

# CITY OF NEWPORT



# EMPLOYEE HANDBOOK

REVISED AND EFFECTIVE JULY 1, 2024

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## **PROCESS FOR POLICY CHANGES AND ADMENDMENTS TO THE HANDBOOK**

The City Manager is authorized to update the policies in the employee handbook that do not have an economic impact to the city.

Policies that have an economic impact to the city will require City Council review and approval.

Economic impact is defined as having an impact to compensation and/or benefits provided to the employees.

A fourteen (14) day comment period will be given to department heads and Presidents of Collective Bargaining Units before the policies are finalized.

Once finalized, employees will be notified via their city email address accounts thirty (30) days in advance of the policy effective date, except in the case of emergency situations, as deemed by the City Manager.

## SECTION 15-1 WELCOME

Welcome to the City of Newport – we are glad to have you on our team. At the city, we believe that our employees are our most valuable asset. In fact, we attribute our success in a significant part to our ability to recruit, hire, and maintain a motivated, professional and productive workforce. We hope that during your employment with the City of Newport you will become a productive and successful member of the team.

### 15-1.10 HISTORY

The City of Newport, incorporated in 1882, is the population center of the Central Oregon Coast and has a broad and multi-faceted economic base. Newport is the county seat of Lincoln County, and houses the offices of several federal and state agencies, including a major Coast Guard station, Oregon State University's Hatfield Marine Science Center, NOAA's MOC-P headquarters, the Oregon State Police, Oregon DMV, and Oregon Employment Division offices.

The city is home to the Samaritan Pacific Communities Hospital, and the main campus of the Oregon Coast Community College. OCCC is a premier educational institution and unique in its aquarist program. Its aquarist graduates are working in aquarium and research facilities throughout the country. Newport has a permanent population of more than 10,000, and large seasonal increases due to tourism.

The Yaquina River flows into the Pacific Ocean through Newport's Yaquina Bay. Newport is home to the Oregon Coast Aquarium, one of the country's premier aquariums. A substantial commercial fishing fleet calls Newport home, as do several marine research vessels and a large number of private boats docked in marinas around the Bayfront. Newport is one of three deep-water ports on the Oregon Coast. Tonnage of shipping is second behind Coos Bay.

Newport has often been described as the most authentic city on the entire Oregon Coast and is a prime tourist destination. The city boasts numerous fine shops, restaurants, galleries, lodging establishments, and endless outdoor recreational opportunities.

Proximity to Portland and the Willamette Valley provides a strong tourism base, and the mid-latitude of Oregon provides significant rainfall during the winter and spring months, and mild temperatures.

### 15-1.20 MISSION STATEMENT

The City of Newport pledges to develop, provide, promote and manage the essential services for the community while directing services to continue with the wellbeing and public safety of residents and visitors. The city will maintain fiscal responsibility while encouraging and assisting community partners and agencies with economic diversification, sustainable development, and livability, for the City of Newport. ***(Adopted by the Newport City Council on March 16, 2009.)***



### 15-1.30

### WHO WE ARE, WHAT WE DO, and WHY WE DO IT

#### Who We Are?

We are professional service providers, community members, and problem solvers. We strive to operate transparently, and be good stewards of the public trust. We serve as caretakers of facilities and provider of services to the taxpayers.

#### What Do We Do?

We provide competent and professional municipal services and activities to enhance the quality of life of the community; and plan, build, and maintain public assets for use by residents and visitors; and support the community vision.

#### Why Do We Do It?

We are community-minded, and maintain a high level of optimism to make the community a better place by maximizing the use of available resources to address the basic health, safety, and welfare, build a sustainable economy, and enhance the livability for the residents, and visitor in the City of Newport.

### 15-1.40

### VALUE STATEMENT

In conducting our responsibilities to the people, workers, and visitors to the City of Newport, we:

Value ethics and vow to operate with integrity and honesty to earn and maintain public trust.

Ethics - A system of moral principles that defines acceptable and expected behavior.

Maintain a high value of professionalism in our relationship with each other, our residents and visitors.

Professionalism – Skillsets that include good judgment, respect, and high standards of conduct.

Value inclusiveness and equity in providing quality services to a diverse community.

Inclusiveness -The practice or policy of providing equal access to opportunities and resources for people who might otherwise be excluded or marginalized, such as those having physical or intellectual disabilities or belonging to other minority groups.

Exercise empathy by listening, understanding, and respecting other perspectives in carrying out our responsibilities.

Empathy – The ability to understand and share the feelings of another.

Respect each other and value the well-being of all.

Respect - A due regard for the feelings, wishes, rights or traditions of others.

Are accountable for our actions in carrying out our responsibilities for the city.

Accountable – Acceptance of responsibility for our actions.

### **15-1.50 OPEN DOOR POLICY**

The City of Newport has adopted an Open-Door Policy for all employees. The purpose of our open-door policy is to encourage open communication, feedback, and discussion about any matter of importance to an employee. Our open-door policy means that employees are free to talk with HR or any member of management at any time about any topic.

If any area of your work is causing you concern, you have the responsibility to address your concern with your immediate supervisor or department head. Most problems can and should be solved in discussion with your immediate supervisor; this is encouraged as your first effort to solve a problem. But an open-door policy means that you may also discuss your issues and concerns with the next levels of management and/or Human Resources. No matter how you approach your problem, complaint, or suggestion, you will find management at all levels of the organization willing to listen and to help bring about a solution or a clarification. By listening, the city is able to improve, to address complaints, and to foster employee understanding of the rationale for practices, processes, and decisions.

While there may not be an easy answer or solution to every concern, employees have the opportunity, through the open-door policy, to be heard.

The open-door policy includes the assurances that the city will not tolerate retaliation for the employee pursuing their rights to talk to HR or any level of management.

### **15-1.60 ABOUT THIS HANDBOOK**

This employee handbook describes, in summary, the personnel policies and procedures that govern the employment relationship between the city and its employees, other than those found in applicable collective bargaining agreements.

This handbook supersedes any prior handbooks or written policies of the city that are inconsistent with its provisions.

To the extent that a provision in a valid CBA or is inconsistent with what is in this Employee Handbook, the CBA provision controls.

This handbook does not substitute for Collective Bargaining Agreement (CBA) provisions.

The policies stated in this handbook are subject to change at any time at the sole discretion of the City of Newport with or without prior notice. You will receive updated information via e-mail concerning changes in policy from time to time, and those updates will be maintained online as part of the handbook. These policies will also be distributed via the city's online training system. If you have any questions about any of the provisions in the handbook, or any policies that are issued after the handbook, please ask your supervisor or human resources.

The Handbook is not intended to be comprehensive or to address all the possible applications or exceptions to the general policies and procedures of the City of Newport. The information provided in this Handbook is based on the belief that common sense, good judgment, respect and consideration for the rights of others are paramount to our ability to serve our members and ourselves. We have tried to anticipate many of your questions, but in no way do we believe that this document will provide every answer. For that reason, if you have any questions concerning eligibility for a particular benefit, or the applicability of a policy or practice to you, you should address your specific questions to your supervisor. For the purposes of this handbook, “supervisor” means the person to whom you report.

This handbook does not create a contract of employment between the City of Newport and its employees.

All employment at the city is “at will.” That means that either you or the city may terminate this relationship at any time, for any reason, with or without cause or notice (unless you are subject to a collective bargaining agreement or written contract of employment). No supervisor, manager, or representative of city other than the City Manager has the authority to enter into any agreement with you regarding the terms of your employment that changes the at-will relationship or deviates from the provisions in this handbook, unless the change or deviation is put in writing and signed by the City Manager (or that is included in a collective bargaining agreement).

Some subjects described in this Handbook such as benefit plan information are covered in detail in official policy documents. You should refer to these documents for specific information, since this Handbook only briefly summarizes those benefits. Please note that the terms of the written insurance policies or summary plan descriptions are controlling.

In addition to the policies outlined in this handbook, the City of Newport has administrative policies and procedures that are available from your department head. You should familiarize yourself with those policies.

If you have any concerns regarding your employment with the City of Newport, please discuss this with your supervisor. We want your experience with us to be challenging, rewarding, and enjoyable.

## **15-1.70 DEFINITIONS**

**Agency Temporary (non-benefited)** - Employment in a job established for a specific purpose, for a specific period, or for the duration of a specific project or group of assignments. Temporary employment can be either full-time or part-time. Agency temporary employees are employee of the staffing agency and are not employees of the city. They are not eligible for any city provided benefits including workers compensation.

**Benefits-Eligible** – Qualified employees hired into regular full-time or regular part-time positions. Temporary, On-Call, and Regular Part-Time-Non-Benefit employees do not receive benefits or compensation other than wages or benefits required by state or federal law. Benefit levels are further defined in this section for full-time and part-time employees.

**City Manager** – The City Manager of the City of Newport, including any pro-tem City Manager, and any designee of the City Manager.

**City Temporary (non-benefited)** – An employee hired as an interim replacement to temporarily supplement the workforce or to assist in the completion of a specific project scheduled to work for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees are generally part-time and will work no more than 29 hours per week and no more than 599 hours during a calendar year. Scheduling of temporary staff is based on the needs of the city. No benefits are provided unless required by state or federal law.

**Class or Classification** – A group of positions sufficiently similar in duties, authority, and responsibilities that the same qualifications may reasonably be required for, and the same schedule of pay can be equitably applied to, all positions in the group.

**Collective Bargaining Agreement** - A written legal contract between an employer and a union representing the employees. The CBA is the result of an extensive negotiation process between the parties regarding topics such as wages, hours, and terms and conditions of employment.

**Compensatory Time Off** – Time off from work to compensate a non-exempt employee for overtime worked, in lieu of cash. Unless otherwise defined in a collective bargaining agreement, compensatory time is accrued at the same rate as overtime.

**Continuous Service** – Service unbroken by separation from the city, except that time spent by an employee on military leave or for the Peace Corps will be included as continuous service. Time spent on other unpaid leaves in excess of thirty (30) calendar days will not count as part of continuous service, except those employees returning from such leave, or employees who were laid off will be entitled to credit for service prior to the leave/layoff.

**Day** – Unless specified as a calendar day, “day” means a day when City Hall is open for business.

**Demotion** – An appointment of an employee from a position in one class to a position in another class having a lower maximum salary rate. (A reclassification to a lower classification is not considered a demotion.)

**Domestic Partner** – A person over the age of 18 living with an unmarried employee designated by the employee as the employee’s registered domestic partner.

