Friday, but are available 24 hours per day. Employees do not need to sign up for Anthem EAP services. Employees and their household members are automatically enrolled.~~

C. Life Insurance

1. Group life insurance - MainePERS.

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

2. Basic life insurance - MMEHT.

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

insurance coverage through MMEHT and/or through MePERS (see above), at their own expense.

D. Retirement Plans

1. Social Security.

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

2. Maine Public Employees Retirement System (MainePERS).

In addition to Social Security, effective July 1, 1995, all **permanent** full-time employees (other than firefighters as provided above) are eligible to participate in the Maine Public Employees Retirement System Participating Local District Consolidation Plan (Plan A, 1/50, COLA) entitling employees to a pension benefit, with all service accrued through July 1, 1995 to be calculated on the 1/60, COLA basis, and all service after July 1, 1995 to be calculated on 1/50, COLA basis, in accordance with and subject to the provisions of the statutes of the State of Maine and the rules of MainePERS now applicable or as they may be amended. The employee's rate of contribution shall be established by the statutes of the State of Maine. Effective July 1, ~~1995-2014~~, the employees' rate of contribution shall be ~~6.5~~ **7.0%** of gross weekly earnings. **Effective July 1, 2015, the employees' rate of contribution shall be 7.5% of gross weekly earnings.** **Effective July 1, 2016, the employees' rate of contribution shall be 8.0% of gross weekly earnings. Employee contributions are exempt from federal withholding tax.**

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

Election to participate in MainePERS must be made within seven (7) days of the date of hire and is effective from the date of hire.

Effective December 15, 2010, **permanent regular** part-time employees working twenty (20) hours or more per week may participate in MainePERS on the same terms as full-time employees. **Permanent P**part-time employees employed by the City as of December 15, 2010 may join MainePERS to the extent permitted by MainePERS within thirty (30) days

of December 15, 2010. This provision shall be applied prospectively only from its effective date of December 15, 2010.

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

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

3. Deferred Compensation

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

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

- a. Employer match 401(a) plan with mandatory 8% employee contribution. ~~Permanent~~ Regular employees working at least twenty (20) hours per week who do not participate in MainePERS who participate in the City's 401(a) Deferred Compensation Plan, with a mandatory employee contribution of eight percent (8%) of the employee's includable total annual compensation and a City match of eight percent (8%), may continue to participate in this plan, but may not return to it if they discontinue their participation at any time. This plan will no longer be offered to employees as of December 1, 2010, other than the grandfathered employees already on this plan.

- b. Employer match 457/401(a) plan with discretionary employee contribution rate and employer match of up to 8%. Effective December 15, 2010, ~~permanent regular~~ employees working twenty (20) hours or more per week who do not participate in MainePERS are eligible to participate in the City's 457/401(a) Deferred Compensation Plan which has no mandatory employee contribution rate. ~~and~~ The City will match the employee's contribution up to eight percent (8%).

As of December 15, 2010, the 457/457 plan with the City matching contribution will be terminated, and all employees on that plan will be moved to this 457/401(a) plan.

- c. Vesting. After three (3) years of ~~permanent~~ continuous City employment, an employee participating in the 457/401(a) plan becomes 100% vested in all past and future City matching contributions and its earnings. Employees moved from another plan will not have to serve a new vesting period. If an employee retires ~~from~~ or leaves City employment before the three (3) year vesting period is complete, the employee has no rights to any of the City's matching contribution or its earnings.
- d. Members of MainePERS may also participate in the City's 457 Deferred Compensation Plan but there ~~will be~~ are no employer matching contributions to the 401(a) Plan.
- e. A long-term disability benefit (LTD) is provided by the City at no cost to the employees participating in the matched deferred compensation plan. A description of the LTD plan is available in the Human Resources Office.
- f. Each employee participating in a deferred compensation plan decides how much to contribute each year, providing that the contributions ~~of the employee~~ do not exceed the maximum dollar limit as allowed by IRS code and as adjusted periodically by the Secretary of the Treasury. Participants may discontinue contributions at any time, but can only adjust or restart contributions at specific times each year.
- g. ~~Permanent full-time or permanent part-time employees working at least twenty (20) hours per week may contribute to the 457 deferred compensation plan only, with no employer match.~~

E. Unemployment Compensation

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

F. Workers' Compensation

Workers' compensation benefits are governed by State law and the City provides such benefits as are mandated under the Workers' Compensation Act.

1. **If an employee suffers an ~~In the event of a service-connected illness or~~ injury which he or she believes arises out of and in the course of employment, such employee, employees** shall notify the Department Head or the Department Head's designee on the first day of illness or injury or soon as possible thereafter, stating the nature of the illness or injury, and, if known, the time expected to be incapacitated and the date of expected return to work.
2. All ~~permanent~~ full and **regular** part-time employees who have suffered an occupational illness or injury and who are receiving workers' compensation benefits may use accumulated sick leave to supplement workers' compensation payments up to the equivalent of their net pay. *Net pay*, for purposes of this section shall be defined as an employee's gross base regular weekly wages less Federal and State taxes. Such supplementary pay and leave under this section is to be made only to the extent that accumulated sick leave is available. Employees will be entitled to all benefit coverage as described in this plan. In addition, employees will be placed on Family Medical Leave for any work-related injury that results in an absence of six (6) or more days from work, **assuming the injury or illness qualifies for Family Medical Leave.** (Also see *Workers Compensation Leave*, Article IX, Section B.) **Employee benefits are maintained while an employee is on an approved leave. However, employees are still responsible for their employee portion of any benefits premiums during the leave.**
3. Light Duty / Transitional Work

In the event that a ~~permanent~~ full time or **regular** part time employee suffers a compensable work-related injury under the Maine Workers' Compensation Act, the City shall try to make meaningful light duty / transitional work available. The light duty/transitional work may consist of one particular job or a series of different jobs and may be in a department other than the employee's regularly assigned department. Light duty/transitional work may or may not be at the employee's regular hourly rate of pay depending on the nature of the work.
4. An employee out with a work-related injury is entitled, upon request, to reinstatement to the employee's former position if the position is available and suitable to the employee's physical condition. If the former position is not available or suitable, the employee may be entitled to be reinstated to another available, suitable position. The City agrees to reasonably accommodate the physical condition and needs of the returning employee.

5. Employees who continue to be out on a work-related injury six (6) consecutive months after the date of injury shall not continue to earn or accrue holiday, vacation, or sick leave.

G. Medical and Dependent Care Reimbursement Program

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

Prior to the commencement of each plan year (January first of each year), participating employees shall determine the amount of payroll deduction necessary to cover unreimbursed medical expenses and/or dependent care expenses for their family. Employees may withhold up to ~~\$4,000~~ \$2,500 annually for medical and dental reimbursements and up to \$5,000 annually for dependent care reimbursements. The Dependent Care Plan may be used for child daycare expenses as well as care for an adult dependent who is mentally or physically incapable of caring for themselves.

