



# Personnel Policies Manual

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# CHAPTER 1 PURPOSE AND SCOPE

## 1.1 INTRODUCTION

The City of Port Townsend places the highest value on its employees. We wish to see satisfied workers, with the support necessary to achieve the objectives of each position. The City believes that clear, consistent personnel policies contribute to greater job satisfaction. All employees and new hires are required to be familiar with these policies. If questions arise, please begin with a discussion with your supervisor or department director. Employees are encouraged to offer ideas or suggestions for improvement of these policies.

These personnel policies serve as a general guide to the City of Port Townsend's current employment practices and procedures. As such, we hope they will help employees better understand how the City operates and what is expected of an employee, and what the employee can expect in return. These policies also describe the compensation, benefits and other support provided by the City.

## 1.2 INTENT OF POLICIES

**These policies are not intended to be a contract, expressed or implied, or any type of promise or guarantee of specific treatment upon which an employee may rely, or a guarantee of employment for any specific duration.** Although the City desires long-term employment relationships, it is recognized this may not always occur and either the employer or employee may decide to terminate employment. **Unless specific rights are granted in employment contracts, civil service rules or elsewhere, all employees of the City are considered at-will employees and may be terminated from City employment at any time, with or without cause and with or without notice.** No supervisor, department director or representative of the City, other than the City Manager, has authority to enter into any agreement with an employee for employment for any specified period or duration, or to make any written or verbal commitments to the contrary. Any agreements for employment for any specified period or duration must be in writing signed by the City Manager. It is the City's intent these policies be interpreted as providing a reasonable approach to specific problems and situations; they should be considered as a total set of working procedures rather than interpreting each section, subsection, sentence or phrase separately and out of context.

## 1.3 SCOPE OF POLICIES

**These personnel policies apply to all City of Port Townsend employees.** In cases where these policies conflict with any Civil Service rules and regulations, provisions of a collective bargaining agreement, City ordinance or state or federal

law, the terms of that law, rule or agreement prevail. In all other cases, these policies apply. In the event of the amendment of any ordinance, rule, or law incorporated in this document or upon which these provisions rely, these personnel policies shall be deemed amended in conformance with those changes.

#### **1.4 CHANGING THE POLICIES**

As the need arises, the City Council may modify and supplement these policies and, through the budget process, may enact changes to compensation or benefit levels. As the need arises, the City Manager may modify and supplement these policies except for policies relating to compensation and benefits, which may only be modified by the City Council. The City Manager may also deviate from these policies in particular situations, especially in an emergency, to achieve the primary mission of serving the City's residents. Employees may request specific changes to these policies by submitting suggestions to their department director or the City Manager.

#### **1.5 DEFINITIONS**

**Appointing Authority:** The person empowered with authority to appoint and/or remove employees from City positions, or persons delegated by such appointing authority to perform duties which legally may be delegated. The City of Port Townsend appointing authority is the City Manager.

**At-will Employee:** Unless specific rights are granted to an employee in a collective bargaining agreement, civil service rules, or written employment agreement, an employee of the City may be terminated at any time, with or without cause and with or without notice.

**City:** The City of Port Townsend.

**City Business:** Includes work or job duties arising out of a work assignment or work duties for the City.

**City Facility:** Any building that is owned or leased by the City and parking lots associated with a building that is owned or leased by the City. Except as otherwise provided herein, the term does not include City parks, parking lots not associated with a building that is owned or leased by the City, sidewalks, or streets.

**Class/Classification:** Systematic arrangement of job titles into categories according to positions sharing similar job functions and/or responsibilities.

**COBRA Rights:** Federal law which permits employees who are terminating from City employment to continue eligible group medical coverage at their personal expense for a specified period of time determined by federal law.

**Confidential Employee:** A non-FLSA exempt employee exempted from the bargaining unit because of confidential duties.

**Days:** References to “days” in these policies shall mean calendar days unless otherwise stated.

**Department Director or Department Head:** An employee responsible for directing one or more City departments or divisions.

**Emergency:** A circumstance that, if not immediately addressed, may cause injury or damage to persons or property.

**Employee Assistance Program:** A program designed to assist City employees and their family members to solve problems through professional counseling.

**Exempt Employee:** An employee who does not receive overtime pay for all hours worked in excess of 40 hours per week as provided in the Fair Labor Standards Act (FLSA) because the employee works in a bona fide executive, administrative, professional or other exempt capacity covered by the FLSA and Washington Minimum Wage Act.

**General Notification:** Notification on employee bulletin boards or through an employee newsletter, email or similar form of notification.

**Good Driving Record:** No more than one moving violation within the preceding three years; no reckless driving or driving while intoxicated violations within the preceding five years. No more than one motor vehicle accident within the preceding three (3) years for which the applicant received a traffic or criminal citation and was convicted, forfeited bail, or pleaded guilty.

**Harassment:** Harassment is defined as verbal or physical conduct that demeans or shows hostility or aversion toward other employees or members of the public. Harassment *includes* harassment based upon a legally protected status, for example, sex, color, age, disability, etc. (see Section 2.5), but is *not* limited to harassment based upon a legally protected status (see, for example, Section 10.1(21)).

**Human Resources:** Human Resources as used in this Manual means a member of the Human Resources division, including the Human Resources Manager and any other staff assigned to the department.

**Immediate Family:** Includes the following: spouse; registered domestic partner; parent; child; stepchild; brother or sister; mother or father-in-law; son or daughter-in-law; grandparent; grandchild; step-parents, or any relative who lives in the employee's home. An individual is considered a relative whether related by blood, marriage or adoption.

**Non-exempt Employee:** An employee who receives overtime pay for hours worked beyond 40 hours in a standard work week in accordance with the Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act. The amount of overtime pay is one and one-half times the regular rate of pay for actual hours worked, unless provided otherwise in a bargaining agreement.

**Non-public Area of a City Facility:** An area which has been declared by the City Manager or department director in charge of the facility as not being open on a regular basis to members of the public.

**Non-represented Employee:** An at-will employee who is not a member of a bargaining unit and is not represented by a bargaining agent in matters of wages, benefits, and working conditions.

**Other Part-time Employee:** Other part-time employee includes seasonal, on-call, and other part-time non-benefited employees (regularly averages less than 20 work hours per week).

**Pro-rata Basis:** The ratio between the number of hours in an employee's normal work schedule and forty (40) hours per week, as it applies to leaves and benefits.

**Registered Domestic Partner:** Two adults who meet the requirements for a valid state registered domestic partnership as established by RCW [26.60.030](#) and who have been issued a certificate of state registered domestic partnership by the secretary of state's office.

**Regular Employee:** Regular Employee means a Regular Full-Time Employee or a Regular Part-Time Employee.

**Regular Full-Time Employee:** An employee hired in a budgeted, authorized position, which has successfully completed a trial period as defined in these policies and who regularly works a minimum of forty (40) hours a week on a regular year-round schedule.

**Regular Part-Time Employee:** An employee hired in a budgeted, authorized position, who has successfully completed a trial period as defined in these policies and who regularly works less than forty (40), but at least twenty (20) hours a week on a regular year-round schedule, unless provided otherwise in a bargaining agreement.



**Represented Employee:** An employee who is a member of a bargaining unit and represented by a bargaining agent in matters of wages, benefits, and working conditions.

**Temporary Employee:** An employee hired to work a fixed or flexible schedule of hours for a specified period of time, or an employee who is hired on an intermittent, seasonal or as-needed basis, as provided in Section 3.3.

**Trial Employee:** An employee who has not yet completed a trial period in a regular position and who has not been granted regular employment status. Unless otherwise specified, when regular employees are referred to in these policies, the reference includes trial employees.

**Weapon:** Any object, instrument or incendiary device which is (1) designed in such a manner to inflict harm or injury to another person, or (2) used in a manner threatening harm or injury to another person. This shall include, but not be limited to: firearms, knives (not including pocket knives with blades less than 3 inches in length), chako sticks and blackjacks. See Section 9.13 for further definitions.

## **CHAPTER 2**

### **GENERAL POLICIES, PRACTICES AND EMPLOYEE CONDUCT**

#### **2.1 GENERAL CODE OF CONDUCT**

All City employees are expected to represent the City of Port Townsend to the public in a professional manner which is courteous, efficient and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by the position and department director or City Manager.

Since the proper working relationship between employees and the City of Port Townsend depends on each employee's on-going job performance, professional conduct and behavior, the City has established certain minimum standards of personal conduct. Among the City's expectations are: tact, courtesy and respect towards the public and fellow employees; adherence to City policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving and protecting the City's equipment, grounds, facilities and resources; and providing orderly and cost efficient services to its residents.

The City of Port Townsend is a small workforce and, to function efficiently, employees may be asked to perform duties outside regular assignments. This arrangement is necessary in many small cities. To make the most efficient use of personnel, the City also reserves the right to change work conditions and duties originally assigned. If these changes in arrangements become necessary, the City expects employee cooperation.

As to any issue of employee discipline, the City retains complete discretion as to when a situation calls for discipline or correction and what form and level of discipline are appropriate. City management believes in appropriate discipline in appropriate circumstances. Normally, if the problems are performance related, corrective action may call for "coaching" or counseling initially, with discipline to follow if the performance deficiencies are not corrected. If problems arise from misconduct or an intentional disregard for directives or these policies, such conduct may warrant more serious discipline (such as written reprimands, disciplinary probations, suspension, demotion or termination). Performance problems may also warrant more serious discipline, if the City determines the situation has not improved or worsens. However, management will review each situation independently and make a decision on what it deems to be appropriate discipline, up to and including termination for the first offense. A decision to use progressive-type discipline in a given case is an attempt to improve the performance or behavior, but does not change the "at will" nature of the employment relationship. For represented employees, the City will adhere to procedures set forth in the applicable labor agreement.

Some examples of conduct which may lead to discipline, up to and including termination include: insubordination; unauthorized release of City, customer or co-worker information; swearing or verbal abuse; falsification of any work, personnel, or other City records; unauthorized taking or removal of City funds or property; use of City vehicles/equipment or property for non-business purposes; dishonesty; lying; discrimination against or harassment of co-workers or others; possession, consumption, or being under the influence of alcohol or a controlled substance at work or on City property; bringing a weapon to the workplace; assaulting, fighting or threatening to fight with another employee; misconduct of any kind; poor performance; excessive absenteeism or tardiness or failure to report in when absent or tardy; failure to comply with safety or security rules and procedures; and violation of City policy.

These examples are not all-inclusive; other negative behavior may also be grounds for discipline or termination. See Chapter 10 for further examples of negative behavior.

## **2.2 EQUAL EMPLOYMENT OPPORTUNITY**

The City of Port Townsend encourages and expects its work force to reflect the diversity of its residents. The City of Port Townsend is an equal employment opportunity employer. The City employs, retains, promotes, disciplines and otherwise treats all employees and job applicants strictly on the basis of job-related qualifications and competence. These policies and all employment practices shall be applied without regard to any individual's sex, race, color, creed, religion, national origin, sexual orientation (including gender identity), pregnancy, age, marital status, military status, disability, genetic information, or any other characteristic protected by law.

## **2.3 DISABILITY DISCRIMINATION PROHIBITED**

The City of Port Townsend will not discriminate against qualified applicants or employees with a sensory, physical or mental disability. Applicants and employees with a disability must be able to perform the essential functions of the job with reasonable accommodation. Employees whose disabilities require workplace accommodation are asked to seek the assistance of the City in order to initiate a mutual discussion of the employee's and City's needs.

## **2.4 LIFE THREATENING/COMMUNICABLE DISEASES**

Employees with life threatening illnesses or communicable diseases are treated the same as all other employees. They are permitted to continue working as long as they are able to maintain an acceptable level of performance and medical evidence shows they are not a threat to themselves or their co-workers. The City will work to preserve the safety of all of its employees and reserves the right, to the extent allowed by law, to reassign employees or take other job actions,

including termination, when a substantial and unusual safety risk to fellow City employees or the public may exist.

## **2.5 ANTI-HARASSMENT**

It is the City of Port Townsend's policy to foster and maintain a work environment free from discrimination, harassment and intimidation. Toward this end, the City will not tolerate harassment of any kind by an employee toward any co-worker or member of the public. Employees are expected to show respect for each other and the public at all times, despite individual differences.

Harassment is defined as verbal or physical conduct that demeans or shows hostility or aversion toward other employees or members of the public. Harassment consists of unwelcome conduct, whether verbal, physical, or visual. This Section specifically prohibits harassment that is based upon a legally protected status. Separately, other policies prohibit harassment (and coercion, rudeness and the like) even if not based on upon a legally protected status. See, for example, Section 10.1 (21), which prohibits harassment, intimidation, coercion, lack of courtesy.

Harassment based upon a person's protected status includes harassment based on sex, sexual orientation, gender identity, color, race, ancestry, religion, national origin, age, disability, marital status, veteran status, citizenship status, genetic information or other protected group status. The City will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

Any harassment of a fellow employee or member of the public will be cause for disciplinary action, up to and including termination of employment.

Examples of Harassment. Each individual must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of unlawful harassment include, but are not limited to:

- Verbal: repeated sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
- Visual/Non-verbal: derogatory posters, cartoons, drawings or emails; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- Physical: unwanted physical contact including touching, interference with an individual's normal work movement or assault; and

- Other: making or threatening reprisals as a result of a negative response to harassment.

(See Discrimination/Harassment Complaint Procedure, Policy 2.7, for guidance on what to do if you or a co-worker experience or witness potential harassment.)

## **2.6 SEXUAL HARASSMENT PROHIBITED**

Sexual harassment is a form of discrimination, is illegal and violates federal and state law and the City's policies. Sexual harassment is also inappropriate and offensive and will not be tolerated by the City of Port Townsend. The City considers sexual harassment a serious offense, and an employee who harasses another employees or members of the public will be disciplined as in any other case of serious employee misconduct.

Sexual harassment is generally defined as:

Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment does not refer to casual conversation or compliments of a socially acceptable nature. It refers to behavior that is not welcome and which is personally offensive, interfering with the effectiveness or creating discomfort on the job.

Written examples of sexual harassment include suggestive or obscene letters, emails, notes and invitations. Verbal examples include derogatory comments, slurs, unwanted sexual comments, suggestions, jokes or pressure for sexual favors. Physical examples include assault, pats or squeezes, repeated brushing against someone's body, touching, impeding or blocking movements. Visual examples include leering, sexually-oriented gestures, or display of sexually suggestive or derogatory objects, pictures, cartoons, or posters. Other examples include the threat or insinuation that lack of sexual favors will result in reprisal, such as: withholding support for job appointment, promotion or transfer; rejection on trial period; punitive actions; change of assignments; or a poor performance report.

For example, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct constitute sexual harassment when:

- It is part of a manager's or supervisor's decision to hire or fire;

- It is used to make other employment decisions like pay, promotion or job assignments, or discipline; or
- It creates an intimidating, hostile or offensive work environment.

It is the policy of the City of Port Townsend to prevent and/or eliminate sexual harassment in the workplace, as well as to alleviate any effects sexual harassment may have on the working conditions, or work environment, of an employee. In response to reports of sexual harassment, the City will seek to protect all parties involved from retaliation, false accusations, or future harassment and, where appropriate, will take prompt and adequate remedial measures.

Employees engaging in harassment are subject to discipline, up to and including termination. (See following Discrimination/Harassment Complaint Procedure, for guidance on what to do if you or a co-worker experience sexual harassment.)

## **2.7 DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE**

Each employee is responsible for creating an atmosphere free of discrimination and harassment in any form. Each employee is responsible for respecting the rights of co-workers and others, including the residents we serve. If you believe you have been subject to discrimination or harassment, or if you become aware of such conduct being directed at someone else, you should promptly report it. The City encourages employees to use this harassment reporting policy without worrying about whether the conduct involved would be considered harassment in a legal sense. If you think it might be harassment, report it. This applies to harassment or discrimination caused by anyone with whom an employee comes into contact as part of an employee's job, including co-workers, contractors, vendors, suppliers, members of the public, or any other third party.

**The procedure an employee is to follow:** The following procedure outlines the steps an employee should follow if the employee believes he/she is experiencing harassment or discrimination in the workplace, or is aware of someone else who may be experiencing harassment or discrimination in the workplace:

- 1) If comfortable doing so, identify the offensive behavior to the harasser and request that it stop. If such informal direct communication is impractical or the offensive behavior does not immediately cease:
- 2) Report the incident(s) to the immediate non-involved supervisor within the department, the department director, Human Resources Manager, Finance & Administrative Services Director, City Attorney, or the City Manager.

Where possible, this should include the specific allegation, date of the occurrence, the individuals involved, and the names of any witnesses. A non-involved supervisor is defined as the first supervisor in an employee's department who is not the object of the complaint and is not otherwise involved in the harassing behavior. In the event that there is no non-involved supervisor, and the behavior involves the department director or Human Resources Manager, the employee should report the incident to the City Attorney or City Manager.

No employee will be retaliated against by the City for good faith voicing of concerns or cooperating in an investigation under this policy. For more information on anti-retaliation see Section 2.71. Any employee involved in reporting a concern, or who participates in an investigation, may request that his or her identity be kept confidential. City officials and those involved in the investigation will honor this request to the extent possible under law, business necessity, and the needs of the investigation. Confidentiality, however, cannot be guaranteed.

**The procedure a supervisor or department director is to follow:** Supervisors who are aware of situations involving discrimination or harassment must respond to such situations regardless of whether or not a complaint is received. Supervisors who receive complaints or become aware of such incidents must:

- 1) Promptly notify the appropriate department director and the Human Resources Manager of the allegations, including all information known to or received by the supervisor
- 2) Work with his or her supervisor, the Human Resources Manager and the City Manager to take prompt action to insure the behavior is not repeated;

Supervisors shall be required to take the above steps and may be disciplined if they do not.

Department directors who are aware of situations involving discrimination or harassment must respond to such situations regardless of whether or not a complaint is received. Department directors who receive complaints or become aware of such incidents must promptly notify the City Manager:

**The investigation process:** Employees are prohibited from interfering in any investigation or retaliating against anyone who in good faith has filed a complaint or participated in an investigation of such a complaint.

Under some circumstances, the City Manager will direct an investigation into the concerns, which may include an outside investigator appointed by the City

Manager. The City will begin an investigation within a reasonable period of time after the report of alleged harassment is received.

The results of each investigation shall be written and a finding made regardless of whether or not there is reasonable cause for disciplinary action. Employees found to have violated this policy and engaged in prohibited harassment will be subject to discipline up to and including termination. Nothing shall limit the authority of the City to modify policies or practices to correct any appearance of harassment without finding cause for disciplinary action or taking any disciplinary action.

Employees participating in an investigation shall refrain from discussing the investigation process, interviews or issues under investigation to prevent harmful gossip and to prevent the possibility of tainting the investigation.

It is also the right of all employees to seek redress from the Washington State Human Rights Commission, the Equal Employment Opportunity Commission, or through the courts. However, employees are encouraged to exhaust the administrative remedies outlined by this policy before outside agencies are consulted.

**Responsibility for Implementation:** The City Administration shall be responsible for disseminating information on this Policy against harassment, for developing training programs and guidelines for preventing sexual or other forms of harassment, and for investigating and resolving allegations of harassment.

All officers, supervisors, and managers are assigned responsibility for implementing this policy, ensuring compliance with and knowledge of its terms, and for taking immediate and appropriate corrective action if they witness inappropriate behavior or receive a complaint. Supervisors must open and maintain channels of communication to permit employees to raise concerns of sexual or other workplace harassment without fear of retaliation, stop any observed harassment, and treat harassment matters with sensitivity, confidentiality, and objectivity. A supervisor's failure to carry out these responsibilities may result in disciplinary action up to and including termination.

## **2.71 ANTI-RETALIATION**

No employee will suffer retaliation for reporting a good faith concern. It is a serious violation of our policy for any employee to take any retaliatory action against any person who reports a violation of policy or who participates in an investigation. All employees are required to comply with this no-retaliation policy at all times.



Employees are encouraged to take all action necessary to correct a workplace problem or harassment, so problems can be identified and corrected. They should not refrain from taking these steps due to a fear of retaliation. If retaliation occurs, promptly report such conduct in the same manner as outlined in Section 2.7. Upon receiving a complaint of harassment or discrimination, the City will promptly investigate the concerns and take all appropriate steps to correct a problem of harassment, discrimination or retaliation in the workplace and will assist the employee affected if further problems arise. Thus, employees are encouraged to utilize the procedures in Section 2.7 to resolve concerns about workplace discrimination before they allow such conduct to interfere with their performance or such conduct affects their satisfaction with the workplace.

## **2.8 EMPLOYEE PERSONNEL RECORDS**

A personnel file is kept for each employee in a locked file cabinet in the Human Resources division at City Hall under the supervision of the Human Resources Manager. An employee's personnel file contains work related information including: the employee's name; title and/or position held; job description; department to which the employee is assigned; salary; changes in employment status; all training received; performance evaluations; personnel actions affecting the employee, including discipline; accommodation and other pertinent information. Medical information about employees is contained in a separate confidential file. Employees are required to keep personnel information up to date by notifying Human Resources of changes in address or telephone number, as well as changes in marital status or dependents if relevant to insurance plans.

Employees have the right to review their own personnel files. An employee may request, through the Human Resources Manager, removal from his/her personnel file of information the employee believes to be irrelevant or erroneous. If the Human Resources Manager denies an employee's request to remove information, the employee may file a written rebuttal statement to be placed in his/her file. A former employee shall retain this right of rebuttal for two years after the last day of City employment.

Personnel files are kept confidential to the extent permitted by law (e.g. Chapter 42.56 RCW and RCW 42.56.230). An employee's position title, job location, compensation, and dates of employment are public information. Except as required by law or business necessity, access will be limited to the employee, employee's immediate supervisor/department director, Human Resources, Finance & Administrative Services Manager, City Attorney, City Manager, and City Manager's designee. If an employee engages in misconduct, such information may become available to the public under current interpretations of the public disclosure laws.

## **2.9 EMPLOYMENT REFERENCES AND VERIFICATION OF EMPLOYMENT**

**References:** Only the City Manager or department directors will provide employment references on current or former City employees. Other employees shall refer requests for references to the appropriate department director or Human Resources. References will be factual in nature and job related. All written references need to be filed with Human Resources.

The City has immunity under RCW 4.24.730 for certain disclosures of employee information to a prospective employer. The City Clerk will endeavor to retain a written record of the identity of the person or entity to which information is disclosed under RCW 4.24.730 for a minimum of two years from the date of disclosure, and the employee or former employee shall have the right to inspect any such written record upon request; any such written record shall become part of the employee's personnel file.