**Exempt Employee** – An employee who is exempt from the overtime pay requirements under federal and state laws. Exempt employees generally include executives, managers, professional, administrative, or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

**Fair Labor Standards Act Job Classifications** -All employees are designated as either non-exempt or exempt under Oregon and federal wage and hour laws.

**Fiscal Year** – The twelve (12) month period beginning July 1 and ending June 30.

**Hourly Rate** – Base rate of compensation for each hour of work completed. It is determined by dividing the annual salary by the regular number of hours worked each year, except for certain Fire Department personnel whose hourly rate of pay will be computed in accordance with the 7(k) provisions of the Fair Labor Standards Act (FLSA).

**Layoff** - (Reduction in force) – A separation from city employment when there are changes in duties, a position or service no longer exists, a lack of work or shortage of funds, or other situations that do not reflect discredit on an employee.

**No Call/No Show** - An unscheduled absence without proper notification to the employee's supervisor or department.

**Non-Exempt Employee** – An employee whose job is covered by the Fair Labor Standards Act (FLSA). They are *not* exempt from the law's requirements concerning minimum wage and overtime.

**On-Call Employee** - An employee, excluding firefighters, who does not have a set schedule, and works only when called upon. Generally, on-call employees will not work more than 599 hours during a calendar year. On-call employees are not eligible for any benefits other than those required by state or federal law.

**Overtime** –Excluding represented Fire Department and Police Department employees, overtime is time worked in excess of forty (40) hours per week.

For fire protection and police employees, overtime is defined in the collective bargaining agreement.

**Pattern Absences** - Unscheduled absences the day before or after a scheduled holiday, vacation, or personal day; on a desirable day off, a specific day of the week, or a weekend; a specific or unique workday; or as sick leave or other paid time off is accrued.

**Pay-By-Exception** – A “pay-by-exception” process differs from traditional, or legacy, payroll systems (like most people are probably used to) in that instead of “building up” to a gross amount on a paycheck, the city pays an expected estimated wage to our respective employees each month and only alter that compensation when “exceptions” to that pay – be they positive or negative – occur.

**Personnel Action** - Any action taken with reference to appointment, compensation, promotion, transfer, layoff, discipline, dismissal or any other action affecting the status of employment. These actions are documented via a Personnel Action Form, and maintained in the employee's personnel file.

**Promotion** - The movement of any employee from a position in one class to a position in another class having a higher maximum salary rate. (A reclassification to a higher classification is not considered a promotion.)

**Probationary Period**– Used to assess a new employee’s ability to perform the essential job functions. Completion of the Probationary Period does not alter an employee’s at-will status.

**Reclassification** - The allocation of a position to another class when the duties and responsibilities of the existing position have significantly changed.

**Scheduled Absence** - A scheduled absence occurs when an employee requests time off in a timely manner in accordance with departmental and city policies and applicable collective bargaining contracts. Some examples of, but not limited to, scheduled absences include approved vacation, personal holidays, jury duty, military-related, bereavement leave, and FMLA or OFLA leave.

**Seniority** - The length of the employee's continuous service to the city since the employee's last date of hire, unless provided for by a collective bargaining agreement.

**Service Time** – The length of time an employee has paid employment with the city.

**Suspension** - An involuntary absence with or without pay imposed for disciplinary purposes or for the investigation of possible disciplinary infractions.

**Tardy** - Failure to report to an employee’s assigned work area at his or her scheduled start time, including returning from breaks and meal periods.

**Termination** – Voluntary or involuntary termination of employment with the city.

**Transfer** - Appointment to a position in the same or different class, which has the same salary range.

**Unscheduled Absence** - Failure to report to work on a scheduled workday or working less than half of a scheduled workday due to tardiness or leaving early without a written and approved time off request from at least the previous day. Absences on consecutive days for the same reason will count as one unscheduled absence for each day under this policy. Some examples of unscheduled absences include absences due to car trouble, caring for a family member who has the flu, and home emergency.

**Work Week** - The basic workweek for city employees begins at 12:01 A.M. on Monday and ends at midnight on Sunday. A different workweek may be established for either a group of employees or an individual employee with the approval of the City Manager or designee. A copy of this approved workweek will be placed in the employee's personnel file. The city reserves the right to modify the workweek.

## **SECTION 15-2 EMPLOYMENT**

### **15-2.10 AT-WILL NOTICE**

Unless covered under a collective bargaining agreement, employees of the City of Newport, are engaged in an “at will” employment relationship. This means that either you or the city may terminate the employment relationship at any time for any lawful reason,

with or without notice. Our at-will provision extends to all employees unless otherwise exempted by a collective bargaining agreement.

The City of Newport is also not bound by any oral promises concerning your length or conditions of employment.

## **15-2.20      EQUAL EMPLOYMENT OPPORTUNITIES (EEO)**

The City of Newport is an equal opportunity employer. In accordance with anti-discrimination law, The City of Newport (the “city”), prohibits discrimination and harassment of any type and provides equal employment opportunities to all qualified persons and administers all aspects and conditions of employment without unlawful regard to race, religion, color, sex (includes pregnancy-related conditions), gender, gender identity, sexual orientation, pregnancy, age, national origin, ancestry, physical or mental disability, medical condition, marital status, ethnicity, victims of domestic violence or stalking, association with a protected class, genetic information, protected veteran status, military/veteran status, injured workers, lawful use of off-duty tobacco products, family relationship, employment status, or any other status protected by applicable federal, Oregon, or local law.

The city also recognizes an employee’s right to engage in protected activity under Oregon and federal law, as discussed in various policies below, and will not retaliate against or make any employment decisions regarding an employee who engages in protected activity.

For purposes of this and all other city policies, “race” is defined to include physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hair styles), Further, “protective hairstyles” are defined as “hairstyle, hair color or manner of wearing hair, including braids (regardless of whether the braids are created with extensions or styled with adornments, locs and twists)”.

The city’s commitment to equal opportunity applies to all aspects of the employment relationship — including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

The policies and principles of EEO also apply to the selection and treatment of independent contractors, personnel working on our premises who are employed by temporary agencies and any other persons or firms doing business for or with the city.

The EEO Policies apply to all employees and volunteers. Members of management, elected officials, employees and volunteers alike are expected to adhere to and enforce the EEO Policies. Violations of this policy, regardless of whether an actual law has been violated, will not be tolerated. The city will promptly, thoroughly and fairly investigate every issue that is brought to its attention and will take disciplinary action, when appropriate, up to and including termination of employment.

All employees are encouraged to discuss these EEO Policies with Human Resources at any time if they have questions relating to the issues of harassment, discrimination, retaliation or bullying, or what it means to work in a respectful workplace.



### **15-2.30 GENETIC INFORMATION NON-DISCRIMINATION ACT (GINA)**

The City of Newport does not discriminate against applicants or employees based upon either the employee's or the employee's family genetic information; nor does the city use genetic information in employment decisions.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to a request for medical information.

'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Once a condition manifests itself, the GINA no longer applies. More detailed information about GINA is available on the EEOC poster placed on the employee bulletin board in breakrooms of each city facility.

### **15-2.40 DIVERSITY, EQUITY, AND INCLUSION**

The city is committed to fostering, cultivating and preserving a culture of diversity, equity, and inclusion.

Our human capital is the most valuable asset we have. The collective sum of the individual differences, life experiences, knowledge, inventiveness, innovation, self-expression, unique capabilities and talent of our employees and that which they invest in their work represents a significant part of not only our culture, but our reputation and the city's achievement as well.

The city's diversity initiatives are applicable—but not limited—to our practices and policies on recruitment and selection; compensation and benefits; professional development and training; promotions; transfers; social and recreational programs; layoffs; terminations; and the ongoing development of a work environment built on the premise of age, gender and diversity equity that encourages and enforces:

- Respectful communication and cooperation between all employees. Teamwork and employee participation, permitting the representation of all groups and employee perspectives.
- The city works to accommodate employees' varying needs.
- Employer and employee contributions to the communities we serve to promote a greater understanding and respect for diversity.

All employees of the city have a responsibility to treat others with dignity and respect at all times. All employees are expected to exhibit conduct that reflects inclusion during work, at work functions on or off the work site, and at all other city-sponsored and participative events.



All employees are also required to attend and complete annual diversity awareness training to enhance their knowledge to fulfill this responsibility. Any employee found to have exhibited any inappropriate conduct or behavior against others in violation of this or another city policy may be subject to disciplinary action.

Employees who believe they have been subjected to any kind of discrimination that conflicts with the city's diversity policy and initiatives should refer to city policy Section 15-4.10.

#### **15-2.50      MOTOR VEHICLE DRIVING RECORD**

The City of Newport seeks to safeguard its employees and others when driving a motor vehicle (city or personal vehicles) which may be required in the course of conducting city business.

The city conducts motor vehicle record checks on job applicants following a conditional offer of employment if they are required to drive as part of their position and, thereafter, annually for employees for whom driving a motor vehicle is an essential job function or when employees must obtain and drive rental vehicles during the course of conducting city business.

After conducting an individualized assessment, exceptions may be made for individuals who do not hold a driver's license due to disability, religious belief or other reasons not related to license suspension or criminal conviction or for whom driving a motor vehicle is not an essential job duty.

#### **15-2.60      ANNIVERSARY DATE**

The first day of work with the city shall be the employee's date of hire and shall become the employee's anniversary date.

Employees who terminate, and are rehired at a later time, will start their employment over with a new hire date and anniversary date.

An employee's year of service is based on the anniversary date. Certain benefits and procedures are determined by the employee's anniversary date. These include, but are not necessarily limited to, the following:

1. Performance evaluations and/or wage and salary reviews;
2. Earning of vacation and the taking of vacation, including service with the city if a conflict occurs between two employees when scheduling vacation time;
3. Accrual of sick leave benefits.
4. Benefits eligibility.
5. In situations where an employee is promoted or transferred into a new position, future step increases will be based on the effective date of the promotion or transfer.

For the City of Newport Retirement Program, the term 'years of service' means a 12-consecutive month period during which the employee is employed by the city as a qualified employee.

Service time may be impacted by other provisions in the handbook related to unpaid leaves of absence and layoffs.

#### **15-2.70 IMMIGRATION LAW COMPLIANCE**

The city complies with the Immigration Reform and Control Act of 1986 (IRCA) and hires only those individuals who are eligible to work in the United States. The city is required to complete and retain a Form I-9 for every employee hired for employment regardless of citizenship or nationality. Based on Department of Homeland Security requirements, verification documentation is required of all new hires on the first day of employment.