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

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

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

~~Effective January 1, 2012, permanent~~ ~~f~~Full-time and ~~permanent~~ regular part-time non-union employees working twenty (20) hours or more per week are eligible to participate in a Vision Care Plan under Section 125 of the Internal Revenue Service Code as amended from time to time.

The VSP Vision Care Plan is offered through the Maine Municipal Employees Health Trust (MMEHT) and offers employees personalized eye care, eye wear and choice of providers, both in and out-of-network. Employees receive discounts and savings on eye exams, frames, lenses, contacts, prescription sunglasses, second pair of glasses and laser vision correction surgery. Enrollment in the plan is voluntary with 100% employee contribution through pre-tax weekly premiums for a variety

of coverage options; employee only, employee and spouse **or registered domestic partner**, employee and children, and family. Each December there will be an open enrollment for the following January 1st effective date. If an employee elects not to enroll in December they can opt in the following December and vice versa. The network is mostly optometrists, not ophthalmologists.

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

I. Dental Insurance Plan

Full-time and regular part-time non-union employees working twenty (20) hours or more per week may participate in any Dental Insurance Plan offered by the City through a provider of its choosing. Participation is voluntary with 100% employee premium contributions through payroll deduction. Eligible employees may enroll a spouse, registered domestic partner and dependent children. The City is not required to offer dental insurance to employees. Participation is regulated in accordance with the plan documents. Annual enrollment is held in December of each year for a January 1st effective date.

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

J. Legal Shield and Identity Theft Protection

~~Effective January 1, 2012, permanent~~ **Full-time and permanent regular** part-time non-union employees working twenty (20) hours or more per week are eligible to enroll in a pre-paid legal services program (Legal Shield) consisting of Life Events Legal Plan and Identity Theft Shield benefits.

The plan offers 24-hour emergency access to legal services from the law firm of Robinson, Krieger, and McCallum, in Portland, for personal and family matters, home sale or purchase, lease agreements, problem credit, divorce, child support, motor vehicle and traffic violations, IRS audits, trial defense, debit or credit card issues, wills, power of attorney, identity theft and restoration, and much more.

The benefit covers the employee, spouse or **registered** domestic partner, and all qualified dependants. Enrollment in the plan is voluntary with 100% employee contribution through after-tax weekly premiums. Employees may elect to enroll in both the Life Events Legal Plan and Identity Theft Shield, or each separately. The benefits are month to month with no long-term contract. The benefits are portable, at the discounted group rate, should the employee leave employment with the City. The plan cannot be used for any legal issue involving the City of South Portland.

~~An initial open enrollment for eligible employees will be held in December, 2011.~~ More information on the Legal Shield Plan, including benefits and weekly premiums is available in the Human Resources Office.

VIII. HOLIDAYS/VACATIONS

A. Holidays

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

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Washington's Birthday	Veterans Day
Patriot's Day	Thanksgiving Day
Memorial Day	Christmas
Independence Day	

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

If an exempt employee is required to work on a holiday, he/she shall be given an equal amount of time off on another day, such time to be mutually agreeable to the Department Head and the employee. In the event that non-exempt employees, other than an operator within the Water Resource Protection Department, are required to work on any of the aforementioned holidays, the employee shall be paid at a rate of straight time of their regular hourly rate plus holiday pay. The employee, with the permission of the Department Head, may substitute holiday pay for an equal amount of time off on another day.

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

B. Personal Day

~~Effective January 1, 2012, all permanent~~ Full-time and permanent regular part-time non union employees working at least twenty hours per week shall receive two (2) personal days per calendar year without loss of pay. The personal day shall be scheduled at a time mutually agreeable to the employee and his or her Department Head or Division head. A personal day is 7.5 hours for employees who work 37.5 hours per week, or 8 hours for employees working a 40-hour schedule. To determine the length of a personal day for regular part-time employees working at least twenty (20) hours per week, divide the total

**number of hours the employee works each week on a regular basis by five (5).
For example: 22.5 hours per week / 5 = 4.5 hours.**

C. Vacations

1. Accrual

Vacation privileges are available to all non-union ~~permanent~~ full-time and ~~permanent regular~~ part-time employees working twenty hours per week or more. **For the purposes of this section, “day” shall be defined as one-fifth (1/5) of the total regular hours worked by an employee on a weekly basis.** Each employee shall earn vacation with pay on the following basis:

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

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

2. Scheduling of Vacations

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

Division/Department Head, or in the case of a Department Head by the City Manager.

Vacation accrual in excess of one year's accrual (monthly earning rate X 12) as of June 30 of each year shall only be "carried over" to the next fiscal year by specific written authorization of the Human Resources Director. Employees shall submit such requests to "carry over" vacation time to the following fiscal year in writing to the Human Resources Director. See Section 1 immediately above.

3. Finance Department Employees

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

4. Use of Vacation Leave as "Sick Leave"

a.) Accumulated vacation days may be utilized like "sick leave" days in the event that an employee has a disability and has exhausted all accrued sick leave.

b.) An employee on pre-approved vacation leave may not convert a single day or consecutive days to sick leave.

c.) An employee on a pre-approved vacation leave of five (5) or more consecutive days who becomes seriously ill and/or hospitalized may upon presentation of verifying medical documentation to the Department Head and Human Resources Director, have the vacation leave converted to sick leave and reschedule the vacation leave at a future time as requested by the employee and pre-approved by the Department Head, or his/her Designee.

5. Termination

Accrued vacation leave shall be paid to an employee upon termination of employment or to his or her estate upon the death of the employee.

IX. EMPLOYEE LEAVES

A. Sick Leave

1. Purpose of sick leave.

Sick leave without loss of pay is ~~intended as a type of insurance program provided to~~ for full-time ~~permanent~~ and ~~permanent~~ regular part-time (twenty (20) hours a week or more) employees. It is designed to encourage

employees to accumulate sick leave ~~credits~~ hours and to use them only when necessary. When so used, accumulated paid sick leave ~~should~~ provides an employee with substantial income protection in the event of an extended leave of absence or major medical problem. Sick leave is available to be used only for the purposes specified below in section A (3). ~~and Sick leave abuse of sick leave, frequent tardiness, and excessive absenteeism is~~ are grounds for progressive disciplinary action up to, and including termination.

2. Accrual of sick leave.

~~Permanent f~~Full-time and ~~permanent~~ regular part-time (twenty (20) hours or more per week) employees are granted one and one quarter (1.25) day of paid sick leave for each month of continuous service. The month in which employment begins or ends is counted as a month of service if employment begins before the 16th or ends after the 15th day of the month. For the purposes of this section, "day" shall be defined as one-fifth (1/5) of the total regular hours worked by an employee on a weekly basis.

3. Use of sick leave.

Sick leave may be used only in the following instances:

- a. Personal illness or physical incapacity of such a degree as to render the employee unable to perform the work of the assigned position or other work in the department, if the employee has a contagious disease or illness, or for the employee's medical or dental appointments or utilization of the Employee Assistance Program or Counselors. After five (5) consecutive days or work shifts of using sick leave, an employee ~~will~~ may be required to apply for leave through the Family Medical Leave Act.
- b. Family Care: Provide care to members of the employee's "immediate family" or others living in the employee's household who are ill.