**Verification of Employment:** The Payroll/Benefits Administrator may respond to requests from persons or entities seeking confirmation/verification of employment (including compensation, dates of employment, and position title.)

## **2.10 EMPLOYEE APPEARANCE AND BEHAVIOR**

Members of the public judge a community not only by service, but also by the appearance of its personnel, equipment and facilities. Good public relations cannot be guaranteed by merely doing a good job; the public must be convinced the service is good through appearance, behavior and personal demeanor.

While on the job, the personal appearance of all employees, especially those who come into contact with the public, is important and should conform to professional community standards. Dress should be appropriate to the division/area in which an employee works. This may include required uniforms or safety attire. All employees should, to the extent reasonable for their job duties, be neat and clean in dress and personal appearance, and convey a professional appearance while engaged in City business. The City Manager or department directors may establish reasonable standards of appearance and clothing which are appropriate for the job assignment. These standards may be verbal or in writing. Any accommodations must comply with safety requirements and overall professional appearance standards.

Those employees provided uniforms by the City of Port Townsend must maintain the uniform in good condition and wear the uniforms. The appearance of uniformed personnel is one of particular importance, since the public is more apt to recognize these employees as City personnel. Uniforms should be clean, pressed and mended properly. The appearance of the uniform depends on the way it is worn, as well as its condition.

The behavior and appearance of all personnel is an important factor in the formulation of public opinion. Individuals coming into government offices should perceive a positive work environment with inclusive cooperative attitudes. All City employees are expected to represent the City of Port Townsend in a professional manner which is courteous, efficient and helpful. Employees are also expected to use appropriate language for a professional workplace. Profanity and other potentially offensive behavior are prohibited.

## **2.11 EMPLOYEE ISSUES**

Employees are encouraged to make recommendations or suggestions for the improvement of City services and internal operations. Represented and non-represented employees may raise questions that affect salary and benefits and working conditions.

Employees should address such questions to their immediate supervisor and, if a satisfactory response is not received, may ask for a meeting with the appropriate department director to discuss the issue. In the event the issue is not resolved at the department level, non-represented staff may bring the issue to the Human Resources Manager. If the issue remains unresolved it may be brought to the City Manager for his/her review and decision, which shall be final. Represented staff may bring the issue to their shop steward or union representative. If the issue remains unresolved, it will be determined in accordance with the collective bargaining agreement.

## **2.12 EMPLOYEE SAFETY, RECOGNITION AND WELLNESS PROGRAMS**

The City Manager is authorized to administer the following programs and to establish other employee programs. The City Manager may curtail or terminate these programs at his/her discretion.

A. Safety Recognition Programs: The Safety Committee is authorized to develop and establish Safety Award Programs with incentive awards, subject to the approval of the City Manager. Award recipients shall be designated by the department directors and the City Manager. The goal of each safety program will be to reduce workplace injuries, time loss and to improve work practices.

B. Employee Recognition Program: The City may award an employee or group of employees for performance above and beyond the normal expectations of the City or the employee's peers. The following recognition programs have been established to recognize employee service.

- 1) Employee of the Quarter
- 2) Years of service

C. Award recipients for safety and performance programs may (as determined by the City Manager) receive awards not to exceed one hundred (\$100.00) in value.

D. Wellness Program: The Wellness Program is established in recognition that:

- 1) Healthy productive employees are critical to the provisions of high quality and efficient local government services.
- 2) The health and well being of employees has a direct effect on the cost of government services.
- 3) Active workplace health promotion programs and activities can result in better morale, reduced absenteeism, enhanced productivity and performance, and can be a prudent strategy to control healthcare expenditure.

A voluntary employee Wellness Committee assists with the planning, oversight, management, promotion and execution of the program activities. Any participation in the programs and activities of the Wellness Program is on a voluntary basis.

The Committee is authorized to develop and establish Wellness Award Programs with incentive awards within the budget, subject to the approval of the City Manager.

#### E. Recognizing Employee Retirement

The City values the contributions, knowledge and experience of long-term employees. In appreciation of the dedicated performance of employees with 10 or more years of service, reasonable cost of food items such as cake and beverages for employee retirement parties are allowable expenses, not to exceed \$100.00, provided that such expenses have been allocated in the appropriate budget. Requests exceeding \$100.00 require pre-approval of the City Manager.

### **2.13 BREASTFEEDING POLICY**

For one year after the birth of a child, employees who are nursing are entitled to breaks of reasonable duration each time the employee has a need to express milk. If the employee expresses milk during a standard 15-minute rest break she will be paid for the time. If the employee is taking an additional break for the purpose of expressing milk, the time will be unpaid. The City will provide a location, free from intrusion from co-workers or members of the public, which may be used for this purpose. Employees will not be retaliated against for exercising their rights under this policy.

## CHAPTER 3 RECRUITMENT, APPLICATIONS, AND SELECTION

### 3.1 RECRUITMENT

Recruiting practices are conducted solely on the basis of ability, merit, qualifications and competence, without regard to any individual's sex, race, color, religion, national origin, sexual orientation, pregnancy, age, marital status, military status, disability or any other characteristic protected by law. Public announcement of vacant positions shall be distributed in a manner which will attract a sufficient number of qualified persons. The vacancy shall be posted at designated public places for a minimum of five (5) calendar days prior to the closing date for filing applications, unless an emergency has been declared by the City Manager.

Each applicant shall complete and sign an application form prior to being considered for any position. Resumes may supplement, but not replace, the City of Port Townsend official application. Applications will be accepted only for open positions and will be considered only for that position. Applications received which are not in response to an open position will not be retained on file. Applications must be received by Human Resources or City Administration consistent with the published solicitation. A closing date may be extended by Human Resources. Applications, whether accepted or rejected, will not be returned. Applications will be maintained in City archives consistent with the adopted records retention schedule.

The City Manager may at their discretion provide hire-on bonuses and/or employee-referral bonuses for represented and non-represented positions.

An applicant who changes his/her address or phone number is responsible for notifying Human Resources of the change. At the discretion of Human Resources, applications received that are not clear or complete may not be considered further.

Applicants for municipal employment may be required to provide documentary evidence of the qualifications listed on their application.

**Disciplinary action for fraud:** Any applicant who has made a false or misleading statement or has practiced any deception, willful omission, fraud or misconduct in connection with his/her application will be eliminated from consideration for employment at the City. Any employee who is discovered to have made a false or misleading statement or has practiced any deception, willful omission, fraud or misconduct in connection with his/her application is subject to disciplinary action, up to and including termination.

**Expenses incident to recruitment and hiring:** The City Manager has authority to authorize the expenditure of City funds to cover all or a portion of the actual expenses incident to employee recruitment, including, but not limited to, actual moving expenses for newly hired employees. The employee may be required to execute an agreement obligating the employee to reimburse all or a portion of the moving expenses paid by the City if the employee fails to remain in the service of the City for a specified period of time.

### **3.2 NEW HIRE SELECTION**

When a position becomes vacant, and prior to any posting or advertisement of the vacancy, the department director shall review the position, its job description and the need for such a position. The position will be posted and/or advertised only upon approval of the department director.

Human Resources may establish competitive examination and/or selection procedures for filling existing and anticipated vacant positions. The City may contract with any agency or individual to prepare and/or administer examinations. Selection procedures for regular positions may be open and/or promotional, as may be determined by the City Manager, depending upon which approach will best serve the interests of the City with regard to a particular vacancy.

Positions may not be posted when a new position or opening results from a reorganization, or when an existing employee is already satisfactorily performing the majority of the job functions. Positions are not required to be posted if the position was previously posted within the last 6 months. The position may be re-opened to allow hiring managers to use the existing applicant pool from the previous recruitment. In this case, employment applications older than 90 days will need to be resubmitted for consideration; applications less than 90 days old will require a certification of any changes.

If an open process is utilized, the selection process shall be competitive and related to the abilities and qualifications required of the position. The City may also conduct background procedures, to the extent allowed by law. Examples of such procedures include but are not limited to: requiring applicants/employees to show proof they are authorized to work in the United States, and requiring applicants/employees who have unsupervised access to children or vulnerable adults to complete a criminal history disclosure statement.

**Background Checks:** Human Resources may arrange for or conduct a background investigation including contact of references, prior and present employers, and a review of the applicant's listed education and work history.

**Criminal Background Checks:** Offers of employment generally are contingent upon the results of a criminal background check. Criminal background checks

will be conducted after an employment offer is made and will include review of criminal convictions and probation. The City Manager may at their discretion waive the criminal background check for a temporary/project employee. Criminal background checks will only be conducted on current employees who are promoted into management positions. A criminal history will not automatically disqualify an applicant from consideration. The city will conduct an individualized assessment and consider the following factors:

- 1.) The nature and gravity of the crime;
- 2.) The time that has passed since the offense, conduct and/or completion of the sentence;
- 3.) The nature of the job held or sought; and
- 4.) Whether hiring the applicant would pose an unreasonable risk to the City, its employees, residents and vendors.

Motor vehicle records may be considered when driving is an essential requirement of the position.

Employees working in sensitive or high security jobs must meet any applicable special security clearance requirement specified for those jobs (for example, police employees). These requirements may include more extensive background checks, fingerprinting, bonding, or other special security measures. Failure or inability to meet or comply with any special security requirements is grounds for termination of employment or rejection of an applicant.

In instances where negative or incomplete information is obtained, the appropriate management staff and Human Resources staff will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired. If a decision to not hire or promote a candidate is made based on the results of a criminal background check, Human Resources will comply with any additional Fair Credit Report Act (FCRA) requirements.

Background check information will be maintained in a separate file from the employee's personnel file.

**Medical Exams:** As a condition of employment, after a conditional offer of employment has been made and prior to commencement of employment, successful applicants may be required to undergo a medical examination to determine their physical and/or mental fitness to perform work in the position to which appointment is to be made. The purpose of the examination is to determine whether an individual is physically and mentally capable of performing the job with or without a reasonable accommodation and to ensure his/her physical and/or mental condition will not endanger the health, safety or well-being of other employees or the public. The offer of employment may be conditioned on the results of the examination. Furthermore, an employee, during his/her period

of employment, including leaves, or a former employee seeking re-employment, may be required to undergo periodic medical and/or psychological examinations to determine physical or mental fitness and ability to perform the work of the position in which he/she is employed or re-employed, with or without a reasonable accommodation.

Those applicants being considered for positions which require a Commercial Driver's License (CDL) must, after a conditional offer of employment is made, submit to and pass a pre-employment urine drug screen and, upon employment, participate in the Substance Abuse Testing Program.

A candidate may be disqualified from consideration if he/she

- 1) Is found to lack the requirements/qualifications established for the position;
- 2) Is physically or mentally unable to perform the essential duties of the position, as determined by a competent medical authority (and the individual's condition cannot reasonably be accommodated in the workplace);
- 3) Refuses to submit to a medical examination or complete medical history forms;
- 4) The medical exam reveals current abuse of alcohol and/or illegal use of controlled substances;
- 5) Has made a false or misleading statement on the application;
- 6) Has used or attempted to use political pressure or bribery to secure advantage in the selection process;
- 7) Has failed to submit the application correctly or within the prescribed time limit;
- 8) Has directly or indirectly obtained information regarding the testing materials;
- 9) Has taken part in the compilation and administration of the selection process for which he/she is an applicant; or
- 10) Is related to an employee working in the same division as the one in which the opening occurs and the provisions of this manual would act as a bar to such employment. This is a non-exclusive list of reasons a candidate may be disqualified.



### **3.3 TEMPORARY EMPLOYEES**

Department directors may use temporary employees in place of regular employees on vacation or other leave, to meet peak workload needs or temporarily fill a vacancy due to a leave of absence or until a regular employee is hired. In an emergency, temporary employees may be hired without competitive recruitment or examination, although all hiring processes must comply with applicable state and federal laws and bargaining agreements if applicable.

#### **Temporary employees include, without limitation:**

- 1) Grant-funded projects: These employees will be involved in projects or activities that are funded by special grants for a specific time or activity. These grants are not those that are regularly available to, nor is their receipt predictable, by the City.
- 2) Miscellaneous or special projects: Other significant and substantial bodies of work may be appropriate for temporary employees. These bodies of work should be either non-routine projects for the department or related to the initiation or cessation of a City function, project, or department.
- 3) Seasonal positions: Temporary seasonal employees doing bargaining unit work but not included in the bargaining unit. These employees shall not be required to join the union and may work for the City between the dates of April 1 and October 15 and may exceed eighty (80) hours per month.
- 4) Temporary placement in regular positions: Employees who fill regular positions due to a regular employee's temporary absence such as extended leave or during the recruitment and selection process for a regular position.
- 5) Internships/Job Training Programs: Employees hired to work in a position for the purpose of gaining practical experience related to his/her course of study in an undergraduate or graduate school program, or other type of formal job training program.

Temporary employees are employed on an at will basis and can be terminated at any time with or without cause. They are not entitled to any of the procedural protections contained in the Personnel Policies Manual. Temporary employees are paid on an hourly basis and are eligible to receive worker's compensation, unemployment, and social security benefits; they are not eligible to receive most City benefits (such as vacation, health insurance, holidays). Temporary employees pay contributions to the Social Security system, as does the City on their behalf.

Supervisors shall receive direction on the allowable number of hours for temporary employees in each category prior to the start of their employment. Hours of work must be monitored by the department director.

Human Resources staff is available to provide assistance in determining PERS eligibility.

It is the intent of the City that temporary employees will be employed to adjust to changing department needs, for time-limited projects, or to provide assistance and/or services which are supplemental to regular City positions. When there are temporary employees doing work similar to work done by regular employees in a division or department, the supervisor is expected to annually evaluate regular staffing levels and to make appropriate recommendations to limit the use of temporary employees in the future.

**Selection of former temporary employees within two years:** In the interest of efficient and economical operation of the City's various departments, department directors may address short-term personnel needs through the standard hiring process for temporary employees. Due to the recruitment and training costs associated with temporary employees, opportunities for rehire may be pursued when an applicant is willing to return to employment within two years of his/her date of first hire as a temporary employee, so long as this applicant has performed effectively during periods of previous employment. This policy is intended to allow departments to draw on developed expertise and eliminate costs associated with a new employee selection process. This policy does not preclude the activation of a standard selection process in the event that either no former employees are available, or the skills and abilities of returning employees do not meet the needs of the affected department.

**Rehiring Plan 2 or Plan 3 Retirees:** Human Resources staff are available to provide assistance on rehire issues of retirees.

### **3.4 TRIAL PERIOD**

Upon hire or appointment, non-represented employees enter a 6-month trial period that is considered an integral part of the selection and evaluation process. Trial periods for represented employees and/or civil service employees are covered under applicable bargaining agreements and/or civil service rules. The trial period is designed to give the employee time to learn the job and the supervisor time to evaluate whether the match between the employee and the job is appropriate.

While the normal trial period is six months from the employee's date of hire, rehire or promotion, the City Manager may authorize a department director to extend the trial period for up to an additional 6-months. If extended, "trial period" means the initial six month trial period and any extension. An extension may be

granted due to circumstances such as an extended illness or a continued need to evaluate an employee's performance. During the trial period, the employee is not entitled to any of the procedural protections set forth in this manual, and the appointing authority may at their discretion terminate or demote the employee without cause, or restore him/her to his/her former position, if available.

All employees who are promoted, transferred, or demoted from their current position, or demoted for cause shall serve a new trial period. Regular employees who have been laid off and recalled into the same position in the same department are not required to serve a new trial period. Once the trial period is successfully completed, the employee may be certified to regular employment status. Satisfactory completion of the trial period does not create an employment contract or in any way guarantee continued employment with the City, and unless specific rights are granted in employment contracts, civil service rules or elsewhere, the employee is considered an at-will employee and may be terminated from City employment at any time, with or without cause and with or without notice.

**Use of Sick Leave/Vacation during Trial Period:** Newly hired employees serving a trial period may use accrued sick and vacation leave from the beginning of employment.

### **3.5 GENERAL PROVISIONS FOR APPOINTMENT**

The City Manager is the official authorized to appoint all City employees. Vacancies may be filled by re-employment, trial appointment, original appointment, promotion, demotion, transfer, recall or reinstatement. Insofar as practical, each vacancy should be anticipated sufficiently in advance of the need, to provide the involved department and Human Resources with ample time to complete the selection process. The appointing authority shall appoint only from among those persons who are confirmed by Human Resources as being eligible for the particular classification or position.

### **3.6 EMPLOYMENT OF RELATIVES (NEPOTISM)**

Business necessity requires the establishment of policies regarding the employment of immediate family and members of the same household in order to avoid conflicts of interest or the perception of favoritism and to assure and maintain accountability.

The Immediate Family (as defined in Section 1.5 of these policies) or any member of the same household of current City employees will not be employed by the City under any of the following circumstances:

- 1) When one of the parties would have authority or practical power to supervise, appoint, remove, influence salary or compensation decisions or discipline the other;

- 2) When one party would handle confidential material that creates improper or inappropriate access to that material by the other;
- 3) When one party would be responsible for auditing the work of the other; or
- 4) When other circumstances exist that might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City.

**Change in Circumstances:** If two employees marry, begin sharing living quarters with one another, or become related by marriage or adoption and, in the City's judgment, the potential problems noted above exist or reasonably could exist, only one of the employees will be permitted to remain employed by the City, unless appropriate action can be taken to reduce or eliminate the potential conflict, as determined by the City Manager. The decision as to which employee will remain with the City must be made by the two employees within thirty (30) calendar days of the date they marry, become related, or begin sharing living quarters with each other. If no decision is made during this time, the City reserves the right to terminate either employee. Employees affected by this Policy shall promptly report the change of circumstances to the department director and/or City Manager.

### **3.7 PROMOTIONS**

The City encourages promotion from within the organization whenever possible. The City Manager shall determine whether the promotional process for a position will be competitive or appointive. The City reserves the right to seek qualified applicants outside of the organization at its discretion.

Before advertising a position to the general public, the City Manager may choose to circulate a promotional opportunity within the City. Promotional opportunities may be posted on the City bulletin board, website and/or emailed to City employees.

**New Trial Period:** After promotion to a new position, a new trial period of six (6) months must be completed, unless waived or reduced by the City Manager. The City Manager may authorize a department director to extend a trial period for up to an additional six months. In the event the employee does not successfully complete the trial period due to unsatisfactory performance, the employee may be transferred back to the previous position held by the employee, if vacant, or to another position fitting the employee's skills and qualifications, within the limits of vacant authorized positions and subject to the discretion of the City Manager.

## **CHAPTER 4 HOURS AND ATTENDANCE**

### **4.1 WORK DAYS AND WORK WEEK**

The standard work days for most employees are Monday through Friday, 8 a.m. to 5 p.m., with a one-hour unpaid lunch period. For most City employees, the designated work week is forty (40) hours within a seven (7) day work period, from midnight Sunday to 11:59 p.m. the following Sunday. Some departments or positions may use a different designated workweek if specified in a union contract or as otherwise determined by the City. Employees should check with their supervisor or Human Resources if they have questions about their designated workweek. Due to the nature of the City's operations, alternative work schedules and longer hours may be required by the City in some instances.

A normal working schedule for regular, full-time employees consists of forty (40) hours each work week. Different work schedules may be established by the City or by bargaining agreements to meet job assignments and provide necessary City services (e.g. for uniformed police employees). Each employee's department director will advise the employee regarding his/her specific working hours. Part-time and temporary employees will work hours as specified by respective department directors.

For uniformed fully commissioned police personnel who are members of Teamsters Local Union No. 589 (or any successor union), designated work periods are set forth in the collective bargaining agreement.

### **4.2 HOURS OF WORK AND OVERTIME**

Any City employee may be required, as a condition of employment, to work overtime when necessary as determined by his or her department director. All overtime must be authorized in advance by the employee's department director. Working overtime hours without proper authorization may result in employee discipline, up to and including termination.

Matters involving wages and hours, including but not limited to minimum wage and overtime compensation, shall conform to applicable requirements of the federal Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act, chapter 49.46 RCW. All City of Port Townsend positions are designated as either "exempt" or "non-exempt" according to the FLSA and Washington Minimum Wage Act regulations. Each employee's status may be obtained from Human Resources. Positions identified as "exempt" under the FLSA and WMTWA are not entitled to overtime.

**Recording time by non-exempt employees:** Non-exempt employees must personally record the number of regular and overtime hours he/she works daily and submit the timesheet twice a month in accordance with a schedule from the Payroll Benefits Administrator. This includes recording the time taken off and each request that time off be charged to the employee's leave bank (vacation, sick leave, etc.). Employees are required to report all of their time worked. An employee's signature on his/her time sheet, or the submission of hours on an electronic timesheet, constitutes his/her verification that the time reported as worked or paid and unpaid leave taken away from work was in accordance with the policies of the City and all time has been recorded accurately. Misrepresenting information on a time sheet, working without recording time worked, and working overtime without prior department director approval are strictly prohibited and may result in discipline up to and including termination.

**Recording time by exempt employees:** Department directors may require exempt employees to separately track their time for purposes other than compensation. These purposes include, but are not limited to: project management and tracking, productivity assessments, work load assessments, and cost allocation among departments, account groups, projects, internal or external customers or partners.

Because exempt employees are compensated to do a job and are not compensated based upon specific time worked and because they are expected to be available for evening meetings and work outside of regular work hours, including weekends, exempt employees may have more flexibility in their work schedule. Nevertheless, exempt employees must maintain good work habits, be accountable and available to their staff and supervisor, show demonstrated accomplishments, and make themselves regularly available during working hours to allow City business to be accomplished.

FSLA-exempt employees need not use leave banks, and are not subject to salary reduction for an occasional partial day off of 4 hours or less. A full day off, or a partial day off of more than 4 hours requires the use of eligible leave balances.

An employee (not including department directors) requires supervisory approval for partial days off of 4 hours or more.

Department directors should set standards and reporting requirements (which may include reporting of partial days off of less than 4 hours) to ensure proper management and accomplishment of Department business.

For example, an exempt employee who visits the dentist for an hour and returns to work need not use leave bank, and need not obtain department head approval (absent less than 4 hours, but must conform to Department standards and reporting requirements).

An exempt employee who begins work at 8:00 AM and leaves at 11:00 AM to go to the dentist for an hour and does not return needs to get department head approval (absent more than 4 hours), and would require use of leave balance for 5 hours (gone more than 4 hours in a regular work day).

If an exempt employee has an absence of more than four (4) hours during a regularly scheduled work day, all hours during which the employee is absent that day must be deducted from an applicable leave bank (vacation, sick leave, etc.). Exempt employees are required to accurately report all time off that should be charged to the employee's leave bank (vacation, sick leave, etc.). If an exempt employee has exhausted his/her leave banks, the employee's salary will be reduced for partial day absences of more than 4 hours. An employee's signature on his/her time sheet, or the submission of hours on an electronic timesheet, constitutes his/her verification that the days reported as worked or paid and unpaid leave taken away from work was in accordance with the policies of the City and has been recorded accurately. Misrepresentation of time worked or leave taken on time sheets or other time tracking reports is grounds for discipline up to and including termination.