Employees are expected to inform the city immediately if their eligibility changes.

Only those individuals who have been extended and accepted an offer of employment should complete an I-9. Expired documents are not valid documents for I-9 purposes.

#### **15-2.80 PROBATIONARY PERIOD**

The probationary period is used to assess a new employee's ability to perform the essential job functions. Completion of the probationary period does not alter an employee's at-will status.

All new employees, including current employees who are promoted or transferred within the city, are hired into a probationary period, which generally lasts no less than six months. Some positions, such as Police Sergeants, may have a longer trial service period. The probationary period is an extension of the employee selection process. During this period, you are considered to be in training and under observation and evaluation by your supervisor. Evaluation of your adjustment to work tasks, conduct, and other work rules, attendance and job responsibilities will be conducted during the probationary period. This period gives you an opportunity to demonstrate satisfactory performance for the position, and provides an opportunity to determine if your knowledge/skills/abilities (KSAs) match the requirements of the position. It is also a chance for you to decide if the city meets your expectations as an employer.

At or before the end of the probationary period, a decision about the employment status will be made based on satisfactory performance. The city will decide whether to: (1) extend the probationary period; (2) determine it to be successfully completed or; (3) terminate employment.

Employees are not guaranteed any length of employment upon hire or transfer/promotion; both you and the city may terminate the employment relationship during the probationary period for any or no reason. Further, completion of the probationary period or continuation of employment after the probationary period does not entitle you to remain employed by the city for any definite period. The employee or the employer are free to terminate the employment relationship, at any time, with or without notice, and for any reason not prohibited by law.

#### **15-2.90 EMPLOYMENT CLASSIFICATIONS**

It is the intent of the city to clarify the definitions of employment classifications so that employees understand their employment status and benefits eligibility.

These classifications do not guarantee any length of employment upon hire or transfer/promotion. Further, completion of the introductory period or continuation of employment after the introductory period does not entitle you to remain employed by the city for any definite period. Both you and the city are free to terminate the employment relationship, at any time, with or without notice and for any reason not prohibited by law.

All employees, regardless of employment classification, are subject to the city's policies and procedures.

### **Fair Labor Standards Act Job Classifications**

All employees are designated as either non-exempt or exempt under state and federal wage and hour laws:

- **Non-Exempt employees** are employees whose job is covered by the Fair Labor Standards Act (FLSA). They are *not* exempt from the law's requirements concerning minimum wage and overtime.
- **Exempt employees** are generally executives, managers, professional, administrative, or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

Employees will be informed as to whether they are exempt or non-exempt at the time of hire or when a promotion or demotion occurs. All employees, regardless of employment classification, are subject to all city policies and procedures.

### **Job Classifications**

The city has established the following classifications for both non-exempt and exempt employees:

**Regular Full-Time Employees (full benefits)** – An employee regularly scheduled to work the city's full-time schedule of 40 hours per week. Fire personnel are scheduled to work either 40 hours per week. {Except for represented Fire Department employees where full-time averages 56 hours per week in accordance with the 7(k) provisions of the Fair Labor Standards Act (FLSA)}. Generally, they are eligible for the full benefits package, subject to the terms, conditions, and limitations of each benefit program.

**Regular Part-Time – working 30 or More Hours per Week (partial benefits)** - Regular part-time employees who work between 30-39 hours per week are generally eligible for the full medical and retirement benefits package, subject to the terms, conditions, and limitations of each benefit program. Eligible employees will receive pro-rated vacation and holiday hours based on hours worked. Eligible employees will accrue sick leave in accordance with the Oregon Paid Sick Leave Law.

**Regular Part-Time (partial benefits) – working 20 – 29 Hours per Week** – An employee regularly scheduled to work between 20-29 hours per week are eligible for some of the benefits offered by the city, subject to the terms, conditions, and limitations of each benefit program. Eligible employees will receive pro-rated vacation and holiday hours based on hours worked. Eligible employees will accrue sick leave in accordance with the Oregon Paid Sick Leave Law.

**Regular Part-Time – working less than 20 Hours per Week (non-benefited)** - An employee regularly scheduled to work less than 20 hours/week. No benefits are provided unless required by state or federal law. Eligible employees will accrue sick leave in accordance with the Oregon Paid Sick Leave Law.

**Seasonal Employee (non-benefited)** - An employee hired for a limited period generally not to exceed six (6) consecutive months, and hired during the same time period each year. This period may be extended by the City Manager for unusual circumstances. Seasonal employees may work up to 40 hours per week. Seasonal employees receive no benefits with the exception of those required by state or federal law. Eligible employees will accrue sick leave in accordance with the Oregon Paid Sick Leave Law.

**City Temporary (non-benefited)** – An individual hired for a specific purpose and as interim replacements to temporarily supplement the workforce or to assist in the completion of a specific project scheduled to work for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees are generally part-time and will work no more than 29 hours per week and no more than 599 hours during a calendar year. Scheduling of temporary staff is based on the needs of the city. No benefits are provided unless required by state or federal law.

**Agency Temporary Employee** - Employment in a job established for a specific purpose, for a specific period, or for the duration of a specific project or group of assignments. Temporary employment can be either full-time or part-time. Agency temporary employees are employee of the staffing agency and are not employees of the city. They are not eligible for any city provided benefits.

## **15-2.100 ON-BOARDING, PROMOTIONS, AND TRANSFERS**

On an employee's start date, the employee will complete required paperwork and a New Hire Orientation with the HR department. The new employee's department head or supervisor is responsible for providing a department orientation for the new employee. The employee's supervisor will review department policies and procedures.

### **Internal Promotions/Transfers**

Appointment to positions within the city will be based on qualifications and merit measured through an open competitive selection process. Appointments may be made solely from employees within the city if it is determined that a sufficient number of employees are interested and qualified to compete through an internal selection process.

Department heads are required to obtain authorization from the City Manager via Human Resources to recruit a position, prior to the start of recruitment.

### **Eligibility**

To be considered for an open position, an employee must:

1. Work for the city for at least 12 months and have been in your current position for at least six months. This requirement may be waived with the consent of the employee's department head and the City Manager
2. Receive a rating no lower than "competent" on your most recent performance review and must not currently be on a performance improvement plan.
3. Meet the minimum requirements for the job and be able to perform the essential functions of the position, with or without reasonable accommodation.
4. Complete the city's application for employment. The application must be completed and submitted to the HR department within the timeframe stated within the job posting.

All internal applicants will receive notice from HR as to whether they will be interviewed for the position. Although employees are not required to notify their supervisor that they have applied for a position, the supervisor will be notified should the employee become a final candidate. If hired for the position, the current and the new supervisor will work together to determine an appropriate transfer date.

## **SECTION 15-3 OREGON ETHICS**

At the City of Newport, we treat people with respect and adhere to ethical and fair business practices. The city requires its elected and appointed officials and employees to avoid situations that might cause or appear to cause their personal interests to conflict with the interests of the City of Newport, or situations that may compromise their reputation or integrity.

Employees who violate the following Ethics Policy may be subject to disciplinary action up to and including discharge.

The City of Newport employees are public employees, and as such, are also subject to the State of Oregon's ethics laws. In some cases, these laws provide limitations on the conduct of the city's employees, such as restrictions on gifts or strict definitions of conflict of interest. If you are coming to the City of Newport from work in the private sector, you may find that some activities that are common business practices in the private sector are prohibited in the public sector. Information on these laws is available at the Oregon Government Ethics Commission website, <http://www.oregon.gov/OGEC/> or call 503 378-5105. Direct your questions to the Commission before engaging in these activities.

If you have questions about whether an activity meets the city's or Oregon's ethical standards, please talk with Human Resources, or the City Recorder.

### **15-3.10 CONFLICT OF INTEREST**

City of Newport employees shall avoid situations that create, potentially create, or give the appearance of creating a conflict with the mission or objectives of the city; or could cast doubt upon objectivity between personal interests and the interests of the city.

### **15-3.20 DISCLOSURE**

City of Newport employees are required to report any potential conflict of interest they may have to their supervisor or the City Recorder.

### **15-3.30 ACCEPTANCE OF GIFTS, GRATUITIES, and FEES**

Acceptance of certain types or forms of gifts is viewed as a conflict of interest. Gifts are not to exceed \$50 per calendar year from any one source. Gifts, gratuities, loans, fees, meals, or any other items, may not be solicited at any time. or accepted either directly or indirectly, if the acceptance could be considered to influence directly or indirectly the actions of said personnel, or any other person, in any matter of city business.

### **15-3.40 CONFIDENTIALITY**

Employees working at the City of Newport have access to highly confidential, legally protected, and proprietary information. Confidential information includes all information acquired by an employee during the course of employment not generally available to the public, including legally protected information. Our citizens and staff entrust the city with confidential information. The unauthorized disclosure of such information would have a material adverse impact on the integrity of the city, and would have an adverse impact on our relationships with our citizens, elected officials, and co-workers.

No records or information including (without limitation) employee medical data, documents, files, records, computer files or similar materials may be removed from our premises without permission from the supervisor except in the ordinary course of performing duties on behalf of the City of Newport.

Additionally, the contents of records or information otherwise obtained in regard to the city's business may not be disclosed to anyone, except where required for a business purpose. Employees are subject to appropriate disciplinary action up to, and including, dismissal for revealing information of a confidential nature. Since many times it is difficult to distinguish between common and confidential information, the best rule to follow is not to discuss business information with persons outside of the City of Newport unless employees have received prior approval from their supervisor.

Employee information is confidential and may include medical, disciplinary issues, address, and personal contact information, including home addresses subject to the requirements of public records law.

All information acquired by an employee during the course of employment is to be used solely for the benefit of the City of Newport and, through the city, for the benefit of our citizens. The use of such information for personal advantage or disclosure to others is strictly prohibited. Likewise, any materials or processes developed by city employees in the performance of their jobs, is the property of the city. Employees may not take this material with them when they leave city employment, remove it from city offices for non-work-related reasons, or copy or distribute it to persons or companies, other than as required in the course of business, without written approval from the department head.

### **15-3.50 NEPOTISM**

Relatives of current employees, or individuals involved in an intimate personal or financial relationship with a current employee, are eligible for hire at the city subject to the same selection process and job requirements and will be evaluated in the same manner as any other applicant. However, persons will not be hired or promoted into



positions in which one relative (as defined by Oregon law) or person involved in an intimate personal or financial relationship, would fall under the direct line of supervision of the other family member or partner.