For purposes of this subparagraph, "immediate family" shall mean parent, spouse, registered domestic partner, child, domestic partner's child, step-parent, or step-child. Sick leave used for this purpose may not exceed ~~six (6) days~~ forty-eight (48) hours per calendar year. Additional family sick time leave may be granted by the Human Resources Director through the Family Medical Leave Act.

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

or incapacity, or family care. Department Heads shall develop department procedures regarding notification of sick leave utilization.

Absence for a fraction of a day that is chargeable to sick leave is charged proportionately in the amount of time taken.

The City has the right to request a written statement from an employee's attending physician or send the employee to a physician selected by the City. The City shall assume the cost of requiring such a written statement.

Employees who are on extended Sick Leave shall not continue to earn or accrue sick leave or vacation benefits after they have taken a Sick Leave of 6 consecutive months.

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

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

4. Payment for unused sick leave.

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

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

- Employees with less than 10 years of service -- one-half of accumulated sick leave up to 30 days;
- Employees with 10 or more years, but less than 20 years of service -- one-half of accumulated sick leave up to 45 days.
- Employees with 20 years of service or more-- one-half of sick leave up to 60 days

b. For purposes of this Section, years of service will be recognized as the total number of calendar years of service including employment as a **permanent regular** part-time employee working twenty (20) or more hours per week.

- c. If an employee dies while in City service, including being on authorized leave, the City shall make payment as described above under Subsection (a) to the employee's estate.
- d. An employee who is laid off will receive pay for accrued sick leave in accordance with Section 4(a) above. If the employee accepts a recall back to work in accordance with section V (F)(3), they shall not receive credit for portions of accrued sick leave they did not receive separation payment for as outlined in section IX (A)(4).
- e. No **unused sick leave** payments will be made under this provision to any employee who is discharged for disciplinary reasons.

B. Workers' Compensation Leave

This benefit is governed by State law in accordance with the Maine Workers' Compensation Act and administered by the Maine Workers' Compensation Board. Any future amendments or modifications **to the law or regulations** will be automatically incorporated as part of the Personnel Policy.

All ~~permanent~~ full-time **and regular part-time** employees who have suffered an occupational illness or injury and who are receiving workers' compensation benefits may use accumulated sick leave to supplement worker's compensation payments up to the equivalent of their net pay. *Net pay*, for purposes of this section shall be defined as an employee's gross base regular weekly wages less Federal and State taxes. Such supplementary pay and leave under this section is to be made only to the extent that accumulated sick leave is available. Employees will be entitled to all benefit coverages as described in this plan.

Employees shall notify their Department Heads on the first day of absence due to ~~service-connected~~ illness or injury **arising out of and in the course of employment**, stating the nature of the illness or injury, the time expected to be incapacitated and the date of expected return to work.

Employees who are on extended Workers' Compensation Leave shall not continue to earn or accrue sick leave or vacation benefits after they have taken a Workers' Compensation Leave of 6 consecutive months.

C. Bereavement Leave

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

For the purposes of this section, immediate family is defined as spouse, **registered** domestic partner, child, brother, sister, parent, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, step parent, step child, or other person residing in the household of the employee.

An employee may request additional bereavement leave in writing from the Human Resources Director for an extension of the time period or attendance at a funeral for another family member. Additional bereavement leave granted by the Human Resources Director shall be charged to ~~the employee's~~ sick leave ~~balance~~.

If the funeral occurs during an employee's vacation, the employee ~~shall have the right to~~ **may** reschedule his/her vacation time. Bereavement leave will be paid only if the employee is scheduled to work on the days lost (except as indicated in the previous paragraph), and furnishes reasonable proof of the family relationship of the deceased if such proof is requested.

D. Family Medical Leave (~~FMLA~~)

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

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

1. Basic Leave Entitlement

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

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, ~~son or daughter~~ **child**, or parent, who has a serious health condition, or

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

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

- **To care for the employee's domestic partner, domestic partner's child, or sibling with joint living or financial arrangements who has a serious health condition;**
- **For incapacity due to the employee's donation of an organ for transplant.**

2. Military Family Leave Entitlements

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

Federal FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a **parent, child or spouse who is a** covered service member **or covered veteran** during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who **incurred or aggravated** ~~has~~ a serious injury or illness ~~incurred~~ in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

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

3. Benefits and Protections

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

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

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

4. Eligibility Requirements

Employees are eligible **for federal FMLA coverage** if they have worked for the ~~e~~City for at least ~~one year~~ **12 months total, which do not need to be consecutive,** and for **at least** 1,250 hours over the ~~previous~~ **12 months prior to leave.** **Employees are eligible for Maine family medical leave coverage if they have worked for the City for at least 12 consecutive months.**

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

5. Definition of Serious Health Condition

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

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

6. Intermittent Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary **as demonstrated by a health care provider's certification that includes the anticipated dates and duration of leave.** Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the City's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

7. Substitution of Paid Leave for Unpaid Leave

The City requires use of accrued paid benefit leave, including sick leave, vacation leave, personal leave and compensatory leave **to the extent that it is available prior to unpaid leave** while ~~taking~~ **on covered family medical FMLA** leave. Employees must comply with the City's normal paid leave policies.

8. Employee Responsibilities

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

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

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

9. Return to service.

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

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

10. ~~Family Medical Leave.~~

~~**Family Medical Leave is governed by the requirements of State and/or Federal FMLA laws, as they may apply. If the requirements, benefits, definitions and /or scope of either the Federal or State FMLA changes from the date of this revised Policy, such changes are automatically incorporated into this Personnel Policy.**~~

E. Disability Leave of Absence

The City makes reasonable accommodations for qualified employees who are temporarily disabled or anticipating a disability. In ~~rare~~ some instances, ~~such a~~ reasonable accommodations may take the form of an unpaid leave of absence. Employees seeking ~~such a~~ disability leave of absence should see their Department Head or the Human Resources Director. Such leave of absence will be granted at the discretion of the Human Resources Director ~~only~~, or in the case of a Department Head, by the City Manager for a period of up to twelve (12) months, pursuant to the following provisions:

1. The employee ~~is to~~ shall submit a written request to the Department Head for a disability leave of absence, along with ~~a written statement~~ written medical certification from an attending physician justifying the need for the leave and setting forth the anticipated duration, ~~of the disability~~, and any limiting conditions or restrictions under which work may be performed before and/or after the leave.
2. If the need for a disability leave of absence is anticipated or known in advance, the employee ~~is to~~ shall submit his/her written request at least thirty (30) days prior to the requested ~~departure start~~ date. If this is not feasible, then the employee ~~is to~~ shall provide as much advance notice as possible.