**Overtime pay and compensatory time off for non-exempt employees:** Non-exempt employees are entitled to additional compensation, either in cash or compensatory time off as determined by the City, when they work more than the maximum number of hours during a work period under applicable requirements of FLSA. For most employees, this is forty hours of work during a work week. Overtime pay is calculated at one and one-half times the employee's regular rate of pay for all time worked beyond the 40 hours of work in a workweek or the applicable overtime threshold. When computing overtime, work performed by regular employees, who are not subject to collective bargaining unit agreement, will be compensated at the overtime rate for hours in excess of forty (40) hours per week. An employee should record his/her time to the nearest quarter hour. When computing overtime, time paid for but not worked (e.g., holidays, sick leave and vacation time) is not counted as hours worked and therefore does not count towards overtime.

**Exempt employees:** Exempt employees are not covered by the FLSA or Washington Minimum Wage Act overtime provisions and do not receive either overtime pay or compensatory time. An exempt employee is paid to perform a job, which may not necessarily be completed in a normal work week.

**Telecommuting:** Telecommuting will only be allowed with the approval of the City Manager on an exceptional case by case basis; for example, to accommodate an employee who is temporarily unable to come to work but can perform job duties by telecommunicating without causing an undue burden on City operations. Approval of telecommuting will also be subject to conditions which could include no use of personal equipment.

### **4.3 COMPENSATORY TIME FOR NON-EXEMPT EMPLOYEES**

A regular full-time or regular part-time non-exempt employee may request compensatory time off ("comp time") in lieu of overtime pay. This is approved on a case-by-case basis by the employee's department director. The City is not required to grant comp time instead of overtime pay. If the comp time option is requested and approved, the employee is credited with one and one-half times the hours worked beyond forty hours in a workweek. All earned and used comp time must be accounted for on the employee's time sheet. Maximum accruals of compensatory time shall be limited to one hundred twenty (120) hours, unless otherwise provided by a collective bargaining unit agreement. After maximum accrual, overtime compensation shall be paid.

Employees are encouraged to use comp time accrued within ninety (90) days of earning it, unless, in the opinion of the department director, City operations would be unduly disrupted. Comp time should be used for short term absences from work during times mutually agreed to by the employee and his/her department director.

Employee comp time balances may be reviewed periodically as part of the City's financial process. The City retains the right to periodically cash out an employee's accrued comp time or any portion thereof.

Employees will be paid for unused compensatory time on the last working day of the month upon written request received by the Finance Director prior to September 30 of each year or termination from employment. No conversions are permitted during the period of October 1 through December 31.

### **4.4 ALTERNATIVE REGULAR SCHEDULE**

Consistent with the operational needs of the City and upon approval of the City Manager, a department director may authorize alternative work schedules to allow non-represented employees to work other than the standard work day, subject to standards and conditions determined by the City Manager. Alternative work schedules may be considered within an established period of work hours and may be implemented provided there is no appreciable disruption to department operations or service to the public during the established hours when City facilities are open to the public. The City Manager may terminate the alternative work schedule program by department or on an individual basis at any time.

**Accruing and Using Sick and Vacation Leave and Holiday Pay:** Sick and vacation leave will continue to accrue at the regular rate when an employee is on an approved alternative work schedule. When an employee takes a full day of sick or vacation leave, the time charged will be equivalent to the full number of



hours the employee was scheduled to work. For example, employees working a four/ten schedule will be charged ten hours for full-day absence. This compensates for actual time absent for regularly scheduled work hours.

**Paid Holiday falling on regularly scheduled work day:** When a paid holiday falls on an employee's regularly scheduled work day, the employee will be paid eight (8) hours of holiday pay regardless of the assigned work schedule unless otherwise provided by a collective bargaining unit agreement.

**Paid Holiday falling on regularly scheduled day off:** When a paid holiday falls on an employee's regularly scheduled day off, the employee will be paid eight (8) hours of holiday pay regardless of the assigned work schedule unless otherwise provided by a collective bargaining unit agreement.

**Meal Periods and Breaks:** Employees on alternative schedules are required to take an unpaid lunch break of at least 30 minutes per work day. Employees are entitled to a paid 15 minute break for every four (4) hours of working time; this break should be taken near the midpoint of each work period. Where the nature of the work permits intermittent rest periods equivalent to fifteen minutes every four hours may be taken in lieu of schedule rest periods. Breaks may neither be accrued nor added to lunch periods or start or end of work days.

## **4.5 ATTENDANCE**

Punctual and consistent on-site attendance is a condition of employment and is considered an essential function of the job for all City employees. All employees are expected to report to work as scheduled and perform productive work for the City during their scheduled work shifts. Each employee is responsible for maintaining an accurate record of his or her attendance.

Employees unable to work or unable to report for work on time are to notify their supervisor before the employee is scheduled to start work. Absent extraordinary circumstances, other employees are not allowed to handle this responsibility for them and should not be asked to do so. Employees must also notify and obtain permission from their supervisor for any early departures or absences during the work day. If an absence continues beyond one day, the employee is responsible for reporting in each day, unless other arrangements have been approved in advance by the employee's immediate supervisor or Human Resources. If the supervisor is unavailable, the employee may leave a message with the department director or his/her designated representative, stating the reason for being late or unable to report for work.

An employee who is absent without authorization or notification on a scheduled work day is subject to disciplinary action, including possible termination.

Employees may also be disciplined up to and including termination for failing to report to work without notice or with insufficient notice, for excessive absenteeism or tardiness, or for other attendance and tardiness problems. An employee who is absent without notification or authorization for two (2) consecutive scheduled work days shall be considered as having abandoned his or her job and will be viewed as voluntarily resigning their employment and will be terminated. Exigent circumstances (for example incarceration, hospitalization) will be evaluated on a case-by-case basis.

Other than as required by law, leave without pay is subject to attendance rules and is not protected leave.

If an employee's regular attendance is impacted by a medical condition, the affected employee is expected to notify his or her supervisor or department director, or contact Human Resources, to discuss reasonable accommodations, such as a leave or temporary change in work schedule, that may enable the employee to perform the essential functions of his/her position, including providing regular attendance. Failure to do so may constitute reasonable grounds for disciplinary action based on violation of these attendance requirements. Attendance is considered an essential element of the job.

#### **4.6 EMERGENCY CONDITIONS**

**Reporting to work:** It is the intent of the City that all City offices shall be open and in operation during established working hours. Because many City services are of primary importance during emergency or extreme weather conditions, employees should make a reasonable effort to report to work on a timely basis. Should conditions exist which would prevent City employees from reporting to work due to an emergency or extreme weather conditions, it will be the employee's responsibility to contact his or her department to indicate anticipated absence from work or late arrival to work.

During times of inclement weather, natural or man-made disaster or other emergencies, it is essential the City continue to provide vital public services. Therefore, unless the City notifies employees otherwise, employees are expected to make every reasonable effort to report to work and/or remain at work without endangering their personal safety or the safety of others.

Any regular full-time or regular part-time employee unable to report to work as a result of emergency or extreme weather conditions will be given the option of using any form of accrued leave (excluding sick leave), or taking time off without pay for time missed if all other leaves are exhausted. The employee shall promptly advise his/her supervisor, as in any other case of late arrival or absence. Unauthorized absences may be subject to discipline. Under exceptional circumstances, with the approval of the department director and City

Manager, a request to make up the lost time within the same workweek may be granted.

**Workplace Closures:** The City may close any, or all, city offices and facilities and cease operations on any regular work day or portion of a work day, on account of extreme weather conditions, natural and man-made disasters, emergencies that threaten employees' welfare or safety, failure or defect in the supply of power or other utilities, civil disturbance, acts of civil or military authorities, budgetary shortfall, or for any other reason, whether similar or dissimilar to the above, or for an Act of God. Any regular full-time or regular part-time employee who does not work his or her regularly scheduled hours due to such closure will be given the option of using any form of accrued leave (except sick leave), or taking time off without pay for time missed.

Employees are subject to call-back during disasters and other emergencies. See section 4.8 below.

#### **4.7 BREAKS AND MEAL PERIODS**

Employees will take one (1) fifteen-minute break, near the midpoint of each work period, for every four (4) hours worked. Where the nature of the work permits intermittent rest periods equivalent to fifteen minutes every four hour may be taken in lieu of scheduled rest periods. All breaks shall be arranged so they do not interfere with City business or service to the public and must be coordinated with other employees. Breaks may not be used to justify either a late arrival or an early departure from work.

Employees who work for more than five (5) consecutive hours are allowed an unpaid meal period of at least 30 minutes that begins no less than two (2) hours or more than five (5) hours from the beginning of the shift. Meal periods shall be scheduled by the employee's supervisor. The scheduling of meal periods may vary depending on department workload. Meal periods are unpaid and are usually one hour in length. Employees are generally not permitted to work through their meal period in order to leave work early but may do so occasionally to meet operational demands, and when approved by the supervisor. In the rare instances when an employee works through their meal period, the employee is paid for the meal period.

#### **4.8 CALL BACK**

All employees are subject to call back in emergencies or as needed by the City to provide necessary services to the public. A refusal to respond to a call back is grounds for disciplinary action, including possible termination. Employees called back to duty will be paid their appropriate rate of pay for hours worked, including overtime if applicable.

#### **4.9 PAYROLL RECORDS**

The official payroll records are kept by the Finance Department. Each employee shall turn in to his or her supervisor twice a month (in accordance with a process and schedule from the Payroll Benefits Administrator), a work record, noting hours worked, leave taken and overtime worked. Exempt employees will report and submit leave taken during the pay period. An employee's submission of his/her work record constitutes his/her verification that the time reported as worked or paid and unpaid leave taken away from work was in accordance with the policies of the City and all time has been recorded accurately. All employee time must be reviewed and approved by the supervisor. The City Manager or his/her designee shall approve work records for department directors.

## **CHAPTER 5 COMPENSATION**

### **5.1 SALARY CLASSIFICATION AND GRADES**

Each job title within the City of Port Townsend is structured into a salary classification system. Each position is designated a particular salary or salary range as shown on the City's salary and wage schedule. The salary and wage schedule for non-represented positions is approved annually by the City Council through the annual budget process. The wage schedules for represented positions are covered by bargaining agreements and are approved by the City Council for the contractual period of the respective agreement. All wages are included in the City's annual budget. The City Manager, within the total amount approved for salary and wages in the annual budget, may set employee compensation and provide for raises and/or decreases in employee compensation based on performance, merit, longevity, additional tasks and any other factors considered relevant by the City Manager.

### **5.2 JOB DESCRIPTIONS AND RECLASSIFICATION**

Job descriptions are the official description of the representative duties, responsibilities and supervisory relationships of a classification. The job description sets forth the following information for each position: title; summary of nature of work; essential duties and responsibilities; minimum requirements and qualifications, including knowledge, skills and abilities essential for satisfactory performance in the position. The descriptions may also include a summary of the physical demands, work environment and key relationships an employee may encounter while performing the essential functions of the position. Human Resources maintains a master set of all job descriptions.

The content of any job description is intended to be descriptive rather than restrictive and shall not to be construed to limit or modify the authority of the City Manager to take from, add to, eliminate entirely or otherwise change the job

content of any position. To make the most efficient use of personnel, the City reserves the right to change an employee's work conditions and duties as originally assigned either on a temporary or permanent basis. If these arrangements become necessary, the City expects the employee's best cooperation.

Department directors may address the possible reclassification of positions by making a request to Human Resources. Human Resources will review the request and make a recommendation to the City Manager, whose decision is final and not subject to review or appeal.

### **5.3 EMPLOYEE PAY RATES**

**Initial employment:** Employees shall be paid within the limits of the wage range to which their positions are assigned. Usually, new employees will begin employment at the beginning wage rate for respective classifications. However, a new employee may be employed at a higher rate than the beginning wages when the employee's experience, training or proven capability warrant, or when prevailing market conditions require a starting rate greater than the established beginning rate. Additionally, the City Manager may negotiate and authorize leave accrual rates and balances for a new employee above entry-level rates.

**Anniversary date, employee performance review and performance based or merit raises:** After an employee has been certified as having successfully completed the appropriate trial period, his or her anniversary date of employment will be retroactive to the date of hire into a regular full or part-time position. A performance-based raise or merit pay is an increase in pay of one step in the appropriate pay range and is for the purpose of recognizing reliable achievement over time by the employee which meets and frequently exceeds supervisory expectations. Such raises shall be based on tangible results which clearly demonstrate the employee is continuing to add value to the City and City services. An increase to a higher step in the Salary Schedule may occur if the employee receives a performance evaluation demonstrating the employee meets and frequently exceeds expectations.

If an employee's performance is unsatisfactory, no performance based raise will be given until further evaluation and until improvement is shown, unless a different process is provided in the employee's bargaining agreement. Performance based raises are normally provided at the beginning of each budget year. However, a department director may request a step increase be approved at the end of a trial period within the first year of employment, or upon the assumption of substantially increased duties and/or responsibilities.

Performance-based raises are within the sole discretion of the City Manager, are not automatic, and are subject to the availability of budgeted funds.

**Cost-of-living Adjustments:** Across-the-board pay adjustment (cost-of-living adjustment) raising the salaries of all positions by a specified amount within a defined group of classifications may be approved by the City Manager consistent with the approved annual budget.

**Promotions:** Any employee promoted to a position in a higher classification and salary range will normally receive the next highest available pay step in the new range. The City Manager may authorize advancement of additional steps if the next highest step increase results in a raise less than 5% above the employee's pay prior to the promotion.

**Reinstatement to Former Position:** When an employee is reinstated to a former position after an unsuccessful trial period from a promotion or transfer, the employee will usually return to the salary step held prior to the promotion or transfer. When an employee who has been laid off returns to the same classification occupied immediately prior to lay-off, the employee will usually return to the same salary step held at the time of lay-off.

**Pay Rates - Interim Temporary Assignments:** An employee approved for temporary assignment by the City Manager for an interim period lasting in excess of twenty (20) work days to perform the position of a higher classification may have his/her salary raised to the next higher rate (of employee's current wage rate) within the new assignment classification. Any salary change as a result of a temporary assignment is subject to approval of the City Manager. Temporary assignments will not usually exceed six (6) months duration. Compensation for interim temporary assignments shall not result in a classification change.

**Payroll Change Notices:** An employee scheduled to receive an increase in pay during any pay period will receive the increased pay effective the beginning date of the pay period, provided however, a payroll change notice with appropriate signatures must be received and processed by Human Resources before a pay increase will take effect.

## **5.4 PAYDAYS**

The City will pay employees at least twice monthly. If a designated payday falls on a Saturday, Sunday or holiday, the paycheck for that payday will be ready for each employee on the preceding business day.

Any errors in any employee's pay shall be reported by the employee to the supervisor and payroll at least five (5) business days prior to issuance of the next check. This reporting deadline is designed to allow processing time for the City to correct the error. Failure to meet the reporting deadline will not result in forfeiture of an employee's right to claim an adjustment at a later date. In some situations, additional time may be needed to investigate and verify the error. The City reserves the right to correct errors in pay at any time.

## **5.5 DEDUCTIONS**

Some regular deductions from the employee's earnings are required by law; other regular deductions are specifically authorized by the employee. The City will withhold from the employee's paycheck those deductions required by law and any voluntary regular deductions authorized by the employee, applicable union contract, or statute. The City will deduct other contributions and/or payments upon written employee authorization, subject to approval by the City Manager and the capabilities of the City's computer accounting system.

City employees will be required to sign an agreement authorizing payroll deductions for any personal expenses incurred through the use of programs such as employee cell phones or City purchasing cards, prior to the initial use of such City instruments. The authorization will apply to any amounts the employee fails to pay on a timely basis, including any payments due prior to or coming due after issuance of the employee's final paycheck at the end of the pay period.

## **5.6 REPORTING COMPENSATION ISSUES**

It is the City's policy to comply with the requirements of the FLSA and Washington Minimum Wage Act and any other laws regarding compensation and deductions.

If an employee believes that an improper deduction has been made to his or her paycheck, or believes that his or her pay has been calculated improperly, the employee should immediately report this information to his/her direct supervisor, Payroll Benefits Administrator, or the Finance Director.

Reports of improper deductions or improper payment will be promptly investigated. If the City determines that an improper deduction has occurred, the employee will be reimbursed for any improper deduction made or any correction in pay needed to remain consistent with the wage and hour provisions, or any governing provision of a union contract or other legal obligation. Similarly, improper payments to employees will also be subject to reimbursement by the employee. In the event of an overpayment or overpayments in the total amount of \$500.00 or more, the employee, with the approval of the City Manager, may be allowed to enter into an agreement with the City to reimburse the City in a series of deductions or payments over a specified period of time until the City is fully repaid.

## **5.7 TRAVEL EXPENSE REIMBURSEMENT**

City employees and officials will be reimbursed for reasonable and customary expenses incurred in the conduct of their business for the City ("business travel"), including food, lodging and travel expenses while away, but excluding any expenses for personal entertainment and alcoholic beverages.

Reimbursement for such expenses will be made subject to conformance with the following:

- These policies,
- Chapter 42.24 RCW, Payment of Claims for Expenses, Material, Purchases—Advancements; and
- Chapter 10 – Travel of The State of Washington Administrative & Accounting Manual Issued by the Office of Financial Management (“OFM Travel Manual”) (including amendments, as applicable). The City Manager determines applicability and interpretation of the OFM Travel Manual.

Terminology references in the OFM Manual are changed as follows:

<b>Where OFM Manual uses -</b>	<b>Change to -</b>
State	City
Agency	Department
Travel Expense Voucher	City form providing equivalent information
State Charge Card System	City purchasing card
Travel Authorization	City form providing equivalent information
Statute	Ordinance or Resolution
Director of OFM	City Manager

The OFM Travel manual is available online at <http://access.wa.gov/>, then type OFM Travel into the search feature.

A specific provision in these policies governs over any conflicting provision in the OFM Manual.



Supervisors must approve any employee business travel in advance. Employees should provide their supervisor with a copy of their itinerary before leaving on business travel.

Under normal circumstances, employees should use the most appropriate form of transportation available, book the least expensive fares, and stay in and eat at moderately priced establishments.

Employees may use either actual expenses or per diem allowance to seek reimbursement; provided, the department director may designate that reimbursement is limited to actual expenses. Whichever method is used to account for expenses, the maximum the City can reimburse is limited to the per diem amounts in the OFM Travel Manual. Only the City Manager may approve higher travel costs on a case-by-case basis.

Employees who know or anticipate that they will have a special request for travel expense reimbursement should ask for approval from their supervisor before incurring the expense. Request for a travel advance must be submitted 10 days prior to departure by submitting the appropriate form to the Finance Department. Any travel expenses considered unreasonable under the circumstances will not be paid or reimbursed and are the employee's personal responsibility.

An employee will not be reimbursed for the travel (including lodging and meal) and transportation expenses of his or her spouse, registered domestic partner or other non-employee(s) who may accompany the employee.

A City-issued credit may be used to cover expenses incident to authorized travel. If an employee with a City-issued credit card uses the credit card for any meal expense, the reimbursement for that meal is limited to the actual expense of the meal up to the maximum amount allowed. The employee must provide receipts documenting any travel expense for which reimbursement is sought.

It is prohibited to use a City-issued credit for personal use or purchases. For example, if a City employee is traveling with a spouse, and uses a credit card to pay for a ferry ticket, the card must only be used for the employee's ticket and not the spouse's ticket.

Travel during the employee's regularly scheduled hours of work is considered work time (with some exceptions – contact Finance Dept. for information). Work time applies whether the employee is driving or not. Employees are encouraged to car pool to conferences.

Requests for reimbursement must be submitted within 30 days of the date expenses are incurred.

**Meal Reimbursement - No Overnight Stay:** Consistent with OFM Travel Manual (section 10.40.50), the City may authorize the reimbursement of meal expenses incurred during authorized trips that do not involve an overnight stay subject to the following two criteria:

- 1) **Three Hour Rule:** A traveler may be reimbursed for meal expenses only after the traveler is in travel status for three hours beyond the traveler's regularly scheduled working hours for any one day. The three hours may consist of hours occurring before, after, or a combination of both before and after the traveler's regular scheduled working hours for the day. Example: if the traveler is an 8 hour day employee, they would need to be in travel status for 12 hours (8 hours + 1 hour for lunch + 3 hour rule.)
- 2) **In Travel Status During the Entire Meal Period:** Travelers must be in travel status during the entire agency-determined meal period(s) in order to qualify to collect meal payment for meal(s) (except as provided in OFM Manual Subsection 70.15.10). The traveler may not stop for a meal just to meet the three hour rule.

If meals qualify under the above criteria, the City may authorize reimbursement. Where this occurs, the reimbursement will be added to the employee's regular paycheck as the IRS has determined that such reimbursement is subject to federal taxation.

## **5.8 COMPENSATION FOR TRAVEL TIME**

**Exempt Employees:** Employees who are exempt from the Fair Labor Standards Act (FLSA) are not compensated for travel time.

**Non- Exempt Employees:** Employees working in positions which are not exempt from the Fair Labor Standards Act (FLSA) may be on paid time for all or part of the time traveling on City business based upon the circumstances. Paid time for travel shall be clearly resolved in accordance with FLSA guidelines in advance of authorizing travel. The following guidelines will resolve the question in most cases. Supervisors are required to evaluate and resolve whether and to what extent travel time is paid in each situation. Cost to the City should be a key factor in authorizing travel for City business. Supervisors should consult with the City Manager or City Attorney to resolve any questions before authorizing travel.

**Travel during the employee's regularly scheduled hours of work:** Travel on City business during the employee's regularly scheduled hours of work is considered work time.

**Same day travel and return outside the regularly scheduled hours of work:** An employee traveling and returning in the same day is considered to be working

while engaged in approved travel on City business as necessary to meet the assignment (example: driving to another city for a training session). However, those components of the travel time that could be regarded as ordinary commute time between home and work are excluded (for example, traveling from home to Port Hadlock might take about the same time as driving to and from work).

**Overnight travel:** On overnight business trips, the time an employee spends traveling is considered work time whether the travel occurs on a normal workday or a day off if it takes place during the employee's regularly scheduled hours of work. However in some instances not all of the time traveling may be compensated; for example: employee travels to Spokane on business and chooses to stay an extra night to drive home rather than flying. Only the time it would have taken to fly home would be compensated. In addition, if the cost of mileage is more than the cost of an average flight, compensation will be limited to cost of a flight.