All employees shall avoid being in a position where they are subject to supervisory or oversight authority by a family member, member of their household, or a person with whom they have an intimate personal or financial relationship. If the relative relationship is established after employment as a result of organizational restructure, marriage, or a development of an intimate personal or financial relationship, the employees involved have an obligation to immediately inform their supervisor, and Human Resources. The employees and the city will jointly make a good faith effort to find an alternative assignment for one of the two employees. Depending on business need, this may include, but is not limited to restructuring duties, assignment to another position, and assignment to another shift or change in supervision. If no alternative assignment is available, the two employees will have 30 days to decide who will resign. If a decision is not made within 30 days, the City Manager will make the final decision.

Policy violations including, but not limited to, failure to disclose a family relation, or an intimate personal or financial relationship, will be investigated by the city. Policy violations may result in progressive discipline of employees, up to and including termination of employment. Supervisors and lead workers may be disciplined for taking employment actions based upon the relationship.

#### Oregon Ethics Law

The definition of “relative” in ORS Chapter 244 [ORS 244.175(4)] means:

- (a) The spouse/registered domestic partner, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the employee;
- (b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the employee;
- (c) Any individual for whom the employee has a legal support obligation; and
- (d) Any individual for whom the employee provides benefits arising from the employee’s employment with the city or from whom the employee receives benefits arising from that individual’s employment.

After complying with the conflict-of-interest provisions in ORS 244.120, public officials (as defined by Oregon Ethics law which includes all employees and volunteers) cannot participate in any personnel action taken by the public agency that would affect the employment of a relative or member of the public official’s household. A public official may not participate in the following [ORS 244.177(1)]: Appointing, employing or promoting, Discharging, firing or demoting Interviewing, Discussing or debating the appointment, employment, promotion, discharge, firing or demotion.

A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion or is subject to any personnel action, unless that person is a current employee of the city.

### **15-3.60 COMMUNICATIONS**

Conversations: Use care when discussing confidential information about employees in public areas, where it might be overheard; or when talking on the telephone.

Written information: Use care not to leave written information about employees where unauthorized persons can view it. This includes leaving confidential documents sitting in printer trays or placing such documents in open recycling bins. Please send internal “mail” in sealed envelopes, marked “confidential.”

### **15-3.70 MISREPRESENTATION**

As a City of Newport employee, you should consider how you represent the city in your business transactions and interactions. You should be careful not to misrepresent city policies, practices, procedures, or prices, or misrepresent your status and authority to enter into agreements. Only the City Manager is authorized to sign contracts or agreements on behalf of the city, unless specifically authorized by City Council or the City Manager. You may not use the city’s name, logo likeness, facilities, assets or other resources, or the authority of your position with the city for personal gain or private interests.

### **15-3.80 OUTSIDE EMPLOYMENT**

Generally, employees may obtain employment with an employer other than the city or engage in private income-producing activity of their own so long as that activity is not otherwise prohibited by these rules. Employees are responsible for assuring that their outside employment does not conflict with these rules.

Outside employment that creates a conflict of interest is prohibited.

An employee is prohibited from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the employee’s current or future official action.

Employees may not accept outside employment that involves:

- The use of city time (including the employee’s work time), city facilities, equipment and supplies, or the prestige or influence of the employee’s position with city. In other words, the employee may not engage in private business interests or other employment activities on the city’s time or using the city’s property;
- The performance of an act that may later be subject to control, inspection, review or audit by the department for whom the employee works (or by a State agency); or
- Receipt of money or anything of value for performance of duties that the employee is required to perform for the city.

The city requires employees to report outside employment to their supervisor via the city’s Reporting Outside Employment form before the outside employment begins. Thereafter, an employee must provide an update to their supervisor on an annual basis, or sooner if any changes in outside employment occurs. Employees who accept outside employment in violation of this policy may be subject to discipline, up to and including termination.

### **15-3.90 OFF DUTY CONDUCT**

As a rule, the City of Newport regards the off-duty activities of employees to be their own personal matter. However, there are certain types of off-duty activities that are of



concern because of the potential negative impact on the city's reputation. For that reason, employees who either engage in, or are associated with, criminal acts, or other conduct, the nature of which adversely affects the city's, or their own, ability or credibility to carry out their employment responsibilities, may be subject to disciplinary action including discharge.

For purposes of this policy, off-duty activities also include participation in online activities, including, but not limited to, forms of online publishing and discussion such as blogs, wikis, file-sharing, user-generated video and audio, virtual worlds, and social networks. See also Social media policy in Section 15-9.6.

### **15-3.100 CRIMINAL ACTS**

Employees who are arrested or convicted of a felony, misdemeanor or other offense must notify HR within five (5) calendar days of the arrest. In addition, the employee must notify HR within five (5) calendar days of a conviction. Upon learning of the arrest or conviction, the city will run a relevant background check to determine if the offense may adversely affect the employee's ability to perform their job or if the conviction may have an adverse effect on the city (if employment were to continue).

Conviction of a crime is not an automatic bar to continued employment. The city will review the underlying facts of the matter; any action taken will be on a case-by-case basis, considering the totality of the circumstances. Actions may range from no action, to disciplinary action including discharge.

Failing to report an arrest or a conviction constitutes grounds for discharge. Furthermore, misrepresentation of the circumstances of the events can serve as grounds for discharge.

Employees who are unavailable to report for work due to incarceration may be subject to disciplinary action, including discharge.

Any member of management who is aware of an employee's arrest or conviction must immediately disclose the information to HR. Failure to do so may result in disciplinary action including discharge.

### **15-3.110 PROHIBITED POLITICAL ACTIVITY**

Oregon law (ORS 260.432(2)) provides that "No public employee may solicit money, influence, or otherwise promote or oppose any political committee, or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this policy does not restrict the right of a public employee to express personal political views while off duty."

Employees cannot be engaged in political activities or otherwise promote political candidates or causes during work hours. Employees may not post political slogans or campaign material in city vehicles.

## SECTION 15-4 CONDUCT AND BEHAVIOR

The City of Newport believes policies and procedures are essential for the orderly operation of business and for the protection and fair treatment of all employees. As a result, we have clearly identified performance expectations so that everyone can act in accordance with our workplace standards. Courtesy and common sense should always prevail. The following work rules are not all-inclusive, but serve as guidelines to demonstrate work behaviors considered important to the city.

### 15-4.10 NO-HARASSMENT

The City of Newport prohibits harassment **of any kind** or sexual assault in the workplace, or harassment or sexual assault outside of the workplace that violates its employees and volunteers' right to work in a harassment-free workplace. Specifically, the city prohibits harassment or conduct related to an individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of discrimination, harassment, and sexual assault. Further, all employees are responsible for respecting the rights of other employees and to refrain from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or with human resources, at any time if they have questions relating to the issues of discrimination or harassment.

This policy applies to and prohibits sexual or other forms of harassment that occur during working hours, during city-related or -sponsored trips (such as conferences or work-related travel), and during non-working hours when that off-duty conduct creates a hostile work environment prohibited by this policy for any of the city's employees. ***Such harassment is prohibited whether committed by employees or by non-employees and should be reported to management and HR.***

#### Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is "welcome"), when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual's body, sexual prowess, or deficiency;

talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex.

This is not a complete list.

### **Other Forms of Prohibited Harassment**

City policy also prohibits harassment against an individual based on the individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Such harassment may include verbal, written or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual's protected class or protected activity, and can include:

1. Jokes, pictures (including drawings), epithets, or slurs;
2. Negative stereotyping;
3. Displaying racist symbols anywhere on city property;
4. "Teasing" or mimicking the characteristics of someone with a physical or mental disability;
5. Criticizing or making fun of another person's religious beliefs, or "pushing" your religious beliefs on someone who doesn't have them;
6. Threatening, intimidating, or hostile acts that relate to a protected class or protected activity; or
7. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.
8. Negative comments or teasing a person about their natural hair, hair texture, hair type or hair style (see definition of "race" on page 1). Employees may not touch another employee's hair without permission to do so, even if the touch is extended out of curiosity or as a compliment.
9. Text messages, phone calls, and e-mails.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

### **Complaint Procedure**

Employees or volunteers who have experienced a sexual assault, any harassment, or discrimination in violation of this policy, who have witnessed such behavior, or who have credible information about such behavior occurring, are expected and should bring the matter to the attention of Human Resources or a supervisor or member of management as soon as possible. Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail message (or phone call). An employee who experiences or witnesses harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that he/she wants it to stop.

## **Investigation and Confidentiality**

All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible, consistent with the city's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, the city will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

Employees who have been subjected to harassment, sexual assault, or discrimination are encouraged to use the city's complaint-reporting procedure, described above, to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil. Although the city cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121 (five years). Further, before an employee can take any legal action against the city, the employee must provide written notice of the claim within 180 days of the act or omission the employee claims has caused them harm. When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee include enforcement of a right, imposition of a penalty, or issuance of an order to the employee's employer (in limited circumstances).

## **Protection against Retaliation**

The city prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing or discriminatory conduct, or has participated in an investigation of such conduct.

Employees who believe they have been retaliated against in violation of this policy should immediately report it Human Resources, the City Attorney or any supervisor or member of management. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

See *also* the No-Discrimination, No-Retaliation Policy, above, and the Reporting Improper and Unlawful Activity Policy, below.

## **Other Resources Available to Employees**

The city provides an Employee Assistance Program (EAP) through Canopy to employees and dependents who are enrolled in city's medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free: 1-800-433-2320, or go online to [www.cascadecenters.com](http://www.cascadecenters.com). The EAP program provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others.

The city cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

## Other Employee Rights

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing their experience.

The city is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the city to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with the city regarding their experience and/or employment status, the employee should contact human resources. The employee's request to enter into such an agreement must be in writing (e-mail or text is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If the city and employee do reach an agreement, the city will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the city or making comments that would lower the city in rank or reputation). If, however, the employee makes a request for an agreement under this paragraph, nondisclosure and non-disparagement are terms that the city and the employee may agree to. The employee will have seven days to revoke the agreement after signing

### 15-4.20 NO-BULLYING

The city strives to promote a positive, professional work environment free of physical or verbal harassment, "bullying," or discriminatory conduct of any kind. The city, therefore, prohibits employees from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment for another employee for any reason. For purposes of this policy, "bullying" refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which intimidates and creates a risk to the health and safety of the employee(s). Examples of bullying include:

**Verbal Bullying:** Slandering, ridiculing or maligning a person or their family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.