3. Upon receipt of a written request for disability leave, the Department Head ~~is to~~ **shall** make a recommendation ~~regarding such request~~ to the Director of Human Resources, ~~taking the needs of the Department into account.~~
4. If approved, the disability leave will have a set termination date, ~~and if~~ the disabling condition ends before originally anticipated, the employee is to notify the Department Head or Human Resources Director. An employee may return to work at any time prior to the approved leave **end date** with the approval of the Department Head and Human Resources Director. **Prior to an employee being allowed to return to work from a disability leave of absence the City will send an employee to a physician or occupational health provider of its choosing for a Fitness For Duty physical exam.**
5. Two weeks prior to the expiration of an approved leave, the employee may request a thirty (30) day extension from the Director of Human Resources.
6. Disability leaves shall not be approved in excess of twelve months from the start of the leave, which shall include concurrently the twelve weeks of Family Medical Leave.
7. Failure on the part of the employee to return to work after the expiration of an approved leave is deemed a resignation from City service.
8. Accrued sick, ~~and~~ vacation, **personal** leave **and compensatory time** shall be **applied paid out** to an **employee on an** authorized disability leave **of absence**.
9. Should an employee's attendance or work performance be unsatisfactory because of a disability, the City may require the employee to take **an unpaid** disability leave of absence pursuant to this section.

F. Personal Leave of Absence

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

Failure by the employee to return to work **immediately** after the expiration of an approved leave is deemed a resignation from City service.

G. Educational Leave of Absence

1. Eligibility

An **permanent** employee may request an educational leave of absence in writing to the Human Resources Director, upon the recommendation of the respective Department Head. A Department Head may request an **educational** leave of absence from the City Manager. Such Leave shall be without pay and without such benefits described in Sections VII, VIII and IX of this Policy.

2. Terms of Leave

Educational Leave of absence without pay ~~shall not~~ **may not** exceed one year in length and shall be granted ~~only when it appears, because of the based on a review of the employee's employment record, department staffing and operational needs, and benefit to the City, past record of the employee or because of the purpose for which the leave is requested, that the best interests of the City will be served.~~ Vacation, holiday and sick time shall not be earned during the unpaid Educational leave of absence nor shall any other employee benefits be accrued.

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

3. Return to service.

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

An employee ~~should~~ **shall** return to work from an educational leave of absence no later than the first working day following the expiration of the leave. Failure by the employee to return to work after the expiration of an approved leave is deemed a resignation from City service.

H. Military Leave

Military leave and rights to re-employment after such leave are available to employees under the terms and conditions of applicable Federal and State law, **as may be amended from time to time.**

I. Reserve Military Leave

Reserve military service leave is available to employees who are members of the military reserve or National Guard under the terms and conditions of applicable Federal and State law. For any period of reserve service up to two weeks in any calendar year, the City will compensate the employees ~~for~~ the difference between their gross regular weekly wages and their total military pay, on the same terms as outlined for juror's pay under Section J(1) below. ~~The e~~Employees utilizing reserve service leave must furnish the Human Resources Director with an official statement of reserve service pay received.

J. Court Leave

1. Jury service.

Any ~~permanent~~ employee shall be excused from work when required to respond to a summons for jury duty or to serve as a juror. The City ~~encourages employees to fulfill such duties, and agrees to will~~ pay the employee the difference between their regular pay and juror's pay, pursuant to the following conditions:

- a. Employees continue to be paid their regular weekly wages during the time they are fulfilling their obligations as a juror;
- b. Employees provide the Human Resources Director with an official statement of their juror's pay as soon as possible.
- c. If such juror's pay is less than the employee's regular pay for the period served as juror, the employee submits the entire amount of the juror's pay to the City.
- d. If such juror's pay is equal to or greater than the employee's regular pay for the period served as juror, the employee refunds to the City that amount of the juror's pay which is equal to the amount paid to the employee by the City for the period served as juror.

2. Required attendance in court.

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

3. Private litigation.

Any employee subpoenaed to appear as a witness in private litigation unrelated to City employment will be given time off with pay for such attendance.

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

4. Notice requirement.

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

X. CONDITIONS OF EMPLOYMENT

A. Employee Conduct

All employees are expected and required to:

1. Uphold the Constitution, laws and regulations of the United States and the State of Maine and the Charter, codes and regulations of the City of South Portland, ~~and never be a party to their avoidance.~~
2. Regard service to the public as the mission of all City employees, and always place service to the public above service to self.
3. Report for work at the time and place required, physically and mentally prepared, and properly dressed and equipped unless proper notification has been made.
4. Treat all co-workers and members of the public with respect, courtesy, concern and responsiveness, ~~and never discriminate by~~ without dispensing special favors or privileges. ~~to anyone.~~
5. Never use or disclose information, obtained as a result of employment with the City, for personal gain for oneself or another, ~~or~~ to place oneself or the recipient in a position of advantage, or ~~merely~~ to spread rumors and/or accusations about City employees and elected officials.
6. ~~Give a full day's work for a full day's pay, and give earnest effort to the performance of assigned duties as efficiently and economically as possible. Be accountable for all daily decisions and their consequences. Devote on-duty time and energy to fulfilling the duties and~~

responsibilities of the assignment by acting professionally in a non-hostile manner, regardless of provocation; avoiding intentionally profane, violent, or insulting language; and promptly and courteously returning phone calls, e-mails, or other inquiries from the public, supervisors, co-workers, or others.

7. ~~Work through~~ Resolve disagreements internally by working through the appropriate chain-of-command. Do not debate issues in public or through the media.
8. Demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees. Engage in no activity, either directly or indirectly, which is inconsistent with the conscientious performance of City duties.
9. Expose corruption, misuse of official authority or any action which harms the public interest wherever and whenever discovered.
10. ~~Not engage in off-duty personal conduct which affects your job performance or adversely affects the public trust and confidence placed in you. Such conduct includes, but is not limited to, criminal conduct, such as acts of domestic violence, child abuse or neglect, consensual sexual relationships between City employees with a supervisor/subordinate relationship, operating motor vehicles under the influence and other inappropriate off-duty personal conduct.~~

Off-Duty Conduct:

The City of South Portland respects its employees' right to privacy with regard to activities and conduct outside of the workplace and regular working hours. The City does not prohibit employees from engaging in lawful activities while off-duty, nor discriminate against employees for the same. However, off-duty conduct of employees that is illegal may be cause for discipline or termination if the illegal off-duty conduct or consequences of the illegal off-duty conduct directly impact the employee's ability to meet the essential functions and other requirements of his or her job. Similarly, an employee's illegal off-duty conduct or consequences of the illegal off-duty conduct that directly impact working conditions, required licenses, normal business operations, or the professional reputation of the organization may be cause for discipline or termination.

B. Political Activity

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

- (1) ~~seek or~~ accept ~~nomination~~ **appointment** or election to any South Portland elective office (*i.e.*, City Council or School Board) (hereinafter “City elective office”);
- (2) engage in political activity while on duty;**
- ~~(23)~~ use the influence of his or her employment capacity for or against any candidate for any City elective office;
- ~~(3) circulate petitions or campaign literature for any City elective office;~~
- ~~(4) solicit or receive subscriptions, contributions or political service from any person for or against any candidate for any City elective office; or~~
- ~~(54)~~ use City facilities, equipment, materials or supplies to communicate, organize, assist or advocate for or against any candidate for any county, state, federal or City elective office **or for or against a political cause** regardless of whether he or she is on or off duty.