Supervisors must approve the mode of travel and amount of anticipated travel compensation time in writing prior to the trip. Any expenses above and beyond those agreed to are the responsibility of the employee.

## **5.9 COMPENSATION UPON TERMINATION**

When employment with the City of Port Townsend is terminated, the employee will receive the following compensation on the next regularly scheduled payday:

- 1) Regular wages for all hours worked up to the time of termination which have not already been paid;
- 2) Any accrued overtime or holiday pay;
- 3) Accrued and unused vacation leave and compensatory time unless disallowed by Policy 10.5
- 4) Less any authorized deductions for any unpaid personal expenses, for any expenses due to the failure to return City property as required prior to the date of termination.

In case of an employee's death, payment shall be made in accordance with the provisions of RCW 49.48.120 pertaining to payment on employee's death.

## **CHAPTER 6 PERFORMANCE ASSESSMENTS AND TRAINING**

### **6.1 PERFORMANCE ASSESSMENTS**

To achieve the City's goal to train, promote and retain the best qualified employee for every job, the City conducts periodic performance assessments for all regular full and part-time positions. Employee reviews are normally conducted by department directors or direct supervisors prior to completion of a trial period and usually once every twelve (12) months thereafter. Annual performance assessments shall be completed no later than one month after the employee's anniversary date, and completed by the conclusion of the new-hire or new-position probationary period. The assessment function is a communication tool to provide an opportunity for supervisors and employees to discuss, in a structured way, what each can do to make the workplace more productive.

The assessment is part of an employee's personnel record and may be a factor in determining whether the employee has successfully completed his/her trial period, receives a wage increase, or is promoted, transferred, disciplined, demoted, laid off or terminated. In the event an employee is not performing up to the City's and the supervisor's standards, the supervisor may establish a time frame for improvement and identify the tools needed for improvement. If the employee fails to improve in the time frame specified, the employee may be subject to discipline, including but not limited to demotion, or termination. Assessments may also be used during periods when additional information or training is being used to increase an employee's ability and performance.

Supervisors and employees are encouraged to meet regularly to discuss performance, whether in a formal or informal setting. Communication on performance will regularly occur informally. Annual performance assessments help employees understand the nature and quality of their performance. These meetings provide a plan for improvement, the motivation to improve performance, if needed, and the development of goals for future performance. Employees assuming duties in a new position will normally be assessed within six (6) months of assuming the new duties.

Within five (5) working days of the receipt of a copy of a performance assessment, the employee may express agreement or disagreement with the assessment by writing in the comment section of the assessment form and/or attaching an additional page. The employee's response will be reviewed by the employee's supervisor and department director, and may result in changes to the assessment. The employee's written response will be attached to the assessment form and included in the personnel file.

Employee performance assessments are not subject to grievance procedures.

**Trial Employee:** A completed employee performance assessment with an appropriate recommendation shall be submitted to Human Resources. The standard trial period shall be six months, but may be extended by the City Manager, for one or more additional six-month periods.

## **6.2 TRAINING**

The City encourages continued education to enhance and develop the potential of each employee. The City seeks, within the limits of available resources, to offer training to increase an employee's skill, knowledge and abilities directly related to City employment, to obtain or maintain required licenses and certifications, and to develop staff resources. Opportunities may include but are not limited to: on-the-job training, in-house workshops, and seminars sponsored by other agencies or organizations.

In cooperation with the City Manager, the department director may establish training program standards, recommend fiscal policies for training expenditures, and evaluate training methods and results. City sponsored training which is required for the performance of an employee's job duties shall be arranged whenever possible during regularly scheduled work hours. A department director may change the standard work hours to accommodate required attendance at training activities during normally off-duty hours. Schedules may also be adjusted to allow employees to attend non-required training, provided the training activity is designed to increase the knowledge, skills and abilities of an employee for the position he/she presently occupies. Pre-approved training attendance is considered time worked except where the training is voluntary, occurs outside regular business hours, is not directly related to the employee's job, and/or the employee performs no work during the training. Absences due to training must have prior approval by the employee's department director.

## **6.3 TUITION REIMBURSEMENT**

Upon the approval of the City Manager, reimbursement may be granted for a formal study course from an accredited school, college or university provided the course is related to the employee's work and will increase his or her knowledge, skills and abilities to perform the work. Time spent in attendance at these courses shall be considered the employee's personal time. If approved by the City Manager, the affected employee's work schedule may be altered so the course does not occur during his/her regularly scheduled working hours. Partial or full reimbursement of the cost of tuition may be made upon approval of the City Manager. Books and supplies will be at the expense of the employee, unless the City Manager agrees otherwise. Employees may be eligible for tuition refunds by meeting the following conditions or such other conditions as approved by the City Manager:

- 1) He/she must be a regular full-time or regular part-time employee of the City of Port Townsend;
- 2) Prior to enrollment, the City Manager and the department director must have approved the employee's course choice and educational institution;
- 3) Application for tuition reimbursement must be made within sixty (60) days following the completion of the course of study;
- 4) Employee must complete the course with a minimum grade of "C" or equivalent; and
- 5) Funds to reimburse the employee for tuition must be available through appropriations in the current department budget.

#### **6.4 EMPLOYEE TRAINING AND TUITION OBLIGATIONS**

The City of Port Townsend may require an employee to submit a signed statement agreeing to remain for a specified time in the service of the City as a condition of reimbursement for tuition/training expenses. Employees who fail to remain employed by the City for the specified time period shall reimburse the City for the monies given him/her on the basis of that agreement.

## **CHAPTER 7 BENEFITS**

### **7.1 RETIREMENT BENEFITS**

The City of Port Townsend makes contributions on behalf of all eligible employees to the Social Security System, in addition to those contributions made by the employee through FICA payroll deductions.

All regular uniformed employees in the police departments are covered by the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF). All regular full-time and eligible part-time non-uniformed employees are covered under the Public Employees Retirement System (PERS). Eligibility, benefit levels and contribution rates for each system are determined by the State of Washington.

Employees intending to retire are asked to notify the department director of their intent at least three months prior to the date of the planned retirement.

### **7.2 DISABILITY BENEFITS AND WORKERS COMPENSATION**

All employees are covered by the Washington State Workers' Compensation Program. This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, Washington State Worker's Compensation Insurance will pay the employee for work days lost and related injury or illness medical costs. All job-related accidents and injuries must be reported immediately to the employee's supervisor. The supervisor shall direct the injured employee to seek immediate medical treatment if necessary, and shall be responsible for ensuring, as soon as physically possible, that the injured employee completes the Washington State Labor and Industries claim form and the City's Personal Injury Accident Report form. The supervisor is required to complete the supervisor portion of the City accident report form.

Unless otherwise required by State law, the procedure for worker's compensation time loss payment/reimbursement will be as follows:

If the job-related injury or illness requires the employee to be absent from work for more than 3 consecutive days, the City will grant eligible employees Family Medical Leave, which is further discussed in Section 8.8 of these policies. While on Family Medical Leave, the employee will be paid available and accrued sick leave. When and if his/her sick leave is exhausted, compensatory time or accrued vacation leave must be used.

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, State Industrial Insurance (Worker's

Compensation) will begin to pay time loss compensation for hours not compensated through Family Medical Leave, as referenced above. This compensation varies according to a set formula based on marital status and number of dependents.

Employees cannot use sick leave or paid vacation and receive worker's compensation at the same time, because this results in a "double payment." Typically, a double payment occurs if the employee has applied for workers compensation, but is receiving full pay through accrued leave while waiting for state benefits to be approved. If a double payment occurs, employees must use the time loss money from worker's compensation to "buy back" the sick leave or paid vacation previously deducted from their accruals. Compensatory time cannot be bought back. Since worker's compensation only pays a percentage of full wages, an employee can only "buy back" a percentage of the leave their buy back sum represents. Generally, the employee will not suffer an income loss while receiving worker's compensation benefits so long as the employee has a paid leave balance available to supplement the difference between state benefits and compensation for normal working hours.

When an employee who has received sick leave or paid vacation to cover a work-related injury or illness, later receives a worker's compensation time loss check, he/she must turn the check over to payroll. Failure or refusal to re-pay the City for any duplication of benefits as required by this policy will be considered fraudulent and may subject the employee to discipline, including termination. Based upon the employee's hourly rate and the amount of worker's compensation time loss received, payroll will determine the amount of leave to be bought back. Payroll will notify an employee when all available sick leave and/or vacation leave has been used. Once sick leave or other forms of accrued leave are exhausted, an employee who remains on workers compensation will keep additional worker's compensation time loss payments until he/she is able to return to work or the employee's condition can no longer be accommodated through medical leave or light duty options. If an employee's condition appears to have lasting or potentially permanent impacts on the employee's ability to perform essential functions of their job, they may request information on job openings within the City they are otherwise qualified to perform. Job retraining programs are also available through the Department of L&I. When it appears the employee will be medically unable to return to work, and no options for reasonable accommodation or other job opportunities have been found, an employee who can no longer perform the essential functions of their position will be subject to medical termination.



## **7.3 RETURN TO WORK – LIMITED DUTY ASSIGNMENTS**

### **A. Return to Work**

Before being allowed to return to work, an employee who has been away from work due to an injury or illness will be required to provide documentation from their medical provider which certifies, based on the essential duties described in the employee's job description, that the employee is able to resume his or her job duties, or specifying limitations on their ability to perform any of these duties as well as a time frame during which these limitations will apply. If restrictions or limitations are placed on the employee's ability to perform the job, the City, in cooperation with the employee and any medical personnel, will determine if there are any reasonable accommodations that it can make to enable the employee to return to work and perform the essential functions of his or her job. The City may require a medical examination at City expense, performed by a physician or physicians of its choice, to determine when the employee can return to work and if she or he is capable of performing the duties of the position. This requirement applies to all employees who have been unable to perform their duties for an extended period of time (more than 4 weeks), whether or not their injury was initially work-related

### **B. Limited Duty Assignments**

#### **1. General**

Employees who are temporarily unable to perform the essential functions of their regularly assigned duties may, at the City's discretion, be assigned to a limited duty (LD) assignment. LD assignments are intended to help bring employees back to work as soon as possible and to reduce workers' compensation and other costs. This policy is intended to establish consistent practices for all City departments. It does not guarantee that any specific employee will be assigned to a LD assignment. The availability of LD assignments shall be determined by the Department Director based on the needs of the Department. The suitability of a specific employee for a LD assignment will be based on the medical restrictions imposed by the employee's medical provider.

#### **2. Duration**

Limited Duty Assignments shall generally be offered for 90 days after the employee's medical provider says the employee may return to work. The LD assignment may be extended for up to 180 days if: a) the Department Director, after consulting with the Human Resources Manager, agrees that there is sufficient work to be performed in the LD assignment; and, b) the employee's medical provider certifies that there is a reasonable medical certainty that such an extension will allow the employee to return to her or his assigned position and to perform all of the essential functions of the position. Probationary employees who are assigned to LD shall have their probation extended by a period of time equal to the LD assignment time.

3. Application for LD Assignment.

An employee who wishes to be considered for a LD assignment shall provide her or his supervisor with the following:

- a) a written request for LD assignment, specifying the expected duration of the assignment; and
- b) a completed certification from their medical provider specifying the specifying limitations on their ability to perform any of the essential job duties.

4. Evaluation of LD Assignment Request

a) The Department Director shall determine whether a LD assignment is available, and shall set out with specificity the tasks that will be assigned to the employee. If applicable, those tasks will be reviewed with the appropriate bargaining unit to ensure the employee is not asked to perform work belonging to another bargaining unit.

b) The Department Director will consult with the Human Resources Manager and determine whether the employee's medical restrictions will allow the employee to perform the tasks associated with the LD assignment. The Department Director may, but is not required to, add or subtract tasks from the LD assignment.

5. LD Assignment Agreement.

If there is a LD assignment available, and if the Director determines that the employee's medical restrictions allow the employee to fill that assignment, the Director shall provide the employee a LD assignment agreement that outlines the duties, length of assignment, and job restrictions. Employees on LD assignment shall receive their regular rate of pay.

6. Right to Discontinue

The City reserves the right to discontinue a limited duty assignment at any time due to a change in operational needs or requirements, receipt of information that the employee is no longer disabled or limited in a way that prevents performance of his or her regular duties, or if the employee has shown an inability to satisfactorily perform the duties of the assignment.

7. Rotation of LD Assignments

The City reserves the right to rotate limited duty assignments should the need present itself where there are more employees eligible for light duty than positions available. If light duty assignments are no longer available the City will work with the employee to determine whether the employee is still capable of performing the essential function of the employee's position.

8. Availability of LD Assignments

Department Directors and supervisors will keep Human Resources informed of projects or work backlogs that can be performed on a temporary basis and, therefore, be considered when making light duty assignments.

9. Employee's responsibilities while on LD assignment.
  - a) Coordinate medical appointments in advance with her or his supervisor, and accurately account for sick leave taken;
  - b) Following each medical appointment, but at least once every 90 days, update her or his supervisor on any change in restrictions or limitations. Such changes must be substantiated on the medical provider's letterhead on a form acceptable to the City;
  - c) Ensure her or his physical activity while on LD stays within the guidelines prescribed by their medical provider;
  - d) Communicate any problem with the LD assignment that requires accommodation based on his/her medical condition to the supervisor;
  - e) If required by the City, undergo an independent medical examination at the City's expense to help determine whether the employee will be able to return to full duty and to perform the essential function of the employee's job.
  
10. Supervisor's responsibilities
  - a) Notify HR/Payroll when an employee begins and ends a LD assignment;
  - b) Monitor employee to ensure her or his physical activity while on LD stays within the guidelines prescribed by their medical provider;
  - c) Communicate with the employee to ensure that any problem with the LD assignment that requires accommodation based on the employee's medical condition is brought to the attention of the department director and Human Resources;
  - d) Secure the privacy of employee medical condition information in the workplace by keeping all documentation in Human Resources medical file and not on shared network.

#### **7.4 INSURANCE BENEFITS**

Regular full-time and regular part-time employees are eligible for life, medical, dental, vision, and income protection insurance as provided by applicable insurance contracts that are maintained by the City. The City contributes towards the cost of premiums in the amounts authorized by the City Council. The remainder of the premiums, if any, shall be paid by the employee through payroll deduction. The City reserves the right to make changes in the carriers and provisions of these contracts when it deems necessary or advisable, and shall provide notice as soon as practical to employees.

Temporary employees are not eligible for insurance coverage, unless required by law or otherwise provided by authority of the City Manager.

#### **7.5 CONTINUATION OF INSURANCE COVERAGE**

**Insurance on Employee's Termination:** Unless otherwise indicated in a bargaining unit contract or health insurance carrier/trust rules, eligible

employees who terminate, retire or are on an approved leave of absence, the City will pay the premium for the month following the last month during which employment occurred, provided the employee is on paid status for at least eighty (80) hours of that month.

**Workers Compensation Leave:** An employee receiving Workers Compensation time loss benefits who continues to be in a pay status will accrue vacation leave and sick leave according to applicable policy and bargaining unit contracts. The City also continues to pay the employer's portion of health insurance premiums while the employee is in a pay status for the required hours to qualify for health insurance per insurance carrier and bargaining unit contracts, provided the employee continues to pay his/her share of premiums, if any. The employee may continue health care benefits by self-paying insurance premiums for the remainder of the time he/she receives Workers Compensation benefits, unless that time frame exceeds the period provided under COBRA.

**COBRA Rights:** Upon an employee's termination from City employment or upon commencement of an unpaid leave of absence, at the employee's option and expense, the employee may be eligible to continue City health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee may be charged to the employee or his/her dependents who elect to exercise their COBRA continuation rights.

## **7.6 UNEMPLOYMENT COMPENSATION**

City employees may qualify for State Unemployment Compensation after termination from City of Port Townsend employment depending on the reason for termination and if certain qualifications are met. Employees who voluntarily quit are often not eligible for these benefits, but some exceptions exist, such as the geographic relocation of the employee's spouse. Gross misconduct is also grounds for denying these benefits. Check with the State Employment Security Department for additional information.

## **7.7 EMPLOYEE ASSISTANCE PROGRAM**

Recognizing the value of its employees, the City of Port Townsend has contracted with an agency to provide support for employees who may experience problems which affect the physical, mental and/or spiritual well-being of the employee or employee's family. The purpose of the Employee Assistance Program (EAP) is to provide an opportunity for employees or their family members to confidentially discuss problems and concerns affecting employees' lives. EAP staff provides assistance in addressing problems involving family and/or personal relationships or relationship problems at work, legal and financial issues or problems involving alcohol or other types of substance abuse. The program is paid for by the City and provides up to three meetings per event with a counselor to assess an employee's needs, develop a plan of action and/or provide the employee with problem-solving referrals. The cost of any referral to

another resource is the responsibility of the employee or family dependent, although these costs may be covered by the employee's health insurance. Employees' use of the EAP is confidential to the extent Washington State Law allows, unless the employee or family member signs a release specifically authorizing the sharing of information.

When work performance problems are identified and cannot be corrected by the employee's supervisor or department director through normal corrective action, an EAP referral may be made by the City. Compliance with such referrals is generally voluntary, however employees are strongly encouraged to follow them. If the performance problems in question continue, whether or not the employee has attended the recommended EAP, the City may take other action including possible termination. The existence of non-work related personal problems does not release the employee from the responsibility to perform his/her job responsibility satisfactorily. Participation in the EAP will not jeopardize an employee's professional status, job security or promotional status. Utilization of the EAP agency during normal working hours will be subject to the use of sick leave. If sick leave has been exhausted, the employee may use accrued vacation leave, comp time or employee choice days if eligible for their use or may request unpaid leave pursuant to section 8.4.

The employee and his or her family may choose to use the agency's services independently without a referral by the City. The self-initiated contact between the employee, his or her family and the agency will be confidential and records are not accessible to the City. Coordination of medical benefits for counseling or referral assistance by EAP, beyond those services provided under the City's contract with the EAP agency, is determined by the medical plan covering the individual employee. Questions concerning insurance coverage may be referred to the Payroll/Benefits Division of the City's Human Resources Department.

## CHAPTER 8 LEAVES

### 8.1 VACATION LEAVE

Regular full-time employees (except Department Heads) are entitled to vacation leave in accordance with the following schedule:

Years of Service	Accrual Hours/Month	Hours per Year
The first 12 months	8	96
Starting the 2 <sup>nd</sup> year	10	120
Starting the 10 <sup>th</sup> year	14	168
Starting the 20 <sup>th</sup> year	17	204
Starting the 25 <sup>th</sup> year	20	240

Department Heads receive the above accrual hours times 1.5.

Vacation leave accrues at the end of each pay period and may not be used before it accrues.

In accordance with Section 5.3, the City Manager may authorize vacation leave accrual for a new employee above entry-level rates.

Regular part-time employees will receive vacation on a pro-rata basis, according to hours worked during the previous month. Temporary and other part-time employees are not eligible for vacation leave. Employees do not accrue vacation or sick leave benefits during a leave of absence without pay.

**Scheduling of Vacation Time:** Each department is responsible for scheduling its employees' vacations without undue disruption of department operations. Leave requests should normally be submitted a minimum of two weeks prior to taking vacation leave. A supervisor may deny a request for vacation usage because of lack of notice, work demands or other relevant factors or may cancel a vacation leave in case of an emergency. Any disputes in vacation usage may be informally taken to the department director, and his/her determination shall be final.

**Limitation on Vacation Accruals:** Employees shall be limited to 240 hours accrual of vacation leave for regular full-time employees, except the maximum

accrual for Department Heads is 360 hours. Additional carryover of vacation requires written approval of the City Manager. Vacation accrual for regular part-time employees will be pro-rated.

**Vacation Accrual Cash Out:** Alternately, if an employee is unable to take vacation time due to circumstances dictated by special needs of the City, the City Manager may authorize the cash out or carryover of any portion of an employee's accrued vacation in excess of the maximum allowable accrued vacation hours identified in this Manual.

**Vacation Cash Out at Termination:** Eligible employees whose employment is terminated by reduction in force, resignation, dismissal or retirement, and who have accrued vacation leave shall be paid for unused vacation leave as established in this Manual. In the event of an employee's death, payment shall be made in accordance with the provisions of RCW 49.48.120 pertaining to payment on employee's death.

**Lapse of Service:** Unless prohibited by law, a lapse of service of a regular employee for a period longer than thirty (30) working days for reasons other than a reduction in force shall eliminate an employee's accrued sick leave and the accumulated length of service of such employee for vacation accrual purposes; provided however, the City Manager is authorized to reinstate accrued leave in accordance with Section 5.3. Such an employee re-entering the service of the City of Port Townsend shall be considered a new employee and must undergo a new trial period.

## **8.2 SICK LEAVE**

Sick leave is provided as an employee benefit to aid employees. Its use is restricted to qualifying situations. Employees are encouraged to accumulate sick leave to carry them through unforeseen injuries or illnesses. Sick leave abuse will result in counseling and/or disciplinary action, up to and including termination. The ability to work regularly is a requirement for continued employment.

Regular full-time employees accrue sick leave benefits at the rate of eight (8) hours for each calendar month of continuous employment; their sick leave accrues at the end of each pay period. Regular part-time employees accrue sick leave benefits on a pro-rata basis according to hours worked during the previous month. Effective January 1, 2018 all other employees, including temporary, seasonal and other part time employees, will accrue 1 hour of paid sick leave for every 40 hours worked.

Employees do not accrue sick leave benefits during a leave without pay.

Accrued sick leave shall be reported on the employee's regular payroll statement of earnings in hours and/or fractions of an hour to the nearest 15 minute

increment. It is the responsibility of the employee to report any discrepancy to the Human Resources division payroll and benefits administrator. Sick leave may not be used before it accrues.

Whenever an employee on paid vacation leave is actually disabled or becomes ill during that leave, such illness may be charged to his/her sick leave account by sending prompt notice of illness to his/her department director. Remaining vacation shall then be deferred on the terms and conditions set forth in this policy.

Unless otherwise required by law, regular full time employees shall be limited to a maximum accrual of 1,440 hours of accumulated sick leave. For regular part time employees, maximum accrual shall be pro-rated. Employees will not be paid for any unused sick leave upon separating from City service for any reason. However, effective January 1, 2018 if an employee separates from work and is rehired within 12 months, any previously unused paid sick leave shall be reinstated.

Any employee who is on sick leave and is eligible for compensation by the City will coordinate with any other form of leave pay (such as Workers Compensation) to an amount equal to the difference between the employee's regular salary and those monies paid by the State or any other agency. No employee will receive more than 100% of the regular compensation he/she would have received had the employee been on the job. Any employee receiving other compensation that exceeds 100% of his/her regular salary will be required to turn in such excess compensation to the City and will be credited the appropriate sick leave.