**Physical Bullying:** Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.

**Gesture Bullying:** Non-verbal threatening gestures, glances that can convey threatening messages.

**Exclusion Bullying:** Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.

**Cyber Bullying:** Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as

communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, e-mails, embarrassing pictures, videos or graphics, rumors sent by e-mail or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors or elected officials.

This is not a complete list.

Employees who have experienced bullying in violation of this policy, who has witnessed an incident of bullying, or who have credible information about an incident, are expected and should bring the matter to the attention of human resources, their supervisor, or a member of management as soon as possible. If conduct in violation of this policy is found to have occurred the organization will take prompt, appropriate action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

#### **15-4.30 AMERICANS WITH DISABILITIES ACT (ADA)**

It is the policy of the city to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC).

Under the Americans with Disabilities Act (ADA), employers are not to discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

Furthermore, it is the policy of the city not to discriminate against qualified individuals with disabilities with regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

The ADA also prohibits discrimination on the basis of an individual's relationship to someone (parent, sibling, child, spouse/significant other, etc.) with a disability.

The City of Newport offers equal employment opportunities for qualified individuals who may have a physical or mental disability, but are still able to perform the essential functions of the job with or without reasonable accommodation.

Reasonable accommodation may be available to employees and applicants, as long as the accommodation does not cause an undue hardship for the city.

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the department or unit (or, in some cases, the city) and which permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules, reassigning an individual, adjusting or modifying examinations, modifying



training materials or policies, providing readers and interpreters or making the workplace readily accessible to and usable by people with disabilities.

### **Requesting an Accommodation**

Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made with Human Resources, and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, an employee will need to secure medical verification of his or her need for a reasonable accommodation. Both the city and employee must monitor the employee's accommodation situation and make adjustments as needed.

Individuals may be protected under the ADA if any of the following conditions exist:

- They currently have a physical or mental impairment that substantially limits a major life activity.
- They have a record of such an impairment, physical or mental, that substantially limits a major life activity; or;
- They are perceived to have such impairment.
- Episodic or in remission conditions may meet the definition of a disability if it would substantially limit a major life activity when active.

Temporary, non-chronic impairments of short duration, with little or no residual effects usually are not considered disabilities under ADA. Examples of, but not limited to, impairments that typically would not meet the ADA definition of a disability: common cold, seasonal or common influenza, joint sprain, minor and non-chronic gastrointestinal disorders or broken bones that are expected to heal completely.

## **15-4.40 RELIGIOUS ACCOMMODATION**

The City of Newport respects the religious beliefs and practices of all employees and does not discriminate on the basis of religion. The city will make every effort to reasonably accommodate employees sincerely held religious beliefs with absences, schedule changes or other accommodations that do not create an undue hardship on the city's business.

### **Reasonable Accommodations**

Reasonable accommodations may include allowing flexible arrival and departure times, floating or optional holidays, flexible work breaks, use of lunch time in exchange for early departure (when state law permits), staggered work hours, and other means to enable an employee to make up time lost due to the observance of religious practices.

### **Religion**

Title VII of the Civil Rights Act of 1964 defines "religion" to include "all aspects of religious observance and practice as well as belief." Religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism and Buddhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.

### **Missing Shifts**

An employee may voluntarily seek to swap shifts with another employee when it meets the needs of the employee and suits the department's business objectives. Employees may also choose to make up time, but this option must be approved by the supervisor in advance. If the employee does not make up the time off, the employee will be required to use accrued paid time off.

### **Arrangement for Absences**

An employee whose religious beliefs or practices conflict with their job, work schedule, with the city's policy or practice on dress and appearance, or with other aspects of employment and who seeks a religious accommodation must submit a request for the accommodation to their immediate supervisor. The request should be in writing and include the type of religious conflict that exists and the employee's suggested accommodation. Employees are responsible for giving supervisors as much notice as practicable.

The employee, supervisor and HR Director will meet to discuss the request and the decision on an accommodation. If the employee accepts the proposed religious accommodation, the immediate supervisor will implement the decision. If the employee rejects the proposed accommodation.

With management approval, an employee may use vacation or other available leave for religious activities. Employees may take time off, without pay, if other leave is exhausted, and it will not create an undue hardship on the department.

Employees are encouraged to discuss any questions or issues about this policy with HR.

## **15-4.50      REPORTING IMPROPER OR UNLAWFUL CONDUCT – NO RETALIATION**

Employees may report reasonable concerns about the city's compliance with any law, regulation or policy, using one of the methods identified in this policy. The city will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules or regulations by the city;
- Mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health resulting from action of the city;
- A violation of law, regulation, or standard pertaining to safety and health in the place of employment;
- A substantial and specific danger to public health and safety resulting from actions of the city; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the city will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a



public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

### **Employee Reporting Options**

In addition to the city's Open-Door Policy, employees who wish to report potential improper or unlawful conduct should first talk to his or her supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor's response, you are encouraged to speak with your Department Head, Human Resources or the City Manager. Supervisors and managers are required to immediately inform Human Resources about reports of improper or unlawful conduct they receive from employees.

Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

If the city were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

### **Additional Protection for Reporting Employees**

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the city's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the disclosure must relate to the conduct of a coworker or supervisor acting within the course and scope of his or her employment. The disclosure must have been made to either: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with the city; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

### **Policy against Retaliation**

The city will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes he or she is disclosing information about conduct that is improper or unlawful. In addition, the city prohibits retaliation against an employee because he or she participates in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no city employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. The city may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of his or her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under

this policy if the city determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

#### **15-4.60      WORKPLACE RULES AND PROHIBITED CONDUCT**

Orderly and efficient operation of the city requires that employees maintain proper standards of conduct and observe certain procedures.

Employees are expected to regard their workplace with respect and attention. The city's records, equipment, and property are to be treated carefully and appropriately. The city's equipment is to be utilized primarily for business purposes. Personal use of the computer for a de Minimis amount of time (no more than an hour a day) is allowed. Employees are responsible for those items in your care and custody and will be held accountable for their maintenance, appropriate use, and/or accuracy.

Employees are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are established by the city or outside regulatory bodies.

Employees are expected to conduct themselves in a professional and respectful manner, exhibiting a high regard for citizens, committee/task force/board members, elected officials, and co-workers. No breach of professional behavior (abusive language, harassment, personal business during work time, etc.) will be condoned. This also applies to alcohol consumption when representing in a business or social capacity.

You are expected to maintain the confidentiality of the city's information in your possession (i.e., personnel information, certain financial information, information that is confidential under law, etc.).

Any violation of the rules or prohibited conduct in this policy may result in discipline, up to and including termination. This list of prohibited conduct is illustrative only; other types of conduct injurious to security, personal safety, employee welfare and city's operations, some of which are described elsewhere in this Handbook, may also be grounds for discipline, up to and including termination.

These guidelines are provided for informational purposes only and are not intended to be all-inclusive. Nothing herein is intended or shall be construed to change or replace, in any manner, the "at-will" employment relationship between the city and you.

Examples of inappropriate behavior are as follows:

1. Falsification of employment or other city records.
2. Recording of work time of another employee or allowing any other employee to record your work time, or allowing falsification of any time sheets (your own or another employee's).
3. Theft or the deliberate or careless damage or destruction of any city property, or the property of any other employee, citizen, vendor or third party.
4. Unauthorized use of city equipment, materials or facilities. You are expected to regard your workplace with respect and attention. The city's records, equipment, and property are to be treated carefully and appropriately. The

city's equipment is not to be utilized for personal use. You are responsible for those items in your care and custody and will be held accountable for their maintenance, appropriate use, and/or accuracy.

5. Provoking a fight or fighting during work hours or on city property.
6. Carrying firearms or any other dangerous weapon on city premises at any time.
7. Engaging in criminal conduct while at work.
8. Causing, creating or participating in a significant or substantial disruption of work during working hours on city property.
9. Insubordination, including but not limited to failure or refusal to obey the orders or instructions of a supervisor or member of management, or the use of abusive or threatening language toward another city employee, customer or vender.
10. Failure to notify a supervisor when unable to report to work, or when leaving work during normal working hours without permission from a supervisor to do so.
11. Failure to observe work schedules, including rest breaks and meal periods. You are expected to be at work on time, remain until your workday ends, and perform the work assigned to or requested of you. If you are unable to be at work on time, you are expected to contact your supervisor prior to the start of your work shift. If that individual cannot be reached, you are expected to contact an alternate supervisor.
12. Sleeping or faking illness on the job.
13. Excessive personal telephone calls during working hours.
14. Failing to attend scheduled work sessions, work related meetings, and related activities at conferences, workshops, or educational events that are paid for by the city.
15. Misrepresentation of city policies, practices, procedures, or your status or authority to enter into agreements on behalf of the city. Employees may not use the city's name, logo, likeness, facilities, assets or other resources of the city for personal gain or private interests.
16. Violations of the Ethics Policy or Oregon's Ethics laws.
17. Use or possession of intoxicating beverages or illegal use or possession of narcotics, marijuana, or drugs (under state, federal or local laws), on city premises during working hours or reporting to work under the influence of intoxicants or drugs so as to interfere with job performance, or having any detectable amounts of drugs in your system.
18. Violation of any safety, health, security or city policy, rule or procedure. Employees are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are set by city or outside regulatory or legislative bodies.
19. Harassment, intimidation, bullying, or discrimination that violates city policy.
20. The use of alcohol in public while wearing a city uniform.
21. Failing to pay any amount owed for any city service.
22. Failing to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are established by the city or outside regulatory bodies.

This statement of prohibited conduct does not alter city's policy of at-will employment. Either you or city remains free to terminate the employment relationship at any time, for any lawful reason and without notice.

## **SECTION 15-5    RECORDKEEPING**

### **15-5.10        PERSONNEL RECORDS**

The City of Newport maintains personnel files for each employee. Access to these files is restricted to authorized persons only. Employee personnel records are maintained in the city's human resources department. As required by law, some records pertaining to employees are maintained in separate files relating to medical issues and internal investigations.

Authorized persons typically are any individuals in a direct line of supervision over the employee, as well as the Human Resources, City Manager, City Attorney, and the individual to whom the file applies; the employee may also give written permission for an otherwise unauthorized individual to view their file, these files may also be viewed for employment or legal related matters or audit purposes.

For purposes of this policy, your personnel file includes records related to performance and training as well as other records used for hiring, promotion and disciplinary decisions. A personnel file contains only information employees have seen in the course of their employment. It will not include any reference checks, medical records or investigation files. Employees are not permitted to remove any documents from the personnel file but may provide a written response to any document in the personnel file. Written responses will be attached to the original document in the personnel file.