~~Subsections (1) through (4) above shall not apply to any City employee holding City elective office if that term commences on or before December 5, 2011, subject, nonetheless, to the limitations in subsection (5) above and in the City Charter; provided, however, that subsections (1) through (5) above shall apply to any City employee whose City elective term of office would commence on or after December 6, 2011.~~

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

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

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

C. Personal Receipt of Gifts

Employees are prohibited from soliciting or accepting any gift, gratuity, favor, installment, loan or any other item of monetary value in excess of twenty-five dollars (\$25.00) annually from any person, within or outside the City government,

when given or received under circumstances indicating the hope or expectation of receiving preferential treatment to that accorded the general public.

D. Use of City Resources

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

E. Conflicts of Interest

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

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

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

F. Outside Work

A City employee may engage in outside employment if the employment does not interfere with the proper, **safe** and effective performance of the duties of the City position, **and** does not constitute a conflict of interest, ~~and is not disadvantageous to the City.~~

G. Tobacco Free Environment

It is the policy of the City of South Portland to comply with all applicable Federal, State, and Local regulations regarding smoking in the workplace and to provide a tobacco-free work environment that promotes productivity and the well being of its employees.

Smoking and the use of any tobacco product, including chewing tobacco is prohibited in all City facilities, vehicles and equipment except for areas where it is specifically authorized. The City may designate Smoking Areas which must be at least twenty (20) feet from all entryways, vents and doorways of City facilities.

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

~~The City does not discriminate against individuals on the basis of their use of legal products, such as tobacco, if the use occurs during non-working time and off the City's premises, except in areas specifically authorized.~~

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

H. Drug Free Workplace Policy

The City of South Portland recognizes that alcoholism and drug dependency are treatable diseases. Left untreated, they may result in serious personal, professional and family problems. At the same time, the City is also seriously concerned about the effects of alcohol and drug dependency upon an employee's job performance and ability to serve the public.

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

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

The City abides by the Maine Medical Use of Marijuana Act, as may be amended from time to time. Employees may not ingest or be under the influence of legally prescribed medical marijuana in the workplace during work hours.

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

Any violation of this policy ~~shall~~ may constitute ~~sufficient grounds~~ just cause for employee discipline, up to and including ~~dismissal~~ termination.

I. Employee Notification to Employer

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

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

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

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

J. Unexcused Leaves of Absence

~~No e~~**Employees** may **not** be absent from duty without the permission of his/her supervisor or Department Head, **or on an approved leave of absence**. Any employee who is absent **from work** without the permission of their supervisor or Department Head, **and/or not on an approved leave of absence**, may be subject to disciplinary action up to and including ~~dismissal~~ **termination**. **Employees are expected to return to work directly after their approved absence (i.e., sick leave, vacation leave, bereavement leave, etc.) or expiration of any qualifying and authorized leave of absence, such as Family Medical Leave or other such state or federal mandated leaves of absence. Failure of an employee to return to work the next workday or scheduled shift following an authorized absence or expiration of an approved leave of absence shall be deemed a “no call, no show” and unauthorized absence from work, which may be just cause for discipline. Under any circumstances, a**After three (3) consecutive days of **unauthorized** absence **from work** without **approved** leave, the City Manager may **determine the employee has resigned, voluntarily “quit” or abandoned the position and** declare the position vacant, ~~and~~ **the** employee **automatically** waives all rights to the position **or reinstatement**.

K. Commercial Driver Alcohol and Drug Policy Testing Procedures

1 Policy Statement and Authorization

- a. It is the intent of this policy to assure compliance with mandated Federal and State laws and regulations regarding drug and alcohol testing of employees with commercial drivers' licenses in the workplace. This includes Rules and Regulations under CFR 49 Part

653, Prevention of Prohibited Drug Use in Transit Operations and CFR 49 Part 382, Substances and Alcohol Use and Testing, and the State of Maine Substance Abuse Testing Law (26 M.R.S.A., CH. 7, Sub-chapter III-A), and the Omnibus Transportation Employee Testing Act. In addition, this policy provides guidance to City officials on employee management.

- b. The City of South Portland has a strong commitment to the health, safety and welfare of its employees, their families, its customers, and the public at large. Therefore the City seeks to hire and employ workers requiring a Commercial Drivers License (CDL) who are free of illegal and abused drugs and alcohol, and protect employees, their families and the public from the adverse effects of alcohol and drug abuse. The City requires the final applicant selected for a position requiring a CDL to undergo an alcohol and drug test to detect the presence of alcohol and drug abuse substances in the body.

Any applicant with a positive **pre-employment post-offer** test may be denied employment with the City by reason of the positive test.

2. Drug and Alcohol Testing

- a. All applicants/candidates for employment in positions requiring a CDL License shall be required to pass a drug and alcohol test as a post-offer **pre-requisite to condition of** employment.
- b. Employees shall remain free from the abuse of alcohol and controlled substances. An employee may be tested at any time based on the following:
 - i. Reasonable suspicion testing (occurs when a City official believes the employee shows signs of drug abuse and/or alcohol misuse **while on duty**);
 - ii. Post-Accident testing (following a qualifying motor vehicle accident);
 - iii. Random testing (unannounced on an ongoing basis); and
 - iv. ~~Return~~**ing** to duty testing (following a verified positive test result, refusal to test or drug and alcohol policy violation).

3. Responsibility

It is the responsibility of the Human Resources Director to administer and enforce this policy ~~and adopt such administrative procedures and policies as necessary to implement and administer this policy consistent~~

in compliance with state and Federal laws, rules and regulations, as amended from time to time.

Any offer of employment by the City ~~shall not be deemed to be~~ is not final, ~~nor shall a prospective employee have the right to accept any offer or suggestion of an offer of employment~~ until such time as drug and alcohol test results have been received and the employee cleared by the Human Resources Office. ~~Any work performed by an individual for or on behalf of the City prior to such approval shall not involve the operation of any City equipment requiring a CDL or safety sensitive work.~~

4. Procedure(S) For Testing

a. Drugs to be tested for

When chemical drug and alcohol screening is required under the provisions of this policy and CFR 49 and Parts, a breath test and/or urinalysis test will be given to detect the presence of the following drug groups:

- i. Alcohol (ethyl)
- ii. Amphetamines/Methamphetamines
- iii. Cocaine
- iv. Opiates
- v. Phencyclidine (PCP)
- vi. THC (Marijuana)
- vii. MDMA (Ecstasy)

viii. Heroin

L. Workplace Violence Policy

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

M. Workplace Safety

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

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

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

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

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

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

N. Fitness for Duty

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

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

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

O. Licensing, Certifications and Insurance

Losing or failing to attain required licenses and certifications can effectively prevent employees from performing their job duties as required for their position and as identified in their job description.