**Allowable Uses of Sick Leave & Other Accrued Leave:** Accrued sick leave shall be paid at the employee's regular straight time hourly/salary rate of pay and may be taken for the following:

- 1) An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care.
- 2) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care. Family member includes child, spouse, registered domestic partner, parent, parent-in-law, grandparent, grandchild or sibling in accordance with the Family Care Act (WAC 296-130) and Paid Sick Leave (RCW 49.46.210). The City Manager may authorize use of



sick leave in the case of appointments for the care of the employee's other family members. The employee's attendance at or chauffeuring to/from such appointments and care must be reasonably necessary.

- 3) Care of employee's dependent child with health condition requiring supervision or treatment, or preventative care. (Dependent child, in this instance, includes all children living with the employee and dependent on the employee for continuous care. Children over the age of 18 but unable to care for themselves due to a disability are included in the definition of dependent children.); sick leave may also be used if an employee's child's school or place of care has been closed by a public health official for a health-related reason.
- 4) Exposure to a contagious disease where on-the-job presence of the employee would jeopardize the health of others;
- 5) If the employer's place of business has been closed by a public official for a health-related reason;
- 6) Use of a prescription drug which impairs job performance or safety;
- 7) Bereavement leaves as described under section 8.3; and
- 8) Absences that qualify for leave under the state's Domestic Violence Leave Act.

Unless prohibited by law, sick leave may also be required to be coordinated with certain FMLA leaves (see section 8.8, Family Leave). An employee may use other forms of accrued leave pay to cover a period of absence for any of the reasons stated above.

**Notification:** In order to qualify for sick leave pay, an employee must report the reason for his/her absence to his or her supervisor, with sufficient information to verify the leave fits within one of the criteria outlined above, and the anticipated date of return to work no later than the beginning of the scheduled work day. Disclosure may be required for FMLA or ADA leave that is running concurrently with sick leave. The employee shall keep his/her supervisor informed of his/her status daily, unless other arrangements have been made.

**Doctor's Note:** When an employee is absent for a period in excess of three (3) days, the employee may, at the discretion of the supervisor or department director, be asked to submit a health care provider's statement to Human Resources. The health care provider's statement must state that the reason for the absence fits within the criteria outlined above and confirm the employee is incapacitated from work during the period of absence, or was needed to care for

a family member, as described above. The City may require additional health care provider's statements if the absence persists beyond the time frame outlined in the health care provider's initial confirmation.

During an extended sick leave, the health care provider's statement should be updated every thirty (30) days and the employee should report at least every two weeks on the employee's status and intent to return to work. An employee cannot return to work without first notifying their supervisor or department director and Human Resources of the employee's scheduled date of return to work. As with any medical leave, a fitness for duty or release to work certificate may be required before the employee can return to work.

Employees who use all accumulated sick leave and require more time off work due to illness or injury may, with their department director's prior approval, request a leave of absence without pay. (See Leave of Absence Without Pay Policy 8.4 .)

**Sick Leave Abuse:** Employees who abuse sick leave may be subject to disciplinary action, up to and including termination. (See Chapter 10, Discipline and Terminations.)

Examples of sick leave abuse include, but are not limited to:

- an unjustified number of unpaid absences, tardiness, or early departures
- failing to get permission for leaving early or coming in late
- failing to give advance notice of an absence when possible
- failing to report an absence properly
- failing to submit medical certification upon request.
- using sick leave to perform work for another employer

### **8.3 BEREAVEMENT LEAVE**

The City provides regular full-time and regular part-time employees with paid leave in the event of the death of a member of an employee's immediate family. In such an event, an employee may, with the consent of his/her department head, be absent from duty with pay for not more than five (5) work days. The City Manager may authorize use of sick leave for additional bereavement leave beyond five (5) days.

## **8.4 LEAVE OF ABSENCE WITHOUT PAY**

Unless otherwise required by law, a leave of absence without pay, not to exceed five (5) working days, may be granted to an employee by the department director; leaves of absence that exceed five (5) working days and are not otherwise covered by the FMLA may be granted only upon the recommendation of the department director and approval of the City Manager. Examples of situations for which leave without pay may be granted include: prolonged illness; parenting obligations; caring for an ill relative; or pursuing an education. These are general examples only and do not necessarily apply to all situations. Each case will be considered on the unique circumstances surrounding the reason for the request and the needs and obligations of the City. Granting or refusing a leave of absence without pay is at the sole discretion of the City.

A leave of absence without pay may be granted for a period not to exceed:

- 1) Thirty (30) days for personal reasons which do not cause inconvenience to the department.
- 2) Six (6) months for education or training which will benefit the City.
- 3) Twelve (12) months for sabbatical leave, which shall mean work, education or other experience which adds to the skills or understanding of employees and is related to the employee's present or future City position or classification.

Unless prohibited by law, an employee requesting a leave of absence without pay must exhaust accrued leave prior to being eligible for unpaid leave. A non-medical leave of absence is not protected leave.

Unless otherwise required by law, a leave of absence without pay may result in adjustment of the employee's anniversary date for the length of the unpaid leave; the period of the leave will not be included in the "length of service" calculations.

An employee shall not accrue seniority, vacation, sick leave, longevity, and other benefits while on leave without pay status, unless otherwise required by bargaining union contract, health insurance carrier/trust rules or law. See Section 7.5, Continuation of Insurance Coverage, for COBRA information on continuing health insurance coverage at the employee's expense. An employee who is temporarily absent due to an injury covered by Worker's Compensation or on a qualified Family Medical Leave will not lose seniority or health benefits due to the unpaid absence. Employees on unpaid military leave do not lose seniority, and continuation of any health or other benefits will be handled in accordance with the requirements of military leave laws.

Leaves without pay must be requested in writing at least thirty (30) days prior to the date the leave is to commence, except when an emergency precludes such notice. The written request for leave without pay shall state: 1) reason for

requesting leave; 2) date leave is to begin; and, 3) the date of return to work. Additional information regarding the leave may be required, as in the case of a request for additional leave as a reasonable accommodation.

Any employee who does not return by the required time shall be deemed to have voluntarily quit. Unpaid leaves of absence may be extended upon justification determined sufficient by the department director and City Manager, provided that any extension will not be detrimental to department operations. Justification may require providing additional documentation such as new medical certification or renewed military orders. Any extension beyond the date initially provided for return to work shall require the written approval of the City Manager. As with any medical leave, a medical release to return to work or fitness for duty certificate may be required for employees on a medical leave of absence.

**Revocation of Leave Without Pay:** The City Manager may revoke an employee's leave without pay if the leave was granted under false pretenses or the cause for such leave has ceased to exist.

## **8.5 JURY AND WITNESS DUTY LEAVE**

**Jury Duty:** The City encourages jury duty and does not discriminate against employees who take time off for jury duty. The City reserves the right to ask employees to request a postponement of jury duty on the grounds of hardship.

In accordance with chapter 2.36 RCW, employees will be allowed necessary leave from employment to serve on the jury of a federal, state or municipal court. In the case of regular full-time and regular part-time employees such leave shall be paid for up to four weeks jury duty time actually served in a twelve month period. All other jury duty leave shall be unpaid. Because state law, RCW 2.36.150 provides that payments received by jurors from the court for each day's attendance constitute "expense payments," the City does not require employees to remit such payments to the City, including for periods of paid leave. The employee must give the City prompt notice of the call for jury duty, and in order to be eligible to receive paid jury duty leave the employee must furnish the City a written statement from the court showing the dates and times of jury duty served.

**Witness Duty:** All employees summoned to testify in court are allowed time off for the period they serve as witnesses. In general, witness duty leave is unpaid unless the employee is a witness on behalf of the City in a case involving the City or in connection with the employee's official City duties. For exempt employees, however, salary payment will continue except for full-day absences caused because the employee is a party in a lawsuit unconnected with the employee's official duties.

## 8.6 ADMINISTRATIVE LEAVE

On a case-by-case basis, the City may place an employee on administrative leave, with or without pay, for an indefinite period of time. Administrative leave may be used in the best interests of the City, as determined by the City Manager, pending an investigation or other administrative proceeding, or for other good cause.

## 8.7 MILITARY LEAVE

**Leave Under the Washington State Family Military Leave Act:** Up to twenty-one (21) days of paid leave per year (from October 1<sup>st</sup> through September 30<sup>th</sup>) shall be granted to employees for time spent for military service in the Washington National Guard, reserves or armed forces, and is to be used on any day an employee cannot report to his/her regular job because of military obligations. A “Day”, for purposes of this section, is defined as a twenty-four hour period beginning and ending at midnight. Military leave must be calculated in “days” and cannot be reduced or converted to hours, regardless of whether or not an employee’s normal shift or work period transpires over the course of one day or two. Pay is based on the employee’s normal pay. In general, if military service extends beyond twenty-one (21) working days, the additional leave will be unpaid. Paid military leave is in addition to any other leave or vacation benefits. Exempt salaried employees who serve longer than twenty-one (21) working days should contact the City Manager to discuss whether further paid leave will be provided. All employees who are not eligible for paid military leave are provided unpaid leave for the period of their military service. At the employee’s request, accrued vacation leave may be applied to any unpaid military leave. Military service includes active military duty and Reserve or National Guard training. An employee requesting military leave is required to provide his/her supervisor with copies of the military orders as soon as possible after they are received. Reinstatement upon return from military service will be determined in accordance with applicable federal and state laws. As soon as practicable, individuals returning from any military leave of 30 days or more are required to provide evidence, such as a certified copy of release papers, that they are entitled to reemployment.

**Leave for Spouses of Military Personnel:** In accordance with the provisions of the Washington State Family Military Leave Act, Chapter 49.77 RCW, during a period of military conflict a regular full-time or regular part-time employee who is the spouse of a member of the U.S. armed forces, national guard or reserves is entitled to take up to fifteen (15) days of unpaid leave: while their spouse is on leave from a deployment; or before and up to deployment once the spouse receives official notification of an impending call or order to active duty. The employee must provide his or her supervisor with notice of the employee’s intention to take leave within five business days of receiving official notice: that the employee’s spouse will be on leave; or of an impending call or order to active duty. The 15 days of unpaid leave is per deployment. The employee may elect

to substitute any form of accrued leave (except sick leave) for any part of the family military leave. Family military leave is in addition to other leave to which the employee may be entitled.

Leave under the Family and Medical Leave Act of 1993 (Service member Caregiver Leave and Family Leave Due to a Call to Active Duty)

**Caregiver Leave for an Injured Service Member:** In accordance with the provisions of the federal Family and Medical Leave Act of 1993, as amended by the National Defense Authorization Act of 2008, an employee who is the spouse, son, daughter, parent or nearest blood relative, may take up to 26 workweeks of unpaid leave during a single 12-month period to care for a member of the U.S. armed forces, national guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred by the service member in active duty that may render the person medically unfit to perform the duties of the member's office, grade, rank or rating. A covered service member may also be a veteran who was a member of the armed forces any time during the five years preceding his/her need for medical treatment, recuperation or therapy for a serious injury or illness, where the injury or illness was incurred or aggravated in the line of duty. For purposes of this kind of leave, the 12-month period begins with the first day the employee takes leave. The 26-week cap includes leave taken by the employee for other FMLA-qualifying reasons. Caregiver leave can be intermittent. The administration of caregiver leave under the FMLA is subject to other FMLA procedures as may be appropriate, such as procedures regarding substitution of paid leave, reasonable notice, certification of the need for leave, and determining whether or not an employee is eligible to use such leave. (An "eligible employee" must have worked for the City for at least 12 months, with a minimum of 1250 hours worked during the past 12 months.) Please see policy 8.8 regarding FMLA procedures and eligibility. As with other forms of FMLA leave, not all details concerning caregiver leave are covered in this policy. If an employee needs to take caregiver leave, please see Human Resources for appropriate forms.

**Family Leave Due to a Call to Active Duty:** Also in accordance with the provisions of the 2008 amendments to the federal Family and Medical Leave Act of 1993, an eligible employee may take up to 12 workweeks (during any 12-month period) of unpaid FMLA leave for a "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member (including those in the regular armed forces, the National Guard or the Reserves) who is on active duty, or has been notified of an impending call to covered active duty, and who has been or is being deployed to a foreign country. Qualifying exigencies are generally activities related to the active duty or call to duty, including attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain

counseling sessions and attending post-deployment reintegration briefings. See policy 8.8 regarding the FMLA eligibility and procedures.

## **8.8 FAMILY LEAVE (FEDERAL)**

In accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and all applicable state laws related to family and medical leave, including but not limited to the Washington Family Leave Law, Chapter 49.78 RCW, City employees may be eligible for an extended leave of absence for certain family or medical reasons.

### **Family Leave under Federal Law:**

**Family Leave Eligibility:** The FMLA provides up to twelve (12) weeks of unpaid, job-protected leave every twelve (12) months to eligible employees for certain family and medical reasons. To be eligible, one must have worked for the City for at least twelve (12) months with a minimum of 1,250 hours worked during the previous twelve (12) month period.

**Reasons for Taking Leave:** Unpaid FMLA leave is granted for any of the following reasons:

- 1) To care for a newborn child, newly adopted child, or foster care child;
- 2) To care for a spouse, registered domestic partner, child, or parent who has a serious health condition; or
- 3) An employee's own serious health condition which leaves the employee unable to perform the functions of his or her position, or for an employee's disability due to pregnancy.
- 4) For a "qualifying exigency" due to a call to active duty – see Military Leave Policy 8.7.

Leave to care for a child following birth or placement for adoption or foster care must be concluded within 12 months of the birth or placement. Disability due to a pregnancy may permit the pregnant employee leave for the period of her disability, as well as up to 12 weeks of unpaid leave to care for the newborn, under Washington law.

Military Caregiver FMLA entitlement – see Military Leave Policy 8.7, Caregiver Leave for an Injured Service Member.

**Serious Health Condition:** A serious health condition is an illness, injury, impairment or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility;
- A period of incapacity of more than three consecutive, full calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider;
- A period of incapacity due to pregnancy or for prenatal care;
- A period of incapacity or treatment due to a chronic serious health condition, for a permanent or long-term condition for which treatment may not be effective, or to receive multiple treatments for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity of more than three full, consecutive calendar days in the absence of medical treatment (e.g., chemotherapy for cancer or dialysis for kidney disease).

Under some circumstances, FMLA leave may be taken intermittently (that is, taken in blocks of time, or by reducing the normal weekly or daily work schedule), if medically necessary because of a serious health condition. Eligible employees may also take FMLA leave on an intermittent or reduced-schedule basis when necessary because of a qualifying exigency arising from a family member's military service. If FMLA leave is to care for a child after the birth or placement for adoption or foster care, employees may take their FMLA leave intermittently or on a reduced work schedule only with the City's permission. Where intermittent leave or reduced-schedule leave is needed for planned medical treatment, an employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations. Where an employee needs intermittent or reduced-schedule leave based on planned medical treatment, the City may transfer the employee to an alternative position with equivalent pay and benefits that can better accommodate such recurring leave.

**Concurrent Running of Leave:** FMLA leave is unpaid leave. However, unless prohibited by law, employees are required to use any accrued paid leave available to them as part of their 12 weeks of FMLA leave. This requirement will be waived if the employee is also using Paid Family Medical Leave (PFML).

**Advance Notice and Medical Certifications:** The City requires employees provide advance leave notice, with medical certification of the need for a leave related to a health condition. As with any medical leave, a fitness for duty or release to work certificate will also be required before the employee can return to work. Taking leave, or reinstatement after leave, may be denied if these requirements are not met.



An employee must give the City at least thirty (30) days' advance notice of a request for leave. If circumstances do not allow the employee to give the required notice, notice shall be given as soon as possible once the need for leave becomes known (which is generally the same day or next business day after the need for leave becomes known). If thirty (30) days' advance notice is not given, and the need for the leave and the approximate date of the leave were clearly foreseeable, the City may deny the request for leave until thirty (30) days after the date of notice.

When requesting leave, employees must provide sufficient information for the City to determine whether the leave may be FMLA-qualifying, and the anticipated timing and duration of requested leave. Employees must also inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When leave is requested in connection with planned medical treatment, the employee must make a reasonable effort to schedule treatment in order to prevent disruptions to City operations.

In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification from a health care provider of the serious health condition. The City may require a second or third opinion (at the City's expense), periodic recertifications of the serious health condition and, when the leave is for an employee's own serious health condition, a certification that the employee is fit to return to work. Employees who need leave for a qualifying exigency arising from a family member's military leave must provide a certification confirming the need for leave.

The City may delay leave to employees who do not provide proper advance notice of the foreseeable need for leave. The City also may delay or deny approval of leave for lack of proper certification establishing the need for leave.

Please contact Human Resources to obtain further information and forms relating to FMLA leave requests.

The City will require a medical certification of fitness for duty to return to work after a medical leave where the employee's own serious health condition made the employee unable to perform the employee's job, or where the medical condition or job are such that the City believes there may be a serious risk of injury to the employee or others if the employee is not fit to return to work.

**Periodic Reporting:** If an employee takes leave for more than two weeks, the City requires a report at least every two weeks on the employee's status and intent to return to work. The City may also require subsequent re-certification of the need for continued leave. If an employee discovers after beginning leave that the circumstances have changed and the amount of leave originally anticipated is

no longer necessary, the employee may return to work earlier but only after providing the City with reasonable (usually two business days) advance notice of the intent to return, the reason for the change and any required medical release to work or fitness for duty certification.

**Health Insurance Benefits While on Leave:** During all leave under this family and medical leave policy, the City will continue to pay the employer's portion of health insurance premiums, provided that the employee continues to pay his/her share of insurance premiums, if any. Failure of the employee to pay his/her portion of the premium may result in cancellation of health insurance. However, the City's payment of the employer-paid portion of the premium is conditioned upon the employee's return to work. If the employee is able to return from FMLA leave, but does not do so, the City is entitled to recover all insurance premiums it paid to continue the coverage while the employee was on leave, unless the failure to return was beyond the employee's control.

**Other Insurance Benefits While on Leave:** If the employee is covered by other City insurance plans, such as life or disability insurance, those coverages will continue during the paid leave on the same basis as during regular employment. If the employee takes unpaid FMLA leave, he/she will be responsible during the leave for the premiums normally paid plus the premiums normally paid by the City.

Taking a FMLA leave will not cause an employee to lose any employment benefits which accrued before the start of the leave (e.g., seniority). However, the employee will not accrue these benefits during unpaid FMLA leave.

**Couples Employed by the City:** If a married couple is employed by the City, FMLA leaves may be restricted to a combined total of twelve (12) weeks in a twelve (12) month period for the birth or adoption or foster care placement of a child, or the care of the employee's parent with a serious health condition. In certain situations, the City may grant FMLA leave to only one spouse at a time. Employees should confer with Human Resources regarding their leave rights under FMLA. Each spouse is, however, eligible for the full 12 weeks of leave in the 12-month leave period to care for a child, spouse or registered domestic partner with a serious health condition, or for either employee's own serious health condition.

**Determining Leave Availability:** FMLA leave is allowed for up to twelve (12) weeks during a twelve (12) month period. For purposes of calculating leave availability, the "12-month" period is a rolling 12-month period measured backwards from the date the employee uses any FMLA leave.

**Return from Federal Family Leave:** Upon returning from a family leave, the employee will generally be assigned the same position held when the leave commenced or to a position with equivalent pay, benefits, and other conditions of

employment. If other changes to the position occurred that were not related to the scheduled leave, the City may opt to process those changes (i.e. a department reorganization, or planned change that was decided on prior to the employee's scheduled leave). If an employee is found to have engaged in serious misconduct occurring prior to or after commencing family leave, which would normally give rise to discipline or termination, the City may proceed with such discipline. Discipline would not be based on the employee's good faith leave request.

Not all details concerning federal family leave are covered in this policy. If an employee needs to take family leave, the employee should discuss this policy with the appropriate department director and with Human Resources. Human Resources may also assist in completing the required forms.

## **8.81 WASHINGTON STATE PAID FAMILY AND MEDICAL LEAVE**

**Overview:** Paid Family and Medical Leave (PFML) is a statewide insurance program that provides eligible employees with paid time off to give or receive care. This program allows qualifying employees to take up to 12 weeks for:

- Bonding after the birth or placement of a child under the age of 18
- An employee's own serious health condition
- A family member's serious health condition. Family member is defined as spouse, registered domestic partner, child, stepchildren, grandchild, grandparent, grandparent in-laws, parent, parent in-law, stepparents, and sibling.
- Military qualifying exigency as defined under the Family Medical Leave Act.

Eligible employees who face multiple qualifying events in a year might be eligible to receive up to 16 weeks, and up to 18 weeks for a serious health condition during pregnancy that results in incapacity.

Leave may be taken intermittently subject to minimum weekly claim of eight (8) hour consecutive hours.

**Eligibility for Monetary Benefits:** An employee must have worked at least 820 hours for any qualifying employer (excluding the Federal government, Tribes and others not subject to state law) in Washington during the "qualifying period" (the first four of the last five completed calendar quarters.)

**Coordination with Other Leave Laws:** Unless otherwise expressly permitted by the City, PFML must be taken concurrently with any leave taken under the federal Family and Medical Leave Act for employees that are eligible for both benefits. When allowed by law, all leaves shall run concurrently.

Leave under PFML and FMLA is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth.

In any week in which an employee is eligible to receive benefits under applicable federal or state unemployment compensation or industrial insurance the employee is disqualified from receiving PFML benefits.

**Payment of Premiums:** The program is funded by premiums paid by both employees and employers. It is administered by the Employment Security Department (ESD). The employee portion of the premium is collected through payroll deductions and remitted to the ESD.

**Employee Notice of Leave:** The City requires up to 30 days advance written notice before PFML is to begin if the need for the leave is foreseeable, e.g., expected birth, planned medical treatment for a serious medical condition of the employee or family member, etc. Employees must make a reasonable effort to schedule the treatment so as not to disrupt the operations of the City. When the need for leave is not foreseeable, written notice should be provided as soon as practicable.

**Applying for PFML:** Effective January 1, 2020 eligible employees who experience a qualifying event may apply to the Washington State Employment Security Department to take paid medical leave or paid family leave. The employee must provide documentation to support the need for leave as required by the Washington State Employment Security Department.

**Partial Wage Replacement:** Employees are entitled to partial wage replacement while on PFML. Employees will receive a portion of their average weekly pay as determined by ESD.

The City does not permit supplementation of PFML using accrued leave.

PFML differs from traditional sick leave in that employees file their claim with the Employment Security Department (ESD), and their payment will come from ESD rather than the City.