ORS 652.750 requires employers to provide a reasonable opportunity for employees to inspect their personnel, time and pay records, and obtain copies of these records upon request. Only records which have been used to determine an employee's qualifications for employment, promotion, additional compensation, termination or other disciplinary action, and time and pay records (if requested) must be included in the city's response to the request.

All requests for access to your personnel file must be provided in writing, via the Personnel File Review Request form, to Human Resources. Upon receipt of your written request, Human Resources will schedule an appointment for you to view your file during normal office hours in the presence of authorized HR personnel.

All requests for copies of documents in their personnel file must also be made in writing, via the Personnel File Review Request form. to Human Resources.

Information in the personnel files may be treated as exempt from public disclosure as provided in ORS Chapter 192. Information which cannot be treated as confidential under the law includes: name, job title, gross wages/salary, and dates of employment with the city. Other information in the files may be subject to public disclosure by court order, a subpoena, or because of the city's legal obligation to produce them to an Oregon or federal agency.

## **Benefit / Medical Records**

The City of Newport stores employee benefit and medical records in access-protected folders, separate from master personnel files. Medical records are maintained by Human Resources staff and treated in a confidential manner. Access only to HR staff and the City Manager. These files may be viewed as part of employment, legal or audit related matters.

The following guidelines are in place to protect the personal information of employees.

1. The collection of employee information typically is limited to information the city needs for business and legal purposes.
2. Personal information and information in confidential records ordinarily will not be disclosed, except as permitted or required by law, or as authorized by the employee.
3. Records pertaining to I-9 verification, medical records, and victims of domestic violence are considered confidential and shall be maintained by the Human Resources Director in confidential files separate from the personnel file.
4. Verifications of employment dates, job title, and wages may be provided without written approval.
5. Internal access to employee records will be limited to those employees having an authorized need-to-know.
6. All employees have a responsibility not to accidentally disclose information about employees through overheard conversations, mislaid documentation, and faxes, e-mails and hard copies of correspondence sent to a wrong destination. Unauthorized communication of confidential information is regarded as a serious matter.
7. The City of Newport's IT Department maintains reasonable safeguards to ensure the security, confidentiality, and integrity of personal identifying information stored in the city's systems.
8. All employees are required to follow these principles, as well as any other city policy or practice related to confidential information. Violations of this may result in corrective action, up to and including termination.

### Supervisory Files

The personnel file is separate from the supervisor file. Supervisors may keep a working file on their employees, but it is not the formal employee file.

Employee medical records will only be maintained as confidential records in Human Resources. No supervisor or department head is to maintain employee medical records of any kind.

### **15-5.20      RECORDKEEPING - PROTECTING SOCIAL SECURITY NUMBERS**

It is the policy of the city to protect the confidentiality of its employees' and applicants' Social Security numbers (SSNs) obtained and used in the course of business. All department heads, supervisors, and employees are expected to adhere to this policy. Any employee violating the provisions of this policy will be disciplined in accordance with city policy.

SSNs will be collected from candidates and employees as required to meet federal or state reporting requirements. These purposes include:

- Pre-employment background checks.
- Verify eligibility for employment.
- Withhold federal and state taxes.
- Comply with state new-hire reporting.
- Facilitate enrollment in city benefits plans.

### **15-5.30      CHANGE IN PERSONAL DATA**

Since personnel records are used to administer pay and benefits, and other employment decisions, employees are responsible for keeping information current regarding changes in name, address, phone number, exemptions, dependents, beneficiary, etc. Keeping personnel records current can be important with regard to pay, deductions, benefits and other matters. If you have changes in any of the following items, please notify HR to assure that the proper updates/paperwork is completed as quickly as possible.

1. Name
2. Marital status/Domestic Partnership (for purposes of Benefit eligibility determination only)
3. Address or telephone number
4. Dependents
5. Person to be notified in case of emergency
6. Other information having a bearing on your employment
7. Tax withholding

Employees may not intentionally withhold information from the city about the items listed above in order to continue to receive benefits or anything of value for themselves or anyone else. Upon request, the city may require employees to provide proof of marital status/domestic partnership status. Employees who violate this policy may be subject to discipline, up to and including termination.

### **15-5.40      PUBLIC RECORDS**

#### Requests

With few exceptions, all government records of any kind are considered public records. A public record is any writing with information about the conduct of public business that is prepared, owned, used, or retained as or by a public body or its employees. It is the intent of the city to be responsive to requests for public records. Employees are to forward all requests for public information to the City Recorder.

### Retention

Employees must follow Oregon law regarding archiving electronic communications. Employees should follow the same archiving timeframes for electronic records, as for paper records.

Please refer to the [City Records Retention Schedule](#), as developed by the Oregon Secretary of State, for specific information on records retention. Questions regarding records retention should be directed to the City Recorder.

## **SECTION 15-6 PERFORMANCE MANAGEMENT AND APPRAISAL**

### **15-6.10 PERFORMANCE REVIEWS**

To ensure a meaningful performance evaluation system upon which the City of Newport can monitor the effectiveness of the city and its operations, employees should receive an annual performance evaluation.

The objectives of the annual performance management and formal appraisal process are:

- To ensure that each employee knows how he/she is performing against established performance standards;
- To ensure communication and two-way feedback;
- To provide a consistent, objective, and fair method for making compensation decisions;
- To Identify areas where an employee may need more training;
- To provide a tool for career planning; and,
- To provide a record of employee performance and contributions.

Supervisors are accountable for providing employee development actions designed to improve and enhance employee performance, such as:

- To determine how well the city's supervisors are performing in assisting employees with work performance and objectives;
- Reasonable employee training, including computer software proficiencies;
- Assigning, directing, controlling, and reviewing employee work;
- Assisting employees in correcting deficiencies; and,
- Objectively assessing employee performance during the evaluation period.

The performance appraisal program is intended to be participatory, involving employee input as much as that of the supervisor or department head, thereby helping employees contribute to the growth and improvement of the city. Employees are encouraged to:

- Inquire about their performance from time to time;
- Accept additional responsibilities and show initiative;
- Review opportunities for advancement within the city;
- Ask for assistance in developing a goal-oriented path for advancement; and,
- Learn about training available to assist in improving skills.



Performance evaluations serve as one factor in decisions related to employment, such as training, merit pay increases, job assignments, employee development, promotions, and retention.

The city's goal is to provide an employee with their first formal performance evaluation within six months after hire or promotion. After the initial evaluation, the city will strive to provide a formal performance review on an annual basis on the employee's anniversary date or the effective date of their promotion or transfer into a new position.

Reviews will generally include the following:

- An evaluation of the employee's quality and quantity of work
- A review of exceptional employee accomplishments
- Establishment of goals for career development and job enrichment
- A review of areas needing improvement
- Setting of performance goals for the employee for the following year.

Any employee who fails to satisfactorily perform the duties of their position is subject to disciplinary action (including termination).

Employees who disagree with a performance evaluation may submit a written response with reasons for disagreement. The employee's response shall be filed with the employee's performance evaluation in the employee's personnel file. Such response must be filed not later than 30 days following the date the performance evaluation was received.

Supervisors and managers are encouraged to provide employees with informal evaluations of their employees' work on an as-needed basis.

While the city does not have merit pay, specifically, employees are required to receive a positive performance evaluation to advance to the next step of the classification plan, unless otherwise provided in a collective bargaining agreement. In situations when an employee is promoted or transferred into a new position, future step increases will be based on the effective date of the promotion or transfer.

## **15-6.20            CORRECTIVE ACTION**

The City of Newport has high performance expectations because it strongly believes that everyone benefits when employees work together and conduct themselves in a manner that mutually reflects the best interests of co-workers, the city, and citizens.

It is the policy of the city to take corrective action measures when needed for the purposes of correcting performance deficiencies, inappropriate or unprofessional conduct and behavior, and deal with violations of policies and work rules.

Employees will be informed by their supervisor of any corrective action that is necessary, as soon as possible, after any performance problem has been identified, and management is made aware of it. Your supervisor will discuss the situation with you, explaining the policy and the necessity of corrective action to avoid other disciplinary actions.



There will be occasions where employees perform at an unsatisfactory level, violate a policy or law, or commit an act that is inappropriate. When performance or conduct does not meet city standards, the city will endeavor, when it deems appropriate, to provide the employee a reasonable opportunity to correct the deficiency. This can be accomplished through forms of discipline short of termination, such as documented verbal warnings, written warnings, suspensions without pay, demotions (in no particular order), and termination.

The corrective action process will **not** always commence with a documented verbal warning or include a sequence of steps. Some acts, particularly those that are intentional or serious, warrant more severe action (including termination) on the first or subsequent offense. Corrective action may include any of a variety of actions depending on the circumstances and severity of the particular situation. Consideration may be given to the seriousness of the offense, the intent, motivation to change the performance, and the environment in which the offense took place.

In lieu of terminating employment of an employee for serious violations of city policies, procedures and rules and for other inappropriate behavior or conduct, the city may choose to provide the employee a final opportunity to continue employment in the form of a final warning or last-chance agreement.

In all cases, the city retains sole discretion to determine the nature and extent of any discipline based upon the circumstances of each individual case. Accordingly, the city reserves the right to proceed directly to a written warning, demotion, unpaid suspension, final warning, last chance agreement, or termination for misconduct or performance deficiency, without any prior disciplinary steps, when the city deems such action is appropriate.

At all times, city retains the right to terminate an employee's employment at any time, and for any lawful, non-discriminatory reason, with or without advance notice or other prior disciplinary action.

Corrective action may be taken for, but is not limited to, the following reasons:

- Theft, misappropriation or unauthorized removal of city property;
- Falsification or omission of facts on forms, records, or reports including time sheets/records or application materials;
- Personal solicitation or acceptance of a payment, gift or other valuable item for providing a city service;
- Destruction, misuse or waste of city property, facilities, materials, or working time;
- Use of alcohol or controlled substances which affects performance; possession of alcohol or controlled substance during working hours (except as may be required in the line of duty);
- Abusive behavior toward the public or other employees; sexual or other harassment of another employee or the public;
- Failure to comply with established rules, procedures, or directives;
- Failure to comply with a proper directive from a supervisor;
- Non-compliance or disregard of safety policies or procedures; failure to report injury, accident, or unsafe conditions;

- Excessive absences or tardiness; unexcused absences, abuse of sick leave; working overtime without appropriate approval;
- Dishonesty;
- Any act or threat of violence, aggression, intimidation, harassment, or bullying.
- Any act, whether employment related or not, that has a serious detrimental effect on the city, the city's reputation, or public trust in the city, considering the job classification of the employee;
- Violation of the provisions of city or departmental policies, rules or regulations, other than violations of performance standards.