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

P. Attendance, Punctuality and Absenteeism

Employees are expected to be reliable and punctual in reporting for work each day and to complete the full work day. Effective and efficient City operations and service delivery takes cooperation and commitment from all employees. Unnecessary absences and tardiness are disruptive and place an undue burden on fellow employees and supervisors who may have to perform the extra work, and adversely affects the City's ability to provide necessary services to the public. Excessive absenteeism, tardiness, leaving work early without authorization, and abuse of sick leave may result in progressive disciplinary action up to and including termination. Prior to any disciplinary action, supervisors will meet with employees to address attendance issues, inform the employee of the expectation of sustained improvement needed in their

attendance at work, and then monitor for such improvement in attendance over the next several weeks or couple of months.

The City recognizes there are times when absences and tardiness cannot be avoided. However, this should be the exception and not the norm. In such instances, employees are expected to notify their supervisor as early as possible before the start of the work day.

The City encourages employees to stay at home when sick, potentially contagious, emotionally distraught, and thus unable to perform their job duties for these legitimate reasons. (Please refer to Appendix B – Pandemic Flu Policy)

XI. DISCIPLINARY ACTION

A. Grounds for Action

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

1. An employee's work habits, performance and/or behavior on the job, ~~production~~ productivity or ability to handle the duties of the position fall below a satisfactory level in the judgment of management.
2. An employee acts in a disrespectful manner, or is insubordinate.
3. An employee steals, removes without authorization, possesses, destroys or abuses the property of the City or of other employees.
4. An employee is absent without authorized leave.
5. An employee makes false statements to his/her supervisor or the public or falsifies public records.

6. An employee violates any provision of this Policy, City Charter, Code of Ordinances, rules or regulations as promulgated by the Department Head, Human Resources Director or City Manager.
7. Unauthorized use of telephones, mail system, computers, internet or other City equipment.
8. Fighting or threatening behavior.
9. Loss of driver's license when needed to perform employee's job duties.
10. Violations of Section X.

B. Types of Action

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

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

1. Verbal warning

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

2. Written warning

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

3. Unpaid Suspension

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

4. Demotion

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

5. Dismissal/~~Disciplinary Termination/Suspension Termination~~

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

C. Hearing for ~~Disciplinary~~ Suspension, Demotion or ~~Dismissal/Disciplinary Termination~~

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

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

D. Personnel Records

A copy of any final decision on disciplinary action is to be filed in the employee's personnel file and a copy delivered to the employee. The employee shall have the right to refute all charges in writing and to have the document placed in the employee's personnel file.

E. Department Heads

The City Manager shall handle all discipline of Department Heads.

XII. GRIEVANCE PROCEDURE

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

1. Within fourteen (14) calendar days from the time the Supervisor or Department Head rendered a decision, the employee may file a formal grievance with the Department Head. The Department Head will render a decision within fourteen (14) calendar days from the date the grievance was presented, or decline to answer and refer the matter to the Human Resources Director.
2. If the employee is dissatisfied with the Department Head's response and the matter remains unresolved, the grievance may be appealed to the Human Resources Director within fourteen (14) calendar days of receipt of the Department Head's decision, except that a grievance relating to ~~disciplinary action~~ termination of employment may ~~only~~ be appealed to the City Manager. The Human Resources Director shall respond in writing within fourteen (14) calendar days.
3. If the employee is dissatisfied with the Human Resources Director's response and the matter remains unresolved, the grievance may be appealed to the City Manager within fourteen (14) calendar days from receipt of the Human Resources Director's decision. The City Manager shall hear the grievance and render a decision within fourteen (14) calendar days. The decision of the City Manager shall be final and binding.
4. This sequence shall not apply when the grievance concerns the conduct or decision of the Department Head or Human Resources Director. The employee may appeal directly to the next level.

XIII. POLICY AGAINST DISCRIMINATION AND HARASSMENT

A. Non-Discrimination Policy

In order to provide equal employment and advancement opportunities to all individuals, the City does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, physical or mental disability, national origin, age, sexual orientation, disability, ancestry, genetic information, or any other **characteristic classification** protected by law. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination and access to benefits and training.

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

B. Sexual Harassment Policy

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

Harassment on the basis of sex is a violation of State and Federal law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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

The following are examples of illegal sexual harassment:

- Unwelcome sexual advances
- Sexual or lewd remarks

- Unwanted hugs, touches, kisses
- Requests for sexual favors
- Retaliation for complaining about sexual harassment.

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

All reports of unlawful sexual harassment will be investigated immediately. Any employee whose conduct is found to constitute sexual harassment or other unlawful harassment will be disciplined. Discipline may include verbal or written warning, suspension without pay, or termination, depending upon the particular circumstances.

C. Other forms of harassment.

In addition to sexual harassment, harassment of an applicant or employee based on any protected status is a form of discrimination and is illegal. Examples of behavior which may be considered harassment include, but are not limited to, slurs, negative stereotyping, jokes, or hostile acts related to race, color, gender, religion, sex, sexual orientation, age, national origin or physical or mental disability, genetic information, or harassment of an employee for engaging in legally protected activities, e.g. for bringing a whistle-blowing complaint. An employee who believes that he or she has been harassed, or believes that he or she has observed harassment of another employee on the basis of a legally protected status or activity, should follow the reporting policy contained in the City's Reporting Policy outlined in Section D immediately below. All reports of these forms of harassment will be investigated immediately and any employee whose conduct is found to constitute illegal harassment will be disciplined, which may include verbal or written warning, suspension without pay, or termination, depending upon the particular circumstances.

D. Reporting Policy

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

An employee who feels that he or she has been discriminated against or harassed or believes he or she has witnessed discriminatory treatment or harassment of another

employee, should report the conduct to one or more of the following individuals:

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

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

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

E. The Maine Human Rights Commission

In addition to the City's internal reporting and investigation policy, an employee may ~~pursue a complaint by filing file~~ a complaint with the Maine Human Rights Commission. **Any complaint must be filed with the Commission within 300 days of the act of harassment.** The Maine Human Rights Commission may be reached at State House Station #51, 19 Union Street, Augusta, Maine, 04333 or by telephone: 207-~~624-6290~~ **289-2326**; fax: 207-624-8729; TTY: 1-888-577-5590

F. Anti-Retaliation

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

XIV. MISCELLANEOUS

A. Bulletin Boards

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

B. Infectious Disease Policy

1. Purpose

This is to establish the policy of the City of South Portland for managing infectious disease issues as they relate to employees and/or prospective employees, including but not limited to, the following diseases: HIV, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations.

2. Policy

- a. It is the policy of the City to assure to the extent reasonably possible a safe and healthful work environment.
- b. It is the policy of the City to ensure full compliance with State, Federal, and Local requirements dealing with infectious diseases.
- c. City procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Department Head.
- d. It is the obligation of all City employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.

3. Procedures

- a. The City will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform the essential functions of their job with or without reasonable accommodation. Employees with infectious diseases will be treated under existing policies, State, Federal, and Local requirements, and collective bargaining agreements.
- b. Where allowed by law, the City retains the right to test employees for infectious diseases.
- c. The City must maintain confidentiality regarding any employee's health status, and does not have a duty to inform other individuals or organizations unless required by law.
- d. Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the City's Human Resources Director.