**Maintenance of Health & Other Benefits During PFML:** The City will maintain group health insurance coverage for employees on PFML if required by the federal Family and Medical Leave Act (FMLA). If the employee contributes to the cost of their health insurance, they must continue to pay their portion of the premium cost while on leave.

**Job Protection:** Employees who return from leave under PFML will be restored to a same or equivalent job if they:

- Work for an employer with 50 or more employees in Washington,

- Have worked for the City for at least 12 months, and
- Have worked 1,250 hours in the 12 months immediately preceding the date on which leave commenced.

The City will require a medical certification of fitness for duty to return to work after a medical leave where the employee's own serious health condition made the employee unable to perform the employee's job, or where the medical condition or job are such that the City believes there may be a serious risk of injury to the employee or others if the employee is not fit to return to work.

The City may deny restoration to any salaried employee who is among the highest paid 10 percent of the employees employed by the City within 75 miles of the facility at which the employee is employed only if denial is necessary to prevent "substantial and grievous economic injury" to the operations of the City.

Discrimination and retaliation for requesting or taking Washington State Paid Family and Medical Leave is prohibited.

## **8.9 DOMESTIC VIOLENCE LEAVE**

In accordance with the Washington Domestic Violence Leave law, Chapter 49.76 RCW, the City will make a reasonable safety accommodation and provide leave from work, including leave on an intermittent or reduced-schedule basis, for an employee to:

- 1) Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;
- 2) Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;
- 3) Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;
- 4) Obtain, or assist a family member in obtaining mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or

- 5) Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

The employee may elect to use sick leave, vacation, compensatory time, or other accrued paid time off, or may take unpaid leave. Domestic violence leave, including documentation of such leave, will be applied and administered in accordance with the provisions of the state Domestic Violence Leave law, including, that taking of leave does not result in the loss of any pay or benefits to the employee that accrued before the date on which the leave commenced; and that upon an employee's return, the City shall either restore the employee to the position of employment held by the employee when the leave commenced; or restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

The City will make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, sexual assault or stalking, unless the accommodation imposes an undue hardship. A reasonable safety accommodation may include, but is not limited to, changing work telephone number and/or email address, modifying a work schedule or workstation, and implementing safety procedures.

Nothing in this section shall be construed to provide greater or lesser leave rights to employees who are victims of domestic violence, sexual assault, or stalking than those required by Chapter 49.76 RCW. Employees requesting Domestic Violence Leave will be required to notify Human Resources for the required forms.

#### Protection Against Retaliation:

It is unlawful for a local government to take retaliatory action because an employee, in good faith, exercised rights under this policy, filed or communicated to the City an intent to file a complaint regarding this policy, or for participating or assisting, as a witness or otherwise, in another employee's attempt to exercise rights under this policy.

### **8.10 SHARED LEAVE PROGRAM – SUSPENDED effective 1-1-20**

The purpose of the shared leave program is to provide City employees the opportunity to assist an employee who is suffering from, or has an immediate family member suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave without pay or to terminate his/her employment with the City.

**Conditions Required for Grant of Shared Leave:** The City Manager may authorize an applying employee to receive shared leave if all of the following conditions are or will be met:

- 1) The employee suffers, or has an immediate family member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to go on leave without pay or to terminate his/her employment with the City. The employee shall be required to provide appropriate medical justification and documentation both of the necessity for the leave and the time which the employee can reasonably be expected to be absent due to the condition.
- 2) The employee has exhausted or will shortly exhaust his/her total of accrued vacation, sick leave, compensatory time, holiday time, bank days, and/or paid leave.
- 3) Prior to the use of shared leave, the employee has abided by the City's sick leave policy.
- 4) If the employee is suffering from a workplace illness or injury, the employee has diligently pursued and is found to be ineligible for state industrial insurance benefits.
- 5) The use of shared leave will not significantly increase the City's costs, except for those which would otherwise be incurred in the administration of this program.
- 6) Such leave will not adversely affect City services or the administration of those services.
- 7) The employee has filed a request for family leave under FMLA if eligible.

**Conditions for Donation of Shared Leave:** Employees may request the transfer of a specified amount of leave to an employee who has been authorized to receive shared leave, subject to the following conditions:

- 1) An employee may donate no more than forty (40) hours of leave per donee employee per calendar year;
- 2) The donor employee's sick leave balance must not fall below four hundred eighty (480) accrued hours immediately following any such donation;

- 3) Transfers shall be in whole hour increments of leave;
- 4) All donations of shared leave shall be entirely voluntary; and
- 5) A donor employee may donate vacation leave provided that the donor's vacation leave balance does not fall below forty (40) accrued hours:

**Employment Status of Employees Using Shared Leave:** While an employee is on shared leave, he/she will continue to be classified as a City employee of the same department in which he/she is normally assigned. The employee shall receive the same treatment with respect to salary and benefits, including the earning of sick leave, as he/she would have otherwise received if using vacation or sick leave. The employee's salary rate shall not change as a result of being on shared leave.

**Interdepartmental Transfers of Leave:** Shared leave may be transferred without regard to the City department in which the donating employees and recipient employees may be assigned.

**Administration of Leave Donations, Use of Shared Leave, and Fund Transfers:** Human Resources shall be responsible for administering the shared leave program and shall adjust accrued leave balances to show the transferred leave for both the donor and recipient. Leave is transferred on an hour-for-hour basis without any salary conversion.

**Return of Unused Shared Leave:** The City Manager shall determine when shared leave is no longer needed. Any remaining leave which has been transferred shall be returned to the donor employees. To the extent administratively feasible, the unused leave shall be returned on a pro rata basis.

**Council Notification of Shared Leave:** The City Manager will notify Council any time the City Manager approves a shared leave request.

## 8.11 HOLIDAYS

The following are recognized as paid holidays for all regular full-time and part-time employees unless otherwise indicated in bargaining unit contracts:



New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	
Christmas Eve	December 24*
Christmas Day	December 25
Floating Holiday	1 day by mutual agreement

Some City departments, such as the library and pool, may observe paid holidays on different dates or have additional unpaid closed days if a holiday falls on a weekend day.

Employees on leave without pay are not eligible for holiday pay when the holiday occurs during their unpaid leave.

**\*Christmas Eve:** Christmas Eve will be treated as holiday time provided that Christmas Eve falls on a regularly scheduled workday for the employee unless otherwise indicated in bargaining unit contracts. This means that if an employee normally works Monday through Friday and Christmas Eve falls on a Saturday or Sunday, the day is not treated as holiday time and is not paid.

By mutual agreement with management, the eight hours holiday could alternatively be taken as time off during another day in lieu of receipt of holiday pay. It shall also be an option, by mutual agreement with management, to take the time in lieu of receipt of holiday pay for any holiday which falls on a day off for an employee.

Regular part-time employees shall receive holiday benefits, including floating holiday, on a pro-rata basis according to actual hours worked.

**Floating Holiday:** The floating holiday is to be determined by mutual agreement between the employee and the supervisor. No employee shall be entitled to use a floating holiday until he or she has been employed by the City continuously for at least six months. An unused floating holiday may not be carried over into the following anniversary year. "Year" is based on the employee's anniversary date. Represented staff: Refer to collective bargaining agreement for floating holiday rules.

Unless otherwise noted in a collective bargaining agreement, with the exception of Christmas Eve, any holiday falling on Saturday will be celebrated on the

preceding Friday, and any holiday falling on Sunday will be celebrated on the following Monday. A holiday falling within a vacation period shall not constitute a vacation day and a holiday occurring while an employee is on sick leave shall not count against the employee's sick leave bank.

Non-exempt regular full- or part-time employees who are required to work on a holiday will be paid for the holiday plus one and one-half times the employee's regular rate of pay for any time worked on the holiday. Such worked holiday time must be pre-authorized by the employee's supervisor. Employees who work a holiday without authorization will be subject to discipline up to and including termination. Holidays are paid at eight (8) hours or less. Employees on alternative work schedules will need to comply with the alternative regular schedule policy (Section 4.4).

Temporary employees are not entitled to holiday pay. Temporary employees who are required or approved to work on a holiday will be paid only for hours actually worked on the holiday. Generally these will be paid at their regular straight time rate except where overtime would apply.

## **8.12 RELIGIOUS HOLIDAYS**

If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with his/her department director's approval, take the day off using vacation, comp time, or an employee choice day. If the foregoing leaves are exhausted, an employee may request leave without pay.

Employees are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.

The employee may select the days on which he or she desires to take the two unpaid holidays after consultation with his or her supervisor. If an employee prefers to take the two unpaid holidays on specific days, then the employee will be allowed to take the unpaid holidays on the days he or she has selected unless the absence would unduly disrupt operations, impose an undue hardship, or the employee is necessary to maintain public safety. The term "undue hardship" has the meaning contained in the rule established by the Office of Financial Management (WAC 82-56.)

If possible, an employee should submit a written request for an unpaid holiday provided for by this section to the employee's supervisor a minimum of 30 days prior to the requested day. Approval of the unpaid holiday shall not be deemed approved unless it has been authorized in writing by the employee's supervisor. The employee's supervisor shall evaluate requests by considering the desires of the employee, scheduled work, anticipated peak workloads, response to

unexpected emergencies, the availability, if any, of a qualified substitute, and consideration of the meaning of “undue hardship” developed by rule of the Office of Financial Management.

The two unpaid holidays allowed by this section must be taken during the calendar year, if at all; they do not carry over from one year to the next.

### **8.13 ADDITIONAL LEAVE**

The City Manager is authorized to grant additional leave (“AL”) to full time non-Department Head exempt employees, subject to the following:

1. “Additional Leave” (“AL”) may be earned, as follows:
  - a. Basis for awarding AL
    - Significant extra time is worked outside of the regular work day.
    - Typically the work would relate to a project with a critical time line that required significant time spent outside normal hours.
    - A night meeting in a month would *not* qualify for AL, for example, you have something for a City Council meeting, or a committee meeting goes past 5, as some work outside the normal 8 to 5 work day goes with being an exempt employee.
    - The amount of AL is limited to the extra hours worked (but may be awarded in an amount less than the extra hours worked).
  - b. Process
    - The determination of whether to allow AL is up to the employee’s Department Head (and needs to be administered consistently).
    - All AL approvals are on a form setting forth the basis and justifying the award, and a copy is sent to City Manager for (consistency) review.
    - The request must be made within the pay period, or within the week following the pay period.

- The award must be taken within 30 days (unless extended for good cause; good cause would typically not be “too busy”). Any extension would be on a form setting forth the basis and justifying the extension, and would be sent to the City Manager for (consistency) review.
- There is no conversion of leave for cash.
- The employee should get advance approval of the Department Head if the basis for a request is staying late or weekends.
- The leave may be taken in conjunction with vacation leave off with Department Head approval (not to exceed a total of 2 weeks).

Department Heads are not eligible to earn additional leave, since they are deemed adequately compensated through salary and benefits.

#### **8.14 BENEFITS FOR REGULAR PART-TIME, TEMPORARY AND SEASONAL EMPLOYEES**

Unless noted otherwise in these policies, benefits for regular part-time and temporary employees are as follows:

**Regular Part-Time Employees:** All leaves (including holidays) and insurance premiums are pro-rata. Pro-rata means the ratio between the number of hours in the employee's normal work schedule and forty (40) hours per week.

**Temporary, Seasonal and Other Part-time Employees:** Unless mandated by law, temporary, seasonal and other part-time employees are not eligible to receive employee benefits, or payment for benefits, including but not limited to, paid vacation leave, paid holidays and health insurance except upon written approval of the City Manager. See Section 8.2 for paid sick leave benefits and Section 8.81 for Washington Paid Family Leave.

## **CHAPTER 9 EMPLOYEE RESPONSIBILITIES**

### **9.1 OUTSIDE EMPLOYMENT AND CONFLICTS OF INTEREST**

Employees shall not, directly or indirectly, engage in any outside employment or possess a financial interest which may, in the judgment of the City Manager, compete with, conflict with, or compromise the City's interests, or adversely affect job performance and the ability to fulfill all responsibilities to the City, examples include, but are not limited to, outside employment which:

- 1) Prevents the employee from being available for work beyond normal working hours, such as during emergencies or peak work periods, when such availability is a regular part of the employee's job;
- 2) Is conducted during the employee's work hours;
- 3) Utilizes City telephones, cellular telephones, computers, supplies or any other City resources, facilities or equipment;
- 4) Is employed with a firm which has contracts with or does business with the City; or
- 5) May reasonably be perceived by members of the public as creating a conflict of interest or one which otherwise discredits public service.

All City employees shall abide by, and this section 9.1 shall be interpreted in accordance with, Chapter 42.23 RCW, the Washington State Code of Ethics for Municipal Officers, and the City Code of Ethics.

An employee who wishes to have an additional job, contractual commitment or self-employment, shall first consult with his/her department director in light of the above policy prior to making a decision.

### **9.2 ANTI-DISRUPTION POLICY**

Any conduct in the workplace or while on City time that is disruptive to the normal operations of City business or invades the rights of others will not be tolerated. While on City time, employees are expected to adhere to professional and work-related matters and to treat each other and the public with respect. This includes refraining while on City time from spreading rumors, gossiping or discussing non-business related information about others. Other disruptive conduct includes but is not limited to discrimination, harassment, threats, insults, intimidation, ridicule, profanity, vulgarity, stereotyping, physical or verbal abuse, ignoring the rights of others, and displaying insensitivity to the beliefs and customs of others.

Conduct outside of the workplace or outside of regular work time can also be disruptive to the workplace. Examples include; making malicious, false or derogatory statements that are intended to or could reasonably be expected to damage the integrity or reputation of the City or its employees, on or off premises

### **9.3 POLITICAL ACTIVITIES**

City employees may participate in political or partisan activities of their own choosing provided that City resources and property, including the employee's city work time, are not utilized, and the activity does not adversely affect the responsibilities of the employees in their positions. City employees may not campaign on City time or in a City uniform or while representing the City in any way. Employees should follow guidelines from the state Public Disclosure Commission relating to election campaigns.

**City employees may not:** City employees may not use City facilities, supplies, equipment or vehicles for any campaign purpose. This includes (but is not limited to), copiers, fax machines, mail facilities, typewriters, telephones, automobiles, computers, e-mail, websites, and paper products or the reimbursement for usage of these facilities.

City employees may not solicit for a contribution to a political cause or campaign while on City property or City time or while in City uniform.

City employees may not have a petition available for signature at City Hall, or other City facility or vehicle.

City employees may not allow others to use City facilities or equipment for political activities, except in accordance with established City policy for use of public meeting space when it is the employee's responsibility to manage the use of that space.

City employees may not use, or allow others to use, City funds for political activities.

City employees while at work may not wear lapel buttons while in uniform or while wearing clothing with the City's name on it, or while meeting with members of the public in their position or on behalf of the City.

**City employees may:** City employees may, on their own time and not with the use of City property or equipment or while representing the City, participate in campaign-related activities.

City employees may, on their own time and not in a City facility or while representing the City, gather petition signatures, wear lapel buttons, distribute material, speak before groups, write letters to the editor or display campaign

stickers on their personal car. Private employee vehicles displaying bumper stickers may be parked on public property.

City employees may identify their position with the City in a letter to the editor (written on their own time); provided that they make it clear that they are not expressing an opinion on behalf of the City.

City employees may, in the course of work, respond to a political inquiry by providing routine factual information.

City employees may respond to requests for public records even if the records will be used in support of or opposition to a measure or candidate, so long as the record isn't exempt from disclosure under state law.

City employees may under the direction of the City Manager prepare and distribute to residents neutral factual information relevant to a ballot proposition, if such action is part of the normal and regular conduct of the City.

Except as noted in this policy, City employees are otherwise free to fully exercise their constitutional First Amendment rights.

#### **9.4 NO SMOKING POLICY**

**Smoking Prohibited in City Vehicles and Facilities:** For health and safety considerations, the City prohibits smoking by employees in all City vehicles and facilities, including City-owned buildings and offices or other facilities rented or leased by the City, including individual employee offices and City parking lots associated with a City building.

**Outdoor Smoking Restrictions:** Chapter 70.160 RCW significantly restricts the outdoor areas where individuals may smoke in relation to the location of City buildings, work areas and public places. Smoking is prohibited within twenty-five (25) feet of any entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. The law also applies to any "place of employment," which the law defines, in part, as "work areas" and any area which employees are required to pass through during the course of employment.

This policy does not apply to employees who are not on the job from smoking in City parks.

#### **9.5 NO USE OF OTHER TOBACCO OR TOBACCO-LIKE PRODUCTS**

Use of other tobacco or tobacco-like (for example, electronic cigarettes) products is also prohibited in City vehicles and facilities. This policy does not apply to employees who are not on the job from using tobacco or tobacco-like products in City parks.

## 9.6 CITY PROPERTY/ PERSONAL POSSESSIONS / PRIVACY LIMITATIONS

**City Property/Privacy Limitations:** The City of Port Townsend may furnish desks, closets and/or lockers for security of employee coats, purses and other personal possessions. The City does not, however, assume responsibility for any theft or damage to the personal belongings of employees.

**No Expectation of Privacy:** Employees should have no expectation of privacy when using any City property. The City regards desks, closets, lockers, work spaces, computers, file cabinets and files, City vehicles, furniture and other City property, as well as data, programs, communications, messages and other property created on, acquired by, developed for or located in any City facility or equipment, either in printed or digital format, as City property. The City reserves the right to search the same, including any personal possessions contained in them when it determines that there is a security, health, or other appropriate reason to do so. Such reasons may include, without limitation, the following: the need to locate City property; health or safety concerns; reasonable suspicion of misconduct; termination of employee; or for other business-related purposes. The City reserves the right to review the contents of any document or communication, created or stored on a City computer or phone system, including electronic mail, text messaging, and voicemail. An email sent or received on City equipment is considered a public record. Employees do not have a reasonable expectation of privacy in these areas or in any other City work areas or when using City equipment.

Employees may not use City facilities, supplies or equipment, including vehicles, for personal, non-City-business purposes. The only exception is certain, incidental, de minimus personal use of the City's technology recourse. See Policy 9.7

**Employee Personal Property:** The City recognizes that employees may need or want to bring personal property to work. The City permits employees to do so but asks its employees to refrain from bringing unnecessary or inappropriate personal property to the workplace.

Any property that is not appropriate for the conduct of normal business, that may be disruptive to workflow, may pose a safety risk to employees or the public, or which violates the terms of any City policy may be considered unnecessary or inappropriate. It will be within the City's sole discretion to determine whether certain personal property is unnecessary or inappropriate.

The only personal property that an employee may be asked to use for City business is their personal vehicle. However, employees may choose to bring and use personal property in the performance of job duties. If personal property is used to perform job duties, employees must obtain written approval from a supervisor prior to its use and the property must comply with City standards.



It is the employee's responsibility to safeguard personal belongings. The City will not be liable for lost, damaged or stolen property of its employees and at no time will the City replace or reimburse an employee for personal property that an employee brings to the workplace. Employees are encouraged to exercise reasonable care to safeguard personal items brought to work. For example, employees should not bring valuables to work and should not leave personal items where they might be damaged or stolen.

Improper or excessive use of personal property brought onto City property or worksites or during work hours (for example, the excessive or inappropriate use of personal cell phones for personal phone calls, text-messaging, imaging or videotaping), may also result in disciplinary action, up to and including termination.

## **9.7 ELECTRONIC MEDIA POLICY**

It is the policy of the City to maximize the cost-effective use of computer systems as a means of improving productivity. The City provides communication resources including computing resources, electronic mail (email), internet access, personal digital assistants, and other electronic communications devices (collectively referred to as the City's Technology Resources) to employees to assist in and facilitate City business and communications. The primary purpose of the City's network and systems is to provide service to the public as part of the City's business, in a manner that is consistent with the City's vision and values. De minimus, incidental personal use of the City's Technology Resources by employees is permitted if accomplished in compliance with the provisions of this policy, as set forth below.

This policy does not address all required, allowed, or prohibited behaviors by employees, but covers common examples. In general, the City relies on the good judgment of its employees to ensure that City Technology Resources are used in the City's best interest.

**No Expectation of Privacy:** By using the City's Technology Resources, employees acknowledge and agree that they have no expectation of privacy or confidentiality vis-à-vis the City in their use of these systems or in any data that they create, store, or transmit on or over the systems, including any data created, stored or transmitted during an employee's incidental personal use of the Technology Resources as permitted under this policy. Employees further agree that they are aware of, understand and will comply with the provisions of this policy, and that their use of the Technology Resources can and will be monitored and any data that they create store, or transmit on or over City systems may be inspected by City management at any time. Employees should understand that certain email and text messages (even if personal in nature), other electronic communications, and documents created on City computer systems may be considered a public record subject to disclosure and/or subject to discovery in the

event of litigation.

In addition, employees should recognize that cellular and other wireless transmissions are not secure; thus, employees should exercise discretion when relating confidential information during a cellular telephone call.

**Standardized Software and Hardware:** The City has established standard software and hardware for commonly used applications. The use of unauthorized, non-standard software or hardware, including personally owned software or hardware, on city computer systems without approval of the IT Director is prohibited.

**Installation of Software and Hardware:** Improper installation of software or hardware can damage a computer system, cause system malfunction, or conflict with system configuration. All standardized software and hardware is to be installed by the IT Department. Specialized software and hardware technologies exclusive to individual departments may be managed within the appropriate department, in coordination with the IT Department. Any moving, relocating, or rearranging of computer software or hardware should also be coordinated with the IT Department.

**Ownership and Confidentiality:** All software, programs, applications, templates, data, data files and web pages residing on City computer systems or storage media or developed on City computer systems are the property of the City. The City retains the right to access, copy, modify, destroy or delete this property. Data files containing confidential or sensitive data should be treated accordingly and should not be removed from the workplace without proper authorization.

**Copying Software, Programs, Applications, Templates, etc.:** Employees must notify the IT Department and receive proper authorization before attempting to copy software, applications, programs or templates. In many cases, copyright laws and/or licenses for commercial software, programs, applications and templates used by the City prohibit the making of multiple copies. The City and its employees are required to abide by the federal copyright laws and to abide by all licensing agreements.

**Acceptable Uses of City's Technology Resources:** The City's Technology Resources are to be used by employees or volunteers for City business. Employees should create and send only courteous, professional and businesslike messages and documents that do not contain objectionable offensive or potentially discriminatory material.

Incidental, de minimus personal use may be permitted where, in the judgment of the employee's supervisor or department director, such use does not interfere with employee or department productivity, nor distract/take time away from the

worker or co-workers assigned work. Generally speaking, incidental, de minimus personal use means:

- 1) it is occasional and of short duration;
- 2) it is done on an employee's personal time, such as on a lunch break;
- 3) it does not interfere with job responsibilities;
- 4) it does not result in any expense to the City;
- 5) it does not solicit for or promote commercial ventures;
- 6) it does not utilize excessive network resources; and
- 7) it does not constitute any prohibited use, as discussed below. Long distance personal use is prohibited.