Nothing in this section is intended to limit employee's constitutional rights of free expression or association or violate the at-will employment relationship.

Corrective action plans in collective bargaining agreements may conflict with this policy and must be followed with represented employees.

## **SECTION 15-7 COMPENSATION**

The City of Newport makes all efforts to comply with applicable Oregon and federal wage and hour laws. In the event you believe that the city has made any improper deductions, has failed to pay you for all hours worked or for overtime, has failed to pay you in accordance with the law, or has failed to properly calculate your wages in any way, you must immediately report the error to human resources.

The city will investigate all reports of improper pay practices and will reimburse employees for any improper deductions or omissions. No employee will suffer retaliation or discrimination for reporting an error or complaint regarding the city's pay practices.

### **15-7.10 OVERTIME**

The city complies with all state and federal overtime requirements. Employees will be paid for actual hours worked in accordance with all legal requirements including the Fair Labor Standards Act (FLSA) and applicable Oregon state laws.

Off-the-clock work for non-exempt staff is strictly prohibited.

#### Definition and Administration

Overtime for full-time employees and employees working thirty (30) or more hours per week, excluding employees represented by a collective bargaining agreement, is based on actual hours worked in excess of forty (40) hours per week.

For part-time employees working less than thirty (30) hours per week, overtime is time worked in excess of forty (40) hours per workweek.

Part-time employees working less than 30 hours per week will be paid overtime for hours worked in excess of 40 hours per workweek.

Overtime will be computed to the nearest fifteen (15) minutes.

Overtime provisions for represented employees are contained the respective collective bargaining agreements. Provisions in collective bargaining agreements will supersede provisions contained in this Handbook.

#### Exemptions

Employees of the city in positions, which fall under the definition of an administrative, executive or professional employee (FLSA 29 C.F.R. sections 541.1, 2, 3) and are designated as exempt employees, are exempt from overtime provisions. All such employees are required, for the salaries, compensation, fees or pay fixed for their respective positions, to render such service as may be necessary to complete assigned duties and responsibilities in a proper and efficient manner.

Employees who are identified as exempt on the salary schedule, are not eligible to receive overtime pay.

#### Defined Workweek

The city's regular defined work week is 12:01 AM on Monday and ends at midnight on Sunday.

For employees working a 9/80 work schedule, the defined work week is 12:00 PM (Noon) on Friday to 11:59 AM the following Friday.

The city reserves the right to modify the workweek.

#### Authorization for Overtime

Employees may be required to work overtime. Prior approval must be obtained from your supervisor before working overtime hours. Supervisors are to ensure that no unauthorized overtime hours are worked. All overtime worked by non-exempt employees should normally be approved by the immediate supervisor prior to being worked. However, in the case of emergencies, the employee must notify the supervisor as soon as possible, but not later than the next working day, of the need to work overtime. Department heads may authorize overtime by policy or category without the need for individual approval of each instance of overtime work. Overtime may be authorized retroactively by a department head for good cause, such as the need to leave a worksite in a safe condition or to complete transactions with community members.

Employees who work unauthorized overtime may be subject to discipline, up to and including, termination.

The direct supervisor schedules specific work hours for individual employees. Changes to work schedules may be made on an individual basis based on business necessity and from the City Manager. Management reserves the right to modify schedules consistent with the needs of the city.

Section 7(k) of the FLSA provides that employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. For work periods of at least 7 but less than 28 days, overtime pay is required when the number of hours worked exceeds the number of hours that bears the same relationship to 212 (fire) or 171 (police) as the number of days in the work period bears to 28. For example, fire protection personnel are due overtime under such a plan after 106 hours worked during

a 14-day work period, while law enforcement personnel must receive overtime after 86 hours worked during a 14-day work period.

## **15-7.20 COMPENSATORY (COMP) TIME**

Supervisors and employees will make every effort to keep the hours worked to the regular work week. If scheduling adjustments cannot be made during the week to avoid overtime, comp time may be authorized by the Department Head or designee.

The rate of compensation for overtime worked by non-exempt employees will be 1.5 times the rate of pay that would otherwise be payable OR compensatory time off at 1.5 hours for each hour of overtime worked. Compensatory time may be provided instead of cash compensation at the discretion of the Department Head or designee, and approved in advance of working the overtime.

Employees are encouraged to take accumulated compensatory time on a timely basis. The city can also require the use of compensatory time to ensure accruals are being used in a timely manner.

Compensatory time is to be taken in minimum of one-half (1/2) hour increments. Non-public safety employees may accrue a maximum of forty (60) hours of compensatory time. Accumulated compensatory time hours, in excess of 60, will be paid to the employee monthly.

Upon termination of employment, an employee will be paid for any unused compensatory time at a rate not less than the higher rate of either:

- The average regular rate of pay received by an employee during the last three (3) years of the employee's employment; or
- The final regular rate of pay received by the employee.

When an employee's salary changes due to a promotion or demotion, the accrued compensatory time will be paid at the salary rate immediately prior to the promotion or demotion.

Exempt employees work on a salaried basis and shall not be eligible for overtime or comp time. An exempt employee may work a flexible and/or alternate work schedule with supervisory approval.

### Represented Police and Fire Employees

Under certain prescribed conditions, the city may give compensatory time to employees engaged in police and fire protection work, at a rate of not less than one and one-half hours for each overtime hour worked, in lieu of cash overtime compensation. Employees engaged in police and fire protection work may accrue up to a maximum number of compensatory time hours as outlined in the collective bargaining agreement.

## **15-7.30 PAY POLICY AND TIMEKEEPING FOR EMPLOYEES**

In accordance with the Fair Labor Standards Act regulations, exempt employees who are required to be paid on a salary basis may not have their pay reduced for variations in the quantity or quality of work performed except in limited situations.

### Safe Harbor

It is our policy and practice to accurately compensate employees and to do so in compliance with all applicable state and federal laws. To ensure that you are paid properly for all time worked and that no improper deductions are made, you must record correctly all work time and review your paychecks promptly to identify and to report all errors. You also must not engage in off-the-clock or unrecorded work.

### Review Your Pay Stub

We make every effort to ensure our employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do happen and are called to our attention, we promptly will make any correction that is necessary. Please review your pay stub when you receive it to make sure it is correct. If you believe a mistake has occurred or if you have any question, please use the reporting procedure outlined below.

### Non-Exempt Employees

If you are eligible for overtime pay or extra pay (including pay due under our handbook or a collective bargaining agreement), you must maintain a record of the total hours you work each day. These hours must be accurately recorded on a time card that will be provided to you. Each employee must sign his or her time card to verify that the reported hours worked are complete and accurate (and that there is no unrecorded or "off-the-clock" work). Your time card must accurately reflect all regular and overtime hours worked, any absences, early or late arrivals, early or late departures and meal breaks. At the end of each week, you should submit your completed time card for verification and approval. When you receive each pay check, please verify immediately that you were paid correctly for all regular and overtime hours worked each workweek.

### Exempt Employees

If you are classified as an exempt salaried employee, you will receive a salary which is intended to compensate you for all hours that you may work for the city. This salary will be established at the time of hire or when you become classified as an exempt employee. While it may be subject to review and modification from time to time, such as during salary review times, the salary will be a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work you perform.

### Pay Transparency Nondiscrimination Provision

The city will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the legal duty to furnish information, or in response to a public records request.

### Equal Pay Law

The City of Newport supports Oregon's Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees on the basis of a protected class (as defined by Oregon or federal law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which the city pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with human resources.

### Timekeeping

The Fair Labor Standards Act requires employers to keep certain time and pay records for non-exempt employees. The Fair Labor Standards Act does not mandate what type of timekeeping device should be utilized for nonexempt employees as long as accurate records of time are kept. Non-exempt employees are eligible for the overtime provisions of the Fair Labor Standards Act, and must complete monthly time sheets to track all hours worked. The city requires that both the supervisor and employee sign and date time sheets. The signatures certify that the contents of the document are accurate and true.

### Non-Exempt Employees

It is a violation of the city policy for any employee to falsify a time card, or to alter another employee's time card. It is also a serious violation of city policy for any employee or manager to instruct another employee to incorrectly or falsely report hours worked or alter another employee's time card to under- or over-report hours worked. If any manager or employee instructs you to (1) incorrectly or falsely under- or over-report your hours worked, (2) alter another employee's time records to inaccurately or falsely report that employee's hours worked, or (3) conceal any falsification of time records or to violate this policy, do not do so. Instead, report it immediately to the Human Resources Department.

All non-exempt employees must accurately record time worked on a timecard for payroll purposes. Employees are required to record their own time at the beginning and end of each work period, including before and after the meal period. Employees also must record their time whenever they leave the building for any reason other than city business.

Non-exempt employees should not work any hours outside of their scheduled workday unless the supervisor has authorized the unscheduled work in advance. Non-exempt employees are not to start work early, finish work late, work during a meal break or perform any other extra or overtime work unless they are authorized to do so and that time is recorded on their time card.

Non-exempt employees are prohibited from performing any "off-the-clock" work. "Off-the-clock" work means work that may be performed but failed to report on the time card. Any employee who fails to report or inaccurately reports any hours worked will be subject to disciplinary action, up to and including discharge.

Employee pay is calculated from reported hours as approved by your supervisor. The time record is formal documentation of the exact time worked. It should be completed daily and reviewed at the end of each week for completeness and accuracy. It must be completed and approved at the end of each pay period.



Your supervisor, or designee, will review and approve time records each pay period. If an error is to be corrected or time clarified, the employee should notify their supervisor during the review process. Your electronic or written signature on the time record each pay period verifies that the times and dates are true and accurate to the best of your knowledge. You should never allow someone else to make entries on your time record. Willfully falsifying a time record may be grounds for corrective action, up to and including termination.

The timesheet may serve as evidence in the event of a future dispute over wages and work injury claim. When noting changes to a previously signed time sheet, the employee and the supervisor should again re-certify all corrections using initials. In the absence of an employee's supervisor, another supervisor within the unit who has knowledge of the employee's daily attendance should validate the employee's hours.

Subordinates should never be asked to sign a supervisor's time sheet. Filling out another employee's time card, allowing another employee to fill out your time card, or altering any time card will be grounds for discipline up to and including termination.

Supervisors must review and approve a summary of the employees' hours within their division. Each Department Head/Supervisor is responsible for:

- Ensuring that employees reporting the correct hours worked, overtime or premium pay and applicable codes for their assignments.
- Ensuring that all employees maintain accurate time records.
- Providing approval for overtime or premium pay.
- Approving time records and submitting them to payroll by the 21<sup>st</sup> of each month.

Employees who are found to be offenders of this policy will be subject to disciplinary action, up to and including, termination of employment.

Employees who believe their pay has been improperly reduced should contact Human Resources immediately to request an investigation.

The employee will be asked to specify in writing, using the guidance above, the circumstances of the pay deduction and whether it has occurred on other occasions.

If the deduction was in fact improper, the city will reimburse the employee as promptly as possible (but in no case longer than two pay periods from the identification of the problem).

In addition, the city will not allow any form of retaliation against individuals who report alleged violations of this policy or who cooperate in the city's investigation of such reports. Retaliation is unacceptable. Any form of retaliation in violation of this policy will result in disciplinary action, up to and including discharge.

#### Exempt Employees

Exempt employees are expected to work a minimum of 40 hours a week. Most exempt jobs require individuals to work more than 40 hours a week to keep up with the job



demands. Even though an employee may be exempt from both minimum wage and overtime pay requirements, federal regulation still require employers to maintain and preserve employment records. (29 CFR 516.11).

The minimum FLSA recordkeeping requirements for such employees do not limit an employer's ability to track working time. Consequently, it is not a violation of the FLSA or its implementing regulations for employers to track working time, even if an employee is an exempt employee.

Since the city offers exempt level employees paid sick and vacation leave, exempt employees are required to complete a monthly time report and indicate the days they work and any time that is not worked in that month. Indicate actual number of hours worked each day minus time for unpaid meal periods. Based on department head approval, employees may be allowed to make up time missed in the month. However, if the time has not been made up, employees will need to code their time report accordingly with the appropriate leave code. i.e. sick, vacation, bereavement leave, selectable holiday, etc.

The allows the city to correctly record the time an exempt employee has worked, calculate any vacation time or sick leave that was used, yet avoid tracking the exempt employee by the hour.

#### **15-7.40      PAY DAYS**

All employees are paid on the first day of each month, unless the first day of the month falls on a weekend or a holiday. In that case, employees will be paid the Friday prior to the weekend or the holiday. This is the same for all employees, whether classified as non-exempt or exempt.

Please remember that the city assumes that you took regular holidays and any vacation days listed on your time sheet, unless you provide timely notification to the contrary.

#### **15-7.50      PAYROLL**

The City of Newport uses a Fair Labor Standards Act approved "pay-by-exception" method for processing payroll. A "pay-by-exception" process differs from traditional, or legacy, payroll systems in that instead of "building up" to a gross amount on a paycheck, an *expected estimated wage* is paid each month and compensation only changes when "exceptions" to the pay occur – be they positive or negative.

Employees are paid monthly. For hourly (non-exempt) employees, a "month" is defined as the 22<sup>nd</sup> to the 21<sup>st</sup>, and those are the dates employees should report on their timecard. For salaried (exempt and non-exempt) employees, a "month" is defined as the 22<sup>nd</sup> – 21<sup>st</sup>.

Paydays are generally the first day of each month, for both non-exempt and exempt employees, unless the first of the month falls on a weekend or a holiday. In those cases, payday will be the Friday before the weekend or holiday.

The city does not provide advance payments of salary or loans from salary to be earned.

In compliance with Oregon law, an employee's pay statement includes the date of the payment, the dates of work covered by the payment, the name of the employee, the rate of pay, the overtime rate of pay, the amount and purpose of each deduction made during the respective period of service that the payment covers, detailed information about the employer, allowances, and gross and net wages.

Net pay will be directly deposited into the employee's bank account, unless an employee requests otherwise. If an employee requests to pick up their check from City of Newport, only the employee named on the paycheck will be allowed to do so unless the employee provides written permission to the city for someone else to receive the check.

Only regular full-time and regular part-time employees are eligible for direct deposit.

#### Payroll Deductions

Certain mandatory and elective deductions are made from employee pay, and are noted on the paycheck stub. Only those deductions mandated by law or those you have authorized in writing are made, provided such deductions are not otherwise prohibited by state regulations.

#### Pay Adjustments

Pay adjustments are made in the payroll following receipt of a fully approved Personnel Action Form in accordance with state and federal laws.

#### Employee Withholding Allowance Certificates Form W-4

Employees are required under Federal and state law to furnish the city with an Employee Withholding Exemption Certificate (W-4) at the time of hire. Employees may request additional withholding for state and/or federal taxes. If employees fail to provide a W-4, the city is required by law to withhold at the S-0 rate, until the employee provides the city with a W-4.

## **SECTION 15-8    EMPLOYEE BENEFITS**

The City of Newport strives to provide excellent, equitable, and cost-effective benefits for employees in recognition of the influence employment benefits have on the economic and personal welfare of employees. Paid in various forms, the total cost to provide the benefit program described in this Handbook and other documents is a significant supplement to pay and should be viewed as additional compensation. The city reserves the right to modify employee benefits.

Policies, provisions, and procedures that govern the city's benefit programs apply to all benefits-eligible employees, whether status is exempt or non-exempt, unless otherwise provided in a collective bargaining agreement.

Benefits will begin based on the benefit eligibility period for each benefit. Refer to section 2.10 Employee Classifications.

### **15-8.10        VACATION LEAVE**

To be eligible to receive the full vacation accruals set forth below, an employee must be employed on a full-time basis (40 hours/week). Part-time employees classified as twenty (20) or more hours a week are eligible for prorated vacation based on annual scheduled

hours. Part-time employees classified as less than twenty (20) hours a week and temporary employees are not eligible to receive vacation benefits, unless otherwise provided by law, agreement, or a collective bargaining agreement.

All accruals begin at the date of hire. After completion of six months of employment accruals are credited as vacation leave and may be taken with supervisor approval. No accrued vacation time will be authorized during the probation period, unless specific arrangements have been made at the time of hire and approved by the City Manager.

#### Administrative Leave Time – New Hires Only

In addition to vacation accruals, eighty (80) hours of administrative leave time will be provided to full-time (40 hours/week) employees at the time of hire. This time must be used within the first year of hire, subject to supervisor approval. Administrative leave cannot be carried over to the next year. If the employee terminates within the first twelve (12) months of hire, and they have used any amount of administrative time, the amount will be reimbursed to the city at the time of termination. This applies only to newly hired employees. New hires will be required to sign an agreement at the time of hire agreeing to the repayment.

		<b>All Employees</b>			<b>Non-exempt</b>	
		<u>Adm Time</u>	<u>Max Annual Carry Over</u>		<u>Acc/Month</u>	<u>Hours/year</u>
First Year	Full-time only	80 hours	All Hours		8 hours	96
2-5 Years		0 hours	240 hours		10 hours	120
5-10 Years		0 hours	280 hours		11.34 hours	136
10-15 Years		0 hours	320 hours		13.34 hours	160
15-20 Years		0 hours	360 hours		15.34 hours	161
20 Plus Years		0 hours	400 hours		16.67 hours	162
		<b>Exempt</b>			<b>Dept Head</b>	
		<u>Acc/Month</u>	<u>Hours/year</u>		<u>Acc/month</u>	<u>Acc/Year</u>
First Year		12 hours	144		14 hours	168
2-5 Years		14 hours	168		16 hours	192
5-10 Years		15.34 hours	184		17.34 hours	208
10-15 Years		17.34 hours	208		19.34 hours	232
15-20 Years		19.34 hours	232		21.34 hours	256
20 Plus Years		20.67 hours	248		22.67 hours	272

Vacation time is intended to provide time away from work for rest and recreation. Vacation pay may not be taken in lieu of time off. Time is not to be banked and then never used; therefore, the maximum annual carry over hours are stated in the above chart. An employee's accrual may exceed this amount during the year, however, the amount over the maximum annual carryover cannot be carried into the new year unless additional carryover time is authorized by the City Manager or designee. The City Manager or designee in certain circumstances, at its sole discretion, may choose to pay an employee for vacation time accrued in excess of the maximum accrual rather than allowing for the carryover of vacation time over the maximum accrual limit. In no

instance will the city pay for more than 40 hours per year. Any hours that exceed the maximum carry over limits will be adjusted the first payroll of the following calendar year.

No vacation is accrued while the employee is on a leave of absence without pay. To be eligible to receive the full vacation accrual set forth above, an employee must be employed on a full-time basis (40 hours/week). Part-time employees classified as twenty (20) or more hours a week are eligible for prorated vacation based on annual scheduled hours. Part-time employees classified as less than twenty (20) hours a week and temporary employees are not eligible to receive vacation benefits, unless otherwise provided by law, agreement, or a collective bargaining agreement.

#### Maximum Annual Carryover Limits

The maximum annual carryover limit is the amount of time that will be allowed to be carried over at the end of the year. Please refer to the vacation schedule chart above for the maximum annual carryover limits. In exceptional circumstances, the City Manager or designee at their discretion, may grant an exception when staffing and/or workload demands support it.

#### Maximum Bank of Time

The maximum bank of time is the maximum amount of time that can be accumulated (i.e. cap). In no case can the bank of time exceed 500 hours. When the total accrued time reaches 500 hours, accruals will stop until the total hours are reduced below the cap of 500 hours. The vacation bank will be further reduced by the maximum annual carryover at the end of the year.

Vacation leave is paid at the employee's base pay rate at the time vacation is taken. Vacation leave balances are accumulated and deducted based upon the time period used to calculate paychecks. Changes to employee leave balances are not reflected until the time reports and Personnel Action Form (PAF) have been processed through payroll, which includes any needed adjustments.

Any employee wishing to use vacation time should request vacation hours as early as possible so that arrangements for coverage can be made. Employees are encouraged to be aware of the critical times for their work groups during the year, and to avoid taking any routine or expected time off during these periods. Requests for vacation time are to be made in writing and given to your supervisor. Every attempt will be made to grant each request; however, no guarantees can be offered. Vacation is to be taken in minimum of one-half (1/2) hour increments.

Upon separation of employment, employees who have completed six months of employment will be paid for unused accrued vacation time that has been earned through the last day of work. All accrued vacation time will be paid out at the time of separation up to the accrual maximum. At no time will the payout at separation