- e. Upon notification by an employee that an infectious disease diagnosis has been confirmed and is a threat to the public health, the Human Resources Director will:
 - i. Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired;
 - ii. Assist in the identification of reasonable accommodations to be made, if any;
 - iii. Assist individual departments, if necessary, in complying with this policy.
- f. The City's Human Resources Office will provide to employees appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- g. Individual departments have the right to develop protocols regarding infectious disease control provided that these protocols conform to this policy.

C. Injuries

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

D. Legal Aid and Protection

The City, with the employee's consent, will assume the defense of and indemnify any employee against a claim which arises out of an alleged act or omission occurring within the course or scope of his/her employment and for which the City is liable, up to the applicable statutory standards. In addition, the City, with the employee's consent, will defend and indemnify any employee, up to the statutory limits of the Maine Tort Claims Act, against a claim which arises out of an act or omission within the course and scope of employment, which defense and/or indemnification is not contrary to public policy, and the City determines that the employee acted in good faith and in the reasonable belief that the action was in the best interest of the City.

In any case where the City is defending or indemnifying an employee, the City has the right to approve the retention of any outside counsel, and the right to accept settlements of such cases.

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

The above legal aid protection is also extended to former employees for claims against them arising from acts or omissions during their employment with the City.

E. Personnel Records

1. Personnel records; confidentiality.

A personnel record for each employee shall be kept in the Human Resources Office. Said record shall contain all vital statistics and other pertinent data related to the employment of the individual. It shall be the responsibility of the Human Resources Director to keep such records confidential, as required by law, and to limit access to the records only to the City Manager, the Human Resources Director, the Department Head, legal counsel for the City and such other personnel as may have legitimate reasons to review them from time to time with the approval of the City Manager or Human Resources Director.

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

2. Duties of Human Resources Director.

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

3. Right to review file.

The Human Resources Director shall provide the employee or a duly authorized representative with an opportunity to review his or her personnel file and to obtain a copy of such file. The Human Resources Director may require such request to be put in writing and signed by the employee. Such reviews shall take place at the Human Resources Office during normal office hours.

If any other personnel records exist outside the Human Resources Office, the employee shall be informed of their existence and of the employee's right to review them upon request.

4. Complaints.

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

F. Educational Reimbursement Policy

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

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

In order to participate in the program, the employee must obtain the approval of his/her Department Head prior to the commencement of the course or training program. The employee must then seek the approval of the Human Resources Director who will certify that the degree program is duly qualified for the City's educational reimbursement program and that funds are available. **It shall be the responsibility of the employee to demonstrate that the course or program for which he or she is seeking reimbursement is directly related to his or her job responsibilities.**

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

An employee that leaves employment with the City for any reason, including voluntary resignation, termination, or retirement, within one two years of receiving an educational reimbursement for tuition, fees and/or books shall repay-reimburse to the City the full amount (100%) of such reimbursement. the prorated share of the amount of the educational reimbursement paid to the employee in proportion to the number of months left in that two (2) year period from the date of the educational reimbursement.

The City may establish annual maximum reimbursement amounts per employee based on employee demand and/or budgetary and economic conditions.

G. Travel and Meeting Reimbursements

1. Employment-related expenses.

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

In instances where employees submit to the City a written estimate of all costs related to attendance at an approved function, they may receive a travel advance or otherwise will be reimbursed afterwards.

2. Reimbursement procedure.

Actual **work-related** expenses incurred away from the office or job site shall be reimbursed only when accompanied by a receipt. ~~There shall be no reimbursement for expenses (other than mileage reimbursement) submitted more than 30 days after such expenses are incurred, except with approval of the employee's respective Department Head or City Manager.~~ There shall **be no reimbursement for alcoholic beverages.**

3. Parking Fees/Tolls

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

4. Mileage Reimbursement

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

Employees are responsible for submitting a record of the business mileage to their immediate supervisor who must review and approve the mileage

worksheet and submit reimbursement request to the City's Manager's Office, or the City Manager's Designee, for final approval.

5. Automobile Accidents While Conducting City Business

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

6. Towing of Vehicles

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

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

7. Travel Time

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

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

Time spent in travel away from home for approved, work-related purposes as a driver of a vehicle outside of regular working hours is counted as work time and is compensable.

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

Employees and supervisors with questions on how an employee should be compensated and/or reimbursed for out of town or overnight travel time for work-related purposes (both as a driver or passenger) should

contact the Human resources Director. The City abides by guidelines established by the US Dept. of Labor Wage and Hour Division.

8. Distracted Driving

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

79. Administration of this Policy

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

H. Municipal Employee Wellness Program

The City shall periodically provide educational and health information programs and brochures to employees to promote health awareness. As part of the Municipal Employee Wellness Program, all ~~permanent~~ full and part-time employees shall be entitled to use the City swimming pool, indoor walking track, library and municipal golf course without charge during normal operating hours. Such time spent at these facilities shall not be considered hours worked.

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

I. Dress Code

The City of South Portland has adopted a business casual dress policy for the comfort of its employees who work in an office environment, including but not limited to all City Hall offices. It is important that a 'business casual' dress policy not be interpreted by employees as a 'casual' dress policy. ~~The policy is designed to give guidance as to what is appropriate as 'business casual' and what is not. The goal is to continually enhance the positive image of City of South Portland employees. This policy may be amended from time to time by the City Manager. Department Heads may modify this policy to accommodate the particular working environments of their employees who do not work in an office.~~

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

1. Clothing must be clean, neat and appropriate for the work site.
2. When representing the City of South Portland at training or meetings, attire should be in conformance with the attire expected at the meeting **as communicated by the host of the meeting or otherwise generally established by the industry or setting.** At no time should an employee dress in attire that is inappropriate for a business gathering.
3. If an employee has attire **which bears that has** the logo **or other indicia** of the City of South Portland, ~~writing describing the City of South Portland and at times the employees name or position on it and it does and that is not fall into the otherwise~~ inappropriate attire category, **it that attire will would be considered acceptable and appropriate for the work site. to wear that clothing.**

4. Appropriate Business Casual Attire Includes:

- ~~Dress shirts, skirts, or pants~~
- ~~Collared shirts or dress casual shirts without collars~~
- ~~Dresses, Jumpers~~
- ~~Skorts (split skirts with flaps)~~
- ~~City short suits/knee length shorts for women~~
- ~~Sports coats, jackets or blazers~~
- ~~Sweaters, cardigans or vests~~
- ~~Casual pants/slaeks (e.g., khakis, chinos, twills, loose fitting capris)~~
- ~~Jeans will be allowed on Fridays~~
- ~~Jeans may not be faded, frayed, worn or torn~~
- ~~Polo or golf shirts with collars~~
- ~~Dress denim shirts, skirts, dresses, jackets or jumpers only when not faded, frayed, worn or torn~~
- ~~Dress casual shoes (for example flats, loafers, dockers, clogs)~~
- ~~Dress sandals that cover most of the foot/toes~~
- ~~Shoes or sneakers that are professionally appropriate to the working environment~~