Any personal use of the City's computer, Internet and email services must comply with all applicable laws and City policies, including anti-discrimination policies and Internet usage policy.

While use that results in a cost to the City is prohibited, if such use occurs, employees must reimburse the City for costs that would not otherwise have been incurred by the City resulting from the employee's personal use of such devices.

In order to prevent potential City liability, it is the responsibility of all Internet users to clearly communicate to the recipient when the opinions expressed do not represent those of the City of Port Townsend.

**Prohibited Uses of City's Technology Resources:** Use of the City's Technology Resources to engage in any communication that violates federal, state, or local laws or regulations, or any City policy, is strictly prohibited at all times. In addition, the following uses of the City's Technology Resources are inappropriate and are prohibited at all times, unless specifically exempted below:

- Use by non-exempt staff for work purposes outside of their normal work schedule without authorization in advance from management. This includes reviewing, sending and responding to e-mails or text messages and responding to, or making phone calls. Exceptions apply for on-call/stand by work.

- Personal commercial use (meaning use that benefits an employee's outside employment or commercial business);
- Accessing, receiving or sending pornographic, sexually explicit or indecent materials, including materials of an offensive nature (unless as part of a law enforcement investigation conducted by authorized Police personnel);
- Usage for any type of harassment or discrimination, including the transmission of obscene or harassing messages to any individual or group because of their sex, race, religion, sexual orientation, national origin, age, disability or other protected status;
- Gambling;
- Usage for recreational purposes including the loading of computer games or playing online games;
- Usage that precludes or hampers City network performance; such as viewing or listening to streaming audio and/or video (unless for City business, such as for online training);
- Unauthorized copying or downloading of copyrighted material;
- Usage that violates software license agreements;
- Use of video or audio recording capabilities anywhere in the building or on City property at anytime, other than where permitted by federal, state or local law.
- Downloading of software programs (unless specifically approved by applicable Director and coordinated with the IT Department);
- Usage for political purposes, including partisan campaigning;
- Sending anonymous messages and/or misrepresenting an employee's name, position, or job description;
- Deliberately propagating any virus, worm, trojan horse, malware, spyware, or other code or file designed to disrupt, disable, impair, or otherwise harm either the City's networks or systems, or those of any other individual or entity;
- Releasing misleading, distorted, untrue or confidential materials regarding City business, views or actions;

- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Use of Technology Resources in an excessive manner so as to deprive others of system use or resources, including the sending of bulk email for other than official business or forwarding “chain letter” emails of any kind;
- Connecting to the City network, or any specific software package, utilizing somebody else’s security identification login information to gain alternate security permissions; gaining unauthorized access to another employee’s e-mail messages, or sending messages using another employee’s password.
- Any personal use, even if incidental, that results in expense to the City;
- Usage that violates the guidelines set forth in the Standards of Conduct described in this Manual.

Any employee who violates these policies is subject to disciplinary action, up to and including termination. In addition, employees may be held personally liable for damages incurred as a result of copyright and licensing requirements.

**Downloading Files from the Internet or Opening Email Attachments:**

Downloading files from the internet or opening email attachments from sources outside the City can lead to spyware and/or virus attacks that can severely damage, or degrade the City’s network and/or data. The IT Department has installed anti-virus and anti-spyware software on all City computers and continuously updates signature definition files. However, that does not guarantee that all spyware is blocked, or that all viruses are caught.

If you are downloading a file and receive a message that a virus or spyware has been detected, you must call the IT Department immediately for assistance. Similarly if you receive an email with a suspicious attachment, or from an unusual source, you should notify the IT Department before opening it. If you notice that your computer is behaving strangely or you suspect spyware or a virus, notify the IT Department.

**Payment for Wireless Device Use:** Recognizing that City supplies, services and equipment cannot be used for personal purposes, any person who is assigned a cellular telephone or other device must make provision to assure payment for personal calls in accordance with Human Resources requirements.

**Use of Handheld Wireless Communication Devices While Driving is Prohibited:** Except as provided below, the use of handheld wireless

communication devices, including but not limited to cellular telephones and smart phones (including text messaging), is not permitted while operating a car or other moving vehicle unless a hands free device is used. If a hands free device is not used, all necessary phone calls must be made before leaving the previous location or after arriving at the next destination. In the event an employee must make or receive a call or message while driving, he/she must find a safe place to pull over and stop the vehicle.

Under Washington state law, a person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction (RCW 46.61.667). Also under state law, a person operating such a vehicle is prohibited from sending, reading, or writing a text message while driving (RCW 46.61.668). These prohibitions do not apply to: an authorized emergency vehicle; or to a person operating a moving motor vehicle using a hand-held wireless communications device or electronic communications device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property. RCW 46.61.667 does not apply to a person operating a moving motor vehicle while using a hearing aid.

### **Text Messaging:**

The use of text messaging is not authorized on City-owned phones. Employees who hold positions that require the use of text messaging may seek approval from their Department Head and the City Manager. The following addresses the use of text messaging for City business and the retention requirements for text messages relating to City business that are received or sent on City-owned or personally-owned cell phones and devices. "City business" means anything related to the employee's job or to the operation of the City.

Text messages regarding City business are of two types: (1) transitory texts; and (2) non-transitory texts. "Transitory texts" are text messages that only document information of temporary, short-term value, and that is not needed as evidence of a business transaction, such as requests to set a work meeting, asking of an employee can come in to work when not scheduled, that the employee is running late, directions, or that a task has been completed. All other texts are "non-transitory" texts.

When authorized, employees should use text messaging only for transitory messages. Transitory texts should be deleted by the user as soon as possible unless the employee has been notified that there is a pending public records request.

If text messaging is used for non-transitory purposes, the non-transitory texts may not be deleted from a cell phone or device until they have been reproduced, transcribed, or retained in some other manner. Non-transitory messages shall be reproduced no later than 7 days after the text is sent or received.

An employee is required to reproduce a text message:

- When the text message is non-transitory and must be retained;
- When a supervisor orders the employee to reproduce the text message; or
- When the text message is maintained on a cell phone or device and the employee is notified of the existence of a public records request for the text message.

Employees will reproduce the text message by any of the following means:

- Forwarding the text to a proper City email address;
- Taking screen shots of the text and emailing the screen shots to an appropriate City email address;
- Utilizing a pre-approved application on city-owned cell phones and devices that stores or disseminates the message to City-owned servers or networks.

Text messages may not be used to send policy, contract, formal correspondence, medical, or personnel-related data. Sensitive information should not be sent by text message including social security numbers, credit card numbers and passwords.

## **9.8 SOCIAL MEDIA POLICY.**

The Social Media Policy is set forth in Attachment A.

## **9.9 USE OF PERSONAL COMPUTER OR COMMUNICATION DEVICES FOR CITY BUSINESS:**

Employees shall not use personal computers or devices for City business without first obtaining City Manager approval. Among considerations concerning any such use is that records (including electronic records) or communications relating to City business generated by or sent to or from personal computers or devices are public documents under the Public Records Act, and are subject to disclosure in response to a public records request unless an exemption applies.

The City reserves the right to review the contents of any record, document or communication, created or stored on a personal computer or electronic device, including electronic mail, text messaging, and voicemail that is created or received while on-duty or engaged in City business. Employees do not have a reasonable expectation of privacy in use of such devices while on-duty or engaged in City business.

## 9.10 AUTOMOBILE USAGE

The City provides vehicles for business use, to allow employees to drive on City business, and to reimburse employees for business use of personal vehicles according to the guidelines below. The term "vehicle" as used in these guidelines includes, but is not limited to, cars, trucks, backhoes, front-end loaders, and graders.

- 1) Employees may not drive any vehicles for City business without prior approval of their supervisor.
- 2) Employees who need transportation in the course of their normal work may be assigned a City vehicle for their use. All other employees needing transportation for City business may use vehicles assigned to their department or those drawn from the motor pool as approved by their supervisor. Employees may also use their own vehicles for business purposes with prior approval of their supervisor.
- 3) Except as authorized by the employee's supervisor, employees with an assigned vehicle may not use it for personal use, other than to purchase food and beverage for meal and break periods. An employee is not allowed to take a vehicle home during meal and break periods. If authorized by the employee's supervisor, an employee may take a vehicle home for a special purpose, for example, if needed to allow the employee to change clothes. (See below for vehicle use by employees allowed to take a vehicle home because they are on 24-hour call status.)
- 4) All City vehicles shall remain on City property while not in service, unless specifically authorized.
- 5) Employees who drive a vehicle on City business must exercise due diligence to drive safely, follow all traffic laws (including the prohibitions on using cell phones and other similar devices), avoid distractions while driving, and maintain the security of the vehicle and its contents, and maintain a good driving record. (See Definitions at section 1.5 for definition of good driving record. Employees who drive a vehicle on City business shall notify their supervisor if they do not have or maintain a good driving record.) Employees are also responsible for any driving infractions or fines as a result of their driving a City vehicle and must promptly report them to their supervisors. Employees who drive a City vehicle also should ensure that the vehicle is kept clean and free of litter.



- 6) As required by Washington State law, anyone operating or riding in City vehicles or a personal vehicle on City business must wear a seat belt at all times.
- 7) Non-employees and non-business passengers (for example, family and friends) are prohibited from riding in City vehicles,
- 8) Employees who use their personal vehicle for approved business purposes will receive a mileage allowance equal to the Internal Revenue Service optional mileage allowance for such usage. This allowance is to compensate for the cost of gasoline, oil, depreciation, and insurance. Employees who operate personal vehicles for City business should obtain auto liability coverage for bodily injury and property damage with a special endorsement for Business Use, when necessary as determined by their personal insurance agent.
- 9) Employees must promptly report any accident, theft, or malicious damage involving a City vehicle to their supervisor, regardless of the extent of damage or lack of injuries. Such reports must be made as soon as possible. Employees shall not move the vehicle unless directed by police until a supervisor is able to inspect the scene. Employees are expected to cooperate fully with authorities in the event of an accident. However, employees should make no voluntary statement other than in reply to questions of investigating officers.
- 10) Employees who are on call on a 24-hour basis may be authorized under certain circumstances to take a vehicle home so they can respond as soon as possible provided that they sign a written acknowledgment that they fully understand that the vehicle is used only as part of emergency response and not for personal use (except as allowed by the employee's supervisor).
- 11) Employees are not permitted, under any circumstances, to operate a City vehicle, or a personal vehicle for City business, when any physical or mental impairment causes or may cause the employee to be unable to drive safely. Additionally, employees shall not operate any City vehicle at any time, or operate any personal vehicle while on City business, while using or consuming alcohol, illegal drugs, or prescription medications that may affect their ability to drive. These prohibitions include circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of impairment, illness, medication, or intoxication.
- 12) In most circumstances, time spent by nonexempt employees (those

covered by the minimum wage and overtime provisions of the Fair Labor Standards Act) in driving a City or personal vehicle on City business is considered hours worked for pay purposes. However, under most circumstances, commuting time before the start and after the end of the workday is not treated as work time for pay purposes even if the employee is driving a City vehicle.

## **9.11 DRIVER'S LICENSE REQUIREMENTS**

Any employee operating a City vehicle, or using a motor vehicle for City business, must be at least 18 years of age and have a valid driver's license.

As part of the requirements for certain City positions, an employee may be required to hold a valid Washington State Driver's license and/or hold a valid commercial driver's license (CDL) and continue to meet all the requirements for maintaining such licenses. If such an employee's license is revoked, suspended or lost, or is in any other way not current, valid and in the employee's possession, the employee shall promptly notify his/her department director and immediately suspend driving duties. The employee may not resume driving until proof of a valid, current license is provided to his/her department director. Depending on the duration of license suspension, revocation or other inability to drive, an employee may be separated from employment as they no longer meet the minimum qualifications and job responsibilities for their position. An employee's failure to notify his/her department director of such a license suspension, revocation or other license disqualification may also result in disciplinary action, up to and including termination.

Periodic checks of employee's driver's licenses through visual and/or formal State Department of Licensing review may be made by department directors, supervisors or Human Resources. Employees who do not hold a valid driver's license must not operate a City vehicle until such time as a valid license is obtained.

## **9.12 ACCIDENT PREVENTION AND SAFETY**

It is the City's intent to provide safe working conditions for its employees. Every employee is responsible for maintaining a safe work environment and following the City's safety rules. Copies of the Safety Manual provided by the City of Port Townsend Safety Committee are available in Human Resources and are distributed to each new employee at the time of hire. Employees shall promptly report all unsafe or potentially hazardous conditions to their department director. The City will make every effort to remedy problems as quickly as possible.

The City encourages the promotion of accident prevention and safety education at regular department/division safety meetings. Employees in certain jobs or

when performing certain tasks, operating equipment or as otherwise instructed are required to use personal protective equipment provided by the City, such as safety vests/glasses, hearing protection, gloves and/or hard hats. Employees are prohibited from removing guards or other protective devices from machinery and equipment or in any way tampering with or disabling safety measures. Violations of safety requirements may result in discipline, up to and including termination.

In case of an accident involving personal injury or damage to property regardless of how minor or if a motor vehicle is involved in a collision of any kind, any involved employees shall immediately notify their supervisor or department director or designee. In any accident that results in serious property loss or bodily injury, if there is reasonable suspicion that the employee may have been under the influence, the City may test the employee for drugs or alcohol use. In addition, no City employee is permitted to engage in conduct after an accident or injury occurs, that will negatively impact the City's or law enforcement's investigation of the accident.

**On the Job Employee Injuries:** When an on-the-job injury occurs, employees are required to report to their immediate supervisor each injury or illness regardless of the degree of severity. As soon as possible after an accident or occupational illness is discovered, the employee must complete the City's Accident or Incident Report form and submit it to Human Resources within twenty-four (24) hours of the accident or the occupational illness is discovered. The supervisor is required to submit an accident investigation report to City Administration within three days of the accident or incident. If applicable, the employee is responsible for completing the Washington State Labor and Industries claim form. Supervisors are required to complete the supervisor portion of the accident report form. Should the injury require attention beyond basic first aid, the employee should have his or her treating physician complete the applicable portion of the Washington State Labor and Industries claim form. Injured employees must submit physician time loss certification to their department director or designee and if absent from work for more than seven (7) days, contact his or her department director or designee once a week or as otherwise required to keep the City informed of their condition, progress and intent to return to work. The injured employee's department director or designee shall immediately forward the original completed time loss certification to Human Resources.

**Accidents/Incidents:** Employees shall report any work-related accidents involving a-third party personal injury and/or damage to public/private property or equipment, regardless how minor, to their immediate supervisor or department director, City Manager or designee. Such report shall be made as soon as possible, but in no event later than one (1) hour following such accident. So that an accident may be timely reported, the initial report may be given verbally. Accident report forms are available from supervisors or City Administration. A written accident report shall be completed by the employee as soon as possible,

and, unless the employee is medically unable to, no later than twenty-four (24) hours following the accident, or sooner if required by the employee's department director or City Administration.

Employees shall compile any reports requested by their supervisor, department director and/or Human Resources. In the case of a vehicular accident, the employee shall immediately notify the law enforcement agency having jurisdiction, which shall determine whether or not an accident investigation and/or police incident report is necessary. If required, a State Motor Vehicle Collision Report shall be completed by the employee.

**Bloodborne Pathogens:** Since being exposed to a bloodborne pathogen may lead to sicknesses such as hepatitis, HIV or malaria, and because the City wishes to assure its employees a safe and healthy work environment, it is the policy of the City to comply with all statutory obligations for the prevention of exposure to bloodborne pathogens. Employees should familiarize themselves with the City's Exposure Control Plan and follow it at all times. Failure to comply with this plan will result in discipline up to and including termination.

### **9.13 SAFE WORKPLACE**

The City is committed to providing a safe and secure work environment for employees, contractors, visitors, and the general public. In an effort to prevent the possibility of violence in our workplace, the City has implemented this Safe Workplace policy. The City strictly prohibits threatened or actual workplace violence. This includes, but is not limited to, the following types of behavior:

- Bullying, threatening injury or damage against a person or property;
- Fighting or threatening to fight with another person;
- Stalking, following, or invading another employee's personal life;
- Violation of section 9.13 regarding the use or possession of a weapon on City premises;
- Engaging in shoving, fighting, blocking, impeding another person, even if done "all in fun";
- Abusing or injuring another person;
- Using obscene or abusive language or gestures in a threatening manner;
- Raising voices in a threatening manner; and
- Any other behavior that causes others to feel unsafe.

Because of the potential for misunderstanding, joking about any of the above misconduct is also prohibited. Any employee who violates this policy will be subject to immediate discipline, up to and including termination.

**Reporting Procedure:** Any employee who reasonably believes that a situation with an aggressive employee, member of the general public, or other party (e.g., any person who uses obscene or abusive language or gestures, makes threats, or acts in a violent or threatening manner) may or has become violent should immediately leave the area and call 911. The employee should also immediately report the situation to his/her supervisor and department director. If the supervisor and department director are unavailable or are part of the violence, the employee shall report the situation to the City Manager. Once the situation has been defused, the supervisor or department director must contact the City Manager to initiate a full investigation. The report will be investigated and the appropriate disciplinary or corrective action will be taken.

**Duty to Report Protective Orders:** Any employee who is the subject of or protected by a domestic violence protective order or civil protective order shall immediately report the existence of the order to his/her department director or City Manager. The department director shall notify the City Manager.

**Duty to Report Criminal Arrests and Convictions:** Any employee who is arrested or convicted for a felony, gross misdemeanor or misdemeanor offence shall immediately report such arrest or conviction to his/her department director or City Manager.

## **9.14 FIREARMS AND DANGEROUS WEAPONS**

In order to facilitate a safe work environment, employees are prohibited from bringing, carrying, exhibiting or using any dangerous weapon in the workplace or into a City facility. This includes, but is not limited to, a weapon for which employees have a valid permit. "City facility" means all areas within the ownership and/or control of the City, and includes, but is not limited to, offices, buildings, parking lots associated with a City building, city vehicles, desks, cabinets, lockers, or storage areas. This prohibition includes keeping a dangerous weapon in an employee's vehicle while the vehicle is on a parking lot associated with a City building. The term "dangerous weapon" includes, but is not limited to:

Any firearm, rifle or handgun, whether such person has a license or permit to carry such firearm or not, and whether such firearm is concealed or not.

Any knife, sword, dagger, or other cutting or stabbing instrument, with a blade of a length of three inches or more, or any razor with an unguarded blade, whether such weapon or instrument is concealed or not.

Any instrument or weapon of the kind usually known as a slingshot, taser, throwing star, bow, sand club, blackjack, metal knuckles, or any stick, chain, metal pipe, bar, club or combination thereof including a device known as numchuk sticks, or any device having the same or similar components or parts, whether or not connected by a rope, chain or other device, or any explosive or poison or injurious gas (excluding those normally used in the course of one's employment duty), or any other instrument capable of producing bodily harm, whether such instrument or weapon is concealed or not.

Carrying, exhibiting, displaying or drawing any firearm, dagger, sword, knife or any explosive device, cutting or stabbing instrument, club or any other object capable of producing bodily harm where held or used, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of another person or persons.

This policy does not apply to or affect the following:

Authorized law enforcement officer.

Any person making or assisting in making a lawful arrest for the commission of a felony.

Any situation where an employee's job duties require the carrying or use of explosives, poisons or other potentially dangerous chemicals or devices, while in the performance of those duties and only as it relates to those items.

Other exceptions as may be authorized in writing by the City Manager.

Any employee violating this policy may be subject to disciplinary action, up to and including termination.

## **9.15 SUBSTANCE ABUSE**

The City recognizes alcoholism and drug abuse have an adverse effect on job performance and public safety. The City's policy on substance abuse reflects its concern for the well-being of the employee and the safety of other employees and members of the public.

The City strictly prohibits the use, possession, consumption, sale, distribution, or being under the influence of, alcohol or controlled substances in the workplace or during work time, including recreational and medical marijuana. Possession of medical marijuana, or legal amounts of recreational marijuana or its byproducts, or being under the influence of marijuana while on duty is prohibited and may

lead to disciplinary action (RCW 69.51A.060(6)). When employees are on the job, they are expected to be free from any impairment or substance which could contribute to an injury, accident, property damage, or interfere with productivity. They are to be free of illegal drugs or potentially impairing levels of legal substances. In short, all employees are expected to be “drug- and alcohol-free” and “fit for work.”

The possession and use of medically prescribed and over-the-counter drugs during work hours is permissible, provided the prescription drugs are specifically prescribed by an authorized health care provider for the use of that employee, use of prescription or over-the-counter drugs complies with the recommended dosage and usage and use does not result in any impairment. An employee who needs to use or be under the influence of prescription or over the counter drugs while at work, must immediately inform his or her supervisor of such usage if the employee knows, or the prescribed or over-the-counter drug contains a warning notice that use could impair the employee’s ability to perform his or her job safely and effectively or could endanger others. Depending on the circumstances, employees may be reassigned, prohibited from performing certain tasks, or prohibited from working while using the medication.

**Prohibitions:**

- 1) The unauthorized use, sale, distribution, purchase or possession of alcohol or controlled substances at the work site or during work hours is prohibited and shall be grounds for discipline up to and including termination.
- 2) The use of City property or the employee's position within the City to make or traffic intoxicants, illegal drugs or controlled substances may be grounds for discipline, up to and including termination.
- 3) Any other use, possession or trafficking of intoxicants, illegal drugs or controlled substances in a manner which is detrimental to the interest of the City may be grounds for discipline up to and including termination.
- 4) Reporting to work (including overtime call-outs) under the influence of alcohol or drugs, or any substance which impairs an employee's mental or physical capacity, will not be tolerated. Under no circumstances will an employee be allowed to operate equipment or drive a motor vehicle when it reasonably appears an employee’s ability to do so is impaired. Any employee using medication or prescribed drugs which may impair job performance shall promptly report this fact in writing to his/her supervisor.

**Availability of Rehabilitation or Treatment:** As part of the City's Employee Assistance Program (EAP), employees who are concerned about alcohol or drug use are encouraged to seek counseling, treatment and rehabilitation. Although the decision to seek diagnosis and accept treatment is completely voluntary, the City is committed to assisting employees who voluntarily come forward to overcome substance abuse problems, on the condition the employee utilizes the EAP before the performance problems occur. In most cases, the expense of treatment may be fully or partially covered by the City's benefit program. In recognition of the sensitive nature of these matters, all discussions between the employee and the EAP provider will be kept confidential. Employees who seek advice or treatment will not be subject to retaliation or discrimination for accessing EAP. Violation of this policy, poor performance or failure to successfully complete an assigned rehabilitation program, however, may be grounds for discipline, up to and including termination. Also, if a disciplinary course of action has already begun before employee requests assistance through EAP, the City may continue on that disciplinary course, and if termination occurs, access to the EAP services may terminate, unless the employee extends health care coverage through COBRA.

**When Job Performance is Affected:** The City may discipline or terminate an employee who possesses, consumes, sells, purchases, distributes or uses alcohol or controlled substances during work hours. The City may also discipline or terminate an employee who reports for duty or who works under the influence of, or is affected by, alcohol or controlled substances. An employee may be required to submit to alcohol or controlled substance testing when the City has reasonable suspicion the employee is under the influence of controlled substances or alcohol. Employees involved in accidents which require medical attention or result in a non-trivial amount of property damage may be subject to a drug and/or alcohol screen if the City has reasonable suspicion the employee is under the influence. Refusal to submit to City-requested testing will be considered a positive test and subject the employee to disciplinary action, up to and including termination. Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, physical absence resulting in the inability to conduct the test or any other acts constituting refusal under 49 C.F.R. part 40.

**Supervisor Responsibilities:** If a supervisor has reasonable grounds to believe an employee is under the influence of alcohol or drugs when reporting for work or during the work shift, the supervisor has an obligation to verify the employee's condition and relieve the employee of his/her duties. The supervisor should seek the opinion of at least one additional supervisor, if practical.

The possibility of City or supervisor liability exists if an employee who is under the influence of alcohol or drugs is allowed to remain working, operate or drive vehicles or equipment on the job or drive a private vehicle from the work site. An



employee who is believed to be under the influence of alcohol or drugs should not be allowed to operate equipment or drive a vehicle, including a private vehicle, until it is determined the employee possesses the ability to safely operate the equipment or drive a vehicle. If an employee is impaired, a supervisor should transport or arrange transportation of the employee to a medical facility or the employee's home, as appropriate.

A supervisor and/or department director who observes a continuing decline in an employee's job performance or attendance is encouraged to refer the employee to the EAP when usual supervisory actions have failed to yield improvement. In cases where other management methods have failed to improve an employee's job performance, the department director has the option to mandate an employee's participation in a structured screening and treatment program as an alternative to dismissal for unacceptable job performance. Use of the program is confidential and does not replace normal disciplinary procedures for unsatisfactory job performance.

**Notification Requirement:** Employees must notify Human Resources of any criminal drug conviction for a violation within five (5) days after the conviction. Failure to report such conviction or any moving violation causing the loss of driver's license by state or local law enforcement involving drugs or alcohol, shall result in discipline up to and including termination.

**Drug and Alcohol Testing – All Employees:** The City may require an employee to submit to appropriate tests, including urinalysis, to confirm the existence of alcohol or prohibited drug or substance in his or her system when:

- 1) the City has a "reasonable suspicion" the employee may be under the influence of, or affected by, drugs or alcohol while on duty.

"Reasonable suspicion" must be based on documented objective facts and circumstances that are consistent with the effects of substance abuse. Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in their work performance due to possible prohibited substance misuse.

### **Drug and Alcohol Testing – Employees Who Operate Commercial Vehicles-**

**Department of Transportation Regulations for Drug and Alcohol Testing:** The City of Port Townsend is required by federal regulation to administer a testing program for controlled substance and alcohol use for employees required to have and maintain a Commercial Driver's License (CDL) and for employees in safety sensitive positions, including operators of natural gas pipeline facilities. City employees who hold CDLs and who operate commercial motor vehicles while employed by the City, and City employees who perform specific duties for

the natural gas facility are subject to additional rules and regulations imposed by the federal government. These regulations require urine drug testing and alcohol breath testing in the following circumstances:

- 1) Pre-employment, currently for controlled substances only;
- 2) Reasonable suspicion;
- 3) Post-accident;
- 4) Return to duty; and
- 5) Random (except certain natural gas facilities employees as it pertains to alcohol).

Covered employees who test positive must be removed from service and are subject to discipline, up to and including termination. CDL holders and natural gas employees should consult the City's administrative policies for additional details concerning the appropriate rules applicable to employees covered under the Department of Transportation regulations.

#### **9.16 NOTICES TO EMPLOYEES**

Information of special interest to all employees is posted regularly on the City of Port Townsend bulletin boards, city website and/or sent by email to City employees. Employees may not post any information on these bulletin boards without prior authorization of the City Manager or his/her designee.

#### **9.17 CONTACT WITH THE NEWS MEDIA; LOBBYING EFFORTS**

The City Manager, employees designated by the City Manager or designated department directors are responsible for all official contacts with the news or social media (including answering questions from the media), and in connection with the dissemination of official information concerning City business. The City Manager or department director may designate specific employees to give out procedural, factual or historical information on particular subjects. Other employees should refer questions from the media to the City Manager or designated media representative.

An employee is free to voice a position, oral or written, on any issue involving City business so long as it is made clear that the employee is not speaking as a representative of the City. (However, see Policy 10.1, and in particular 10.1 (19) prohibiting certain expression that is detrimental to the City.)

## **9.18 SOLICITATIONS**

Most forms of selling and solicitations are inappropriate in the workplace. They can be an intrusion on employees and residents and may present a risk to employee safety or to the security of City or employee property. The following limitations apply:

- 1) Persons not employed by the City may not solicit, survey, petition, or distribute literature on City premises at any time. This prohibition includes persons soliciting for charities, salespersons, questionnaire surveyors, labor union organizers, or any other solicitor or distributor. Individuals who wish to do business with employees of the City shall be referred to the City Manager's office. Exceptions to this rule may be made in special circumstances if the City Manager determines an exception would serve the best interests of the organization and its employees. An example of an exception might be the United Good Neighbor campaign or a similar, community-based non-profit fund raising effort.
- 2) Employees may not solicit others for any purpose during work time. Reasonable forms of solicitation are permitted during non-work time, such as before or after work or during meal or break periods. Employees who are on non-work time may not solicit other employees who are on work time.

## **9.19 LEGAL LIABILITY**

Employees shall comply with the laws and regulations that relate to the performance of their duties and shall perform their duties as reasonable and prudent persons. In accordance with, and to the extent required by, the provisions of RCW 4.96.041, the City shall provide and pay for the necessary expenses of legal defense to employees for actions filed against employees for acts or omissions found by the City to be within the scope of his or her official City duties.

## **9.20 SERVICE OF PROCESS**

No employee shall accept Service of Process or other notices of lawsuits involving the City except with written approval of the City Manager. Anyone who does receive such process or notice shall immediately provide the notice to the City Manager.

## **CHAPTER 10 DISCIPLINE AND TERMINATIONS**

### **10.1 ACTIONS SUBJECT TO DISCIPLINARY ACTION**

Success in providing excellent service to City residents and maintaining good relationships with the community depends on City employees. These policies provide guidance for conduct which, if engaged in, would be detrimental to the City's mission and could lead to disciplinary action up to and including termination. The following is a non-exclusive list of specified conduct which is considered detrimental to the workplace, constitutes a violation of expressly stated City policy prohibiting such conduct, and may lead to disciplinary action by the City. The list contains examples of misconduct which should be considered illustrative and not comprehensive. The misconduct refers to conduct in the workplace and also to conduct outside the workplace where such conduct brings disrepute to the City or otherwise adversely impacts the City.

- 1) Making a false or misleading statement of fact or practicing any deception, fraud or misconduct in connection with securing employment with the City;
- 2) Illegal or unauthorized use or misuse of any City facilities, property, supplies, equipment, services, funds or time (including, allowing others to engage in unauthorized use of any City facilities, property, supplies, equipment, services, funds;
- 3) Authorized operation, use or possession of machines, tools, or equipment to which the employee has not been specifically assigned;
- 4) Unauthorized use of position with the City for personal gain or advantage, accepting unlawful gratuities or bribes;
- 5) Lying;
- 6) Insubordination;
- 7) Violation of a lawful duty;
- 8) Smoking or use of tobacco products in an unauthorized area or creating fire hazards in any area;
- 9) Violation of appearance and behavior standards;

- 10) Failure to report an occurrence causing damage to, or misuse of, City, customer or public property; or failure to properly secure City facilities or property;
- 11) Failure to report a condition or situation with a likelihood of causing harm or damage to life or property in the City (whether the employee is on or off duty). If an employee sees a dangerous situation, or a dangerous situation is reported to the employee, the employee should report the matter to the employee's supervisor or to the Police Department (or 911);
- 12) Loitering outside of work hours which results in the disruption of the City's business or the work effort of other employees;
- 13) Vending, soliciting, or collecting contributions for any purpose whatsoever during working time without the permission of the supervisor or in violation of the non-solicitation policy;
- 14) Unauthorized recording of another employee's time record (both employees can be subject to disciplinary action);
- 15) Intentional falsification of records or paperwork;
- 16) Habitual tardiness or absences from work;
- 17) Absences without proper notification to immediate supervisor, excessive absenteeism, absenteeism unrelated to an approved leave or insufficient reasons for absenteeism;
- 18) Loitering, goofing off or failing to assist others in a work situation;
- 19) Making malicious, false, harassing, discriminatory, defamatory or derogatory statements, posts, emails, or texts that are intended to or could reasonably be expected to damage the integrity or reputation of the City or its employees, on or off work or the workplace, and whether or not City resources are used. Employees are reminded that what is said online in email, Twitter, tweets, or social media updates is public if City resources are used, and may be public even if they are not, and in any event are permanent;
- 20) Disorderly conduct, including fighting on the premises;
- 21) Rudeness, discrimination, harassment, intimidation, coercion, use of obscene language, gesture or lack of courtesy to the public or fellow employees;

- 22) Immoral conduct that adversely reflects on the City or the employee's ability to perform his/her job for the City;
- 23) Inability, inefficiency, or negligent work performance, including a refusal or failure to perform assigned work;
- 24) Concealing defective work;
- 25) Unsatisfactory job performance;
- 26) Failure to observe safety practices, rules, regulations and instructions;
- 27) Negligence which results in injury to others;
- 28) Failure to wear required safety clothing and equipment;
- 29) Any conduct that impairs job safety or endangers another or the employee;
- 30) Failure to promptly report an on-the-job injury or accident involving an employee, equipment, property or visitor to the employee's immediate supervisor;
- 31) Dishonesty or willful disregard of the City's interests, or theft, including deliberate destruction, damage or removal of the City's or another's property from City property, facilities or any job site;
- 32) Possession, use, sale, distribution, or being under the influence of alcohol, illegal drugs or other controlled substances in the workplace or while on City business, including while on standby duty;
- 33) Arriving on the job under the influence of, or while in possession of, alcohol, illegal drugs or other controlled substances;
- 34) Abuse of non-prescription or prescription drugs on the job;
- 35) Failure to promptly notify supervisor of any on-the-job use (including already being under the influence of) or possession of prescription or over the counter drugs which could impair the employee's work efficiency or the safety of the employee or others;
- 36) Possession of explosives, firearms or weapons on the premises or at any job site, except when required for the job;

- 37) Conviction of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, which impacts the employee's ability to effectively perform all of the duties of his or her position or the public's confidence in the employee for the duties the employee carries out; or the filing of criminal charges against the employee alleging such a felony or gross misdemeanor, which charges are reasonably believed by the City to be true;
- 39) Failure to maintain skills, certifications, licenses or other requirements of the job; or
- 40) Violation of the duties or rules imposed by this Manual or any other City ordinance, resolution, rule, regulation, administrative order or applicable state or federal law.

This list is not all-inclusive, but only serves as a general guide. The City may discipline or terminate employees for other reasons not stated above.

## **10.2 POSSIBLE DISCIPLINARY ACTIONS**

The City retains complete discretion as to when a situation calls for discipline or correction. In addition, the City retains complete discretion as to what form and level of discipline is appropriate in any given situation, up to and including termination. In the event discipline is necessary, the types of disciplinary actions which may be used include, but are not limited to, the following:

- 1) Verbal Warning;
- 2) Written Reprimand;
- 3) Suspension;
- 4) Demotion; and
- 5) Termination

The choice of disciplinary action in any particular case is solely the City's, and shall be made by the department director, except in cases of suspension, demotion or termination, the decision shall be made by the department director in consultation with the City Manager.

The actual discipline imposed will depend on the particular situation. Employees who are exempt from overtime laws will not be suspended without pay for disciplinary purposes for periods less than a full workweek, unless the infraction involves violation of safety rules of major significance.

## **10.3 PRE-DISCIPLINARY HEARING**

In the case of possible suspension, demotion or termination (collectively "discipline") of an employee, other than trial employees, the City will conduct a

pre-disciplinary hearing. The pre-disciplinary hearing serves as a check against mistaken decisions and as an opportunity for an employee to furnish additional facts before a final disciplinary decision is made.

In the event a department director or City Manager determines to discipline an employee, the employee shall be provided with a notice of the proposed disciplinary action. The notice will generally include:

- 1) identification of the charges or grounds on which the proposed disciplinary action is based;
- 2) an explanation of the reasons the City believes misconduct has occurred and discipline is warranted;
- 3) the date, time and location of the pre-disciplinary hearing;
- 4) notice of the employee's opportunity at the hearing to respond to the charges, either verbally or in writing, including a chance to explain why the City should not go ahead with discipline; and
- 5) notice of the employee's right to have a representative present at the hearing.

If the employee fails or refuses to appear, the disciplinary action may proceed to be imposed. Pre-disciplinary hearings will be presided over by the City Manager or a designated representative

Although the written notice of the City's explanation of reasons (as outlined in item 2 above) should be sufficient to inform the employee of the basis for discipline, this procedure shall not be construed to limit the City at any subsequent hearing or proceeding from presenting a more detailed and complete case related to the basis for discipline, including the presentation of witnesses and documents not introduced at the pre-disciplinary hearing.

If the City Manager decides to proceed with termination, or some other disciplinary action, the City will give the employee written notice of termination or the other discipline to be imposed.

#### **10.4 LAYOFF AND TERMINATION**

The City Manager may layoff or terminate employees for disciplinary reasons, lack of work, budgetary restrictions, reorganization, elimination of a position or service, or other changes that have occurred or are expected to take place. The City Manager may enter into employment separation agreements providing laid off or terminated employees with agreed-on salary and benefits.



Temporary employees or employees who have not completed a trial period will usually be laid off before regular employees are affected.

Options such as part-time work schedules, furloughs, job sharing and voluntary time and/or pay reductions may also be explored, if, in the opinion of the City Manager, such options are in the best interests of the City.

In the event the City determines that layoffs are appropriate, regular employees will usually be retained on the basis of job performance and the qualifications required for remaining jobs. This may include consideration of relative qualifications, experience, past and current job performance evaluations, knowledge, abilities and skills required for the position, the employee's ability to perform the remaining work without further training, and other relevant factors as determined by the City.

For a period of twelve (12) months from the date of layoff, regular employees who were laid off will be placed on the City's job announcement mailing list to assist them in applying for other job vacancies for which they are qualified.

These layoff procedures are guidelines only and shall not create any right of action in the event of deviation from the guidelines. The City retains at all times the discretion to select which individuals it will lay off and which employees/positions it will retain in order to best meet its short and long-term needs.

## **10.5 RESIGNATION**

An employee should provide two (2) weeks notice of resignation. This time limit may be waived by the employee's department director or the City Manager.

An employee wishing to leave City service in good standing shall file with the department director, at least two (2) weeks before leaving, a resignation letter including the reason for the resignation and the effective date. A copy of the resignation shall be forwarded to Human Resources. Resignations are automatically accepted and may not be rescinded without authorization of the City Manager.

Employees are responsible for returning all City property in their possession to their supervisor on or before their last day worked. This includes but is not limited to any City-issued property such as keys, credit cards, cell phones, tools, uniforms, documents, files, records, information stored on a personal computer or disk, office supplies, or equipment. Computerized data generated in the course of employment is considered the property of the City.

# CHAPTER 11

## COMPLAINT PROCEDURES

### 11.1 COMPLAINT PROCEDURES

**THIS COMPLAINT PROCEDURE DOES NOT APPLY TO DISCRIMINATION, RETALIATION OR WHISTLEBLOWER COMPLAINTS.** Employees having complaints about workplace harassment, discrimination or retaliation should follow the anti-discrimination complaint procedure outlined in section 2.7. Employees wishing to complain about improper governmental action or retaliation for filing such a complaint should follow procedures outlined in section 11.2.

The City of Port Townsend recognizes that sometimes situations arise in which employees feel they have not been treated fairly or in accordance with City policies. For this reason the following procedures for resolving complaints are provided:

Step 1: Employees should first try to resolve any problem or complaint with their immediate supervisor.

Step 2: When normal communication between an employee and a supervisor is not successful, or when an employee disagrees with the application of City policies and procedures, the employee should attempt to resolve the problem with the department director. The department director will respond to the employee, in writing, after meeting with him/her.

Step 3: If the employee is not satisfied with the response from the department director, he/she may submit the complaint, in writing, to Human Resources for review by the City Manager. The written complaint must contain, at a minimum: a description of the complaint, the specific policy or procedure which is believed to be violated or misapplied, the date of the circumstances leading to the complaint or the date when the employee first became aware of the circumstances, and the remedy sought by the employee to resolve the complaint.

The written complaint must be submitted to the City Manager within thirty (30) days of the occurrence leading to the complaint, or thirty (30) days after the employee becomes aware of the circumstances, whichever date last occurs.

The City Manager may meet with the parties, either individually or together, and will usually respond in writing to the aggrieved employee within ten (10) working days of the meeting. A longer period for response may be required when the situation warrants. The City Manager's response and decision shall be final and binding.

Certain employees may have more than one source of dispute resolution procedure, i.e., the City's Civil Service rules, a collective bargaining agreement, if any, and this complaint process. Employees represented by a bargaining unit or who are covered under civil service rules must follow grievance procedures set out in the respective labor contracts or civil service rules, where applicable. Under no circumstances shall an employee have the right to utilize more than one complaint or appeal procedure available to employees.

## **11.2 REPORTING IMPROPER GOVERNMENTAL ACTION**

In compliance with the Local Government Employee Whistleblower Protection Act, Ch. 42.41 RCW, the City of Port Townsend encourages employees to disclose any improper governmental action taken by City officials or employees without fear of retaliation. This policy also safeguards legitimate employer interests by encouraging complaints to be made first to the City, with a process provided for speedy dispute resolution.

### **Key Definitions:**

**Improper Governmental Action:** any action by a municipal official or employee that is:

- 1) Undertaken in the performance of the official's or employee's official City duties, whether or not the action is within the scope of the employee's employment, and
- 2) Is in violation of any federal, state or local law or rule; an abuse of authority, of substantial and specific danger to the public health or safety; or a gross waste of public funds.

"Improper governmental action" does not include personnel actions including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands. In addition, employees are not free to disclose matters which would affect a person's right to legally-protected confidential communications, such as attorney-client privilege or executive session communications.

**Retaliatory Action:** Is defined as any material adverse change in the terms and conditions of an employee's employment as defined in RCW 42.41.020(3), that is substantially motivated by the employee's decision to prepare or participate in a whistleblower complaint.

**Emergency:** Is defined as a circumstance that if not immediately changed may cause damage to persons or property.

**Procedure for Reporting Improper Government Action:** City employees who become aware of improper governmental action should follow this procedure:

- 1) Bring the matter to the attention of his/her supervisor, if the supervisor is not involved in the matter, in writing, stating in detail the basis for the employee's belief that an improper action has occurred. This should be done as soon as the employee becomes aware of the improper action.
- 2) Where the employee believes the improper action involves the supervisor, the employee may raise the issue directly with the City Manager or City Attorney. Where the employee believes the improper action involves the City Manager, the employee may raise the issue directly with the City Attorney. The complaint should be in writing, stating in detail the basis for the employee's belief that an improper action has occurred.
- 3) In the case of an emergency, where the employee believes that damage to persons' property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency responsible for investigating the improper action, or the Jefferson County Prosecutor.
- 4) After an investigation is completed (usually within thirty (30) days of the employee's report), the employee will normally be advised of the results of the investigation; however, personnel actions taken as a result of the investigation may be kept confidential.

Employees involved in reporting improper governmental action or participating in the investigation may request that their identities be kept confidential. City officials and those involved in the investigation will honor this request to the extent possible under law, business necessity and the needs of the investigation. Confidentiality however cannot be guaranteed.

An employee who fails to make a good faith effort to follow this policy shall not be entitled to the protection of this policy against retaliation. "Good faith" includes a requirement that, except in an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a person listed above, the employee shall submit a written report to the local government. The employee is also charged with the responsibility to reasonably ascertain correctness of the information furnished and may be subject to

disciplinary action, including but not limited to termination, for knowingly furnishing false information as determined by the appointing authority.

Employees may report information about improper governmental action directly to an outside agency if the employee reasonably believes that an adequate investigation was not undertaken by the City to determine whether an improper government action occurred, or that insufficient action was taken by the City to address the improper action or that for other reasons the improper action is likely to recur. Whistleblower actions can be reported to the Washington State Auditor's Office, the Washington State Attorney General's Office, as well as other state and federal offices.

**Protection Against Retaliation:** It is unlawful for a local government to take retaliatory action because an employee, in good faith, provided information that improper governmental action occurred. Employees who believe they have been retaliated against for reporting an improper governmental action should comply with the following procedures.

**Procedure for Seeking Relief Against Retaliation:**

- 1) Employees must provide a written complaint to their supervisor, the City Manager, or the City Attorney within thirty (30) days of the occurrence of the alleged retaliatory action. The written charge shall specify the alleged retaliatory action and the relief requested.
- 2) The supervisor, City Manager, or City Attorney shall investigate the employee's written complaint of retaliation. A written response to the charge of retaliatory action and request for relief shall be provided within thirty (30) days of receipt of the written charge, unless additional time is needed to determine the validity of the allegations in the complaint.
- 3) After receiving the City's response, the employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and obtain relief according to law. The employee must deliver the request for hearing to the City Manager within fifteen (15) days of receipt of the City's response to the retaliation charge.
- 4) Within five (5) working days of receipt of a request for hearing, the City shall apply to the Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge, at the following address:

Office of Administrative Hearings

PO Box 42488  
Olympia, WA 98504-2488  
(360) 664-8717

At the hearing, the employee must prove that retaliation occurred by a preponderance of the evidence. The administrative law judge will issue a final decision not later than forty-five (45) days after the date of the request for hearing, unless an extension is granted.

Violations of the Whistleblower policy and these procedures may result in appropriate disciplinary action, up to and including termination. The City will consider any recommendation provided by the administrative law judge that the retaliator be suspended, with or without pay, or terminated.