4. Inappropriate Business Casual Attire does not Includes:

- Clothing that is too tight, short or revealing

- Clothing that is faded, frayed, worn or torn
- Clothing that is not clean
- Overalls, ~~leggings not covered by a dress~~
- Non-collar casual tee shirts or tee shirts with logos or slogans
- Undershirts or ,-tank tops, ~~tee shirts with logos or slogans~~
- Sports attire including sweat shirts, sweat pants or warm up suits
- Leggings not covered by a dress Spandex
- Halter-tops or strapless tops
- Sneakers (~~including Keds~~)/athletic shoes in generally poor condition
- Casual or athletic sandals, flip flops (e.g., Birkenstock open-toe styles, Texas, Crocs, flip-flops) of any kind
- Shorts for men or women (except skorts or knee-length pantsuits for women) ~~city short suits/knee-length shorts for women as described above~~)
- Hats (except as required by religious custom or for medical reasons), sports headbands, or other unprofessional headwear
- This list is not inclusive. Inappropriate attire is subject to the determination of the employee's supervisor in accordance with the general guidance of this policy

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

6. _____ Body art/tattoos and body piercing are generally considered a personal choice and are allowed. ~~The exception~~ However, is for roles in which that require face-to-face customer contact is required. ~~Supervisors~~ have discretion to let employees know that based on customer interaction needs it may be necessary to remove facial or other body jewelry or cover up areas of body art when meeting with customers.

7. It shall be the responsibility of Supervisors are expected to maintain enforce the business casual dress policy in their respective work areas or departments and to send employees who are dressed too casually or inappropriately home to change. Supervisors are also expected to enforce the provisions related to ~~asked to help ensure that~~ fragrances, body art and piercings in the work area, ~~are minimal~~. In the event a supervisor is unable to enforce or an employee is unwilling to cooperate with the provisions of this policy, the Human Resources Director shall be notified as soon as practicable and will be responsible to determine the appropriate course of action in order to ensure compliance with this policy.

J. Pets

Employees are not allowed to bring pets to the workplace except under limited temporary circumstances, for example, pickup of a pet from the veterinarian or for a special approved program. Service animals are permitted to assist an employee with a disability. The City shall make a reasonable accommodation in the event another employee has an allergy to an animal.

XIV. AMENDMENTS TO POLICY

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

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

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

XV. SAVINGS CLAUSE

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

APPENDIX – A SNOW CLOSURE POLICY

The following Policy may be amended by the City Manager. Employees will be notified of changes prior to implementation.

Notification

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

Weekday Snow Closing

If City Hall closes the following offices will also close:

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

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

Weekend Snow Closing

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

Transportation & Water Resource Department – Snow

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

Employee Discretion – Making it to Work

It is up to the employee’s discretion to make it in to work during a snow event. If the employee self elects to not come into work, then said employee shall take a vacation day, personal day or use accrued compensatory time. If City operations close at half day and the employee opts to take a vacation day, personal day, or use accrued compensatory time, then a full vacation day or personal day will be charged.

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

APPENDIX – B

PANDEMIC FLU POLICY

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

A pandemic flu like virus is an influenza-based infection, which means it targets the lungs. Symptoms include, but are not limited to cough, sore throat, fever, chills body aches and occasionally nausea and vomiting. A cough or sore throat, combined with a fever (temp above 101 F), is considered by CDC to be *Influenza-like Illness*, hereafter referred to as an ILI.

Workplace Rules:

If you experience an ILI, you must stay home from work until **24 hours** after your fever has subsided. This means no fever without the use of medications such as Motrin or Tylenol. Supervisors must be vigilant and watch for employees who appear sick. If you suspect an employee has an ILI, the best way to verify this is to ask the employee whether they are running a fever. If the employee believes he/she has a fever, they will be sent home. The City recommends that all employees seek medical clearance prior to returning to work.

The best methods to avoid the flu include frequent hand washing, use of hand sanitizer and coughing into your sleeve. Regular cleaning of our office equipment is just as important as the cleaning of our hands. This includes the computers we share as well as telephones, door handles etc...

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

APPENDIX – C

ANTI-IDLING POLICY

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

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

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

Exceptions:

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

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

APPENDIX D

CITY OF SOUTH PORTLAND

WORKPLACE VIOLENCE POLICY

The City of South Portland maintains a zero tolerance policy toward violence or the threat of violence by any of its employees, customers, **vendors, and** the general public and/or anyone who conducts business with the City. ~~It is the intent of the~~ The City of South Portland ~~to strives~~ to maintain a **respectful** work environment free from intimidation, threats, physical attacks, harassment, property crimes, or any other violent attacks. This includes, but is not limited to intimidating, threatening or hostile behaviors, physical abuse, vandalism, use of weapons, ~~carrying weapons on City property~~ **possessing weapons on the premises**, or any other act, which in management's opinion, is inappropriate to the workplace. ~~Although individuals may have obtained legal permits to carry weapons, they are not permitted to carry them on the job or on City property unless required by their position in the Police Department.~~ In addition, bizarre or offensive comments regarding violent events and/or behavior will not be tolerated.

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

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

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

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

The objective of this policy is to achieve the following:

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

All employees are responsible for:

- Refraining from acts of violence;
- Seeking assistance to resolve personal issues that may lead to acts of violence in the workplace; and
- Reporting to Managers and Supervisors any dangerous or threatening situations that occur in the workplace.

Employees are encouraged to report to their Managers/Supervisors situations that occur outside of the workplace which may affect workplace safety, instances where protection orders have been issued.

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

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

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

When a violent act occurs:

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

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

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

APPENDIX E

LACTATION BREAKS POLICY

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

Organization Responsibilities

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

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

Employee Responsibilities

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

APPENDIX F

SAFE HARBOR POLICY

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

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

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

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

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

An exempt employee's salary will not be reduced for a partial day absence for personal reasons; however, the exempt employee will be required to use accrued vacation, sick or personal time equivalent to the amount of such partial day absence. In the event an exempt employee does not

APPENDIX F – (Continued)

SAFE HARBOR POLICY

have accrued paid time off, the employee's salary may not be reduced for a partial day absence. It is the responsibility of employees to maintain and submit time cards that accurately account for all time worked. It is a violation of this policy for any employee to falsify a time card, alter another employee's time card or instruct another employee to inaccurately report hours worked.

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

APPENDIX G

City of South Portland

SAFETY POLICY MISSION STATEMENT

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

To help meet these goals, the City of South Portland has allocated resources to administer an aggressive safety and loss control program. Some of the program components include an Executive Safety Board, Safety Coordinator, department safety committees, written safety policies and procedures, employee training, safety inspections and additional administrative controls. The overall program is the responsibility of the City Manager. Administrative responsibility is assigned to the Human Resources Department and Safety Coordinator. The Human Resources Department and Safety Coordinator, however, are not responsible for departmental safety, which is the responsibility of department heads and supervisors. It is expected that department heads will complement the efforts of the Human Resources Department, Safety Coordinator and Safety Committees to reduce losses and provide for the safety of employees and the public. These safety and loss control responsibilities are continuous and equal in importance with all other operational considerations.

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

City Manager

DATE ISSUED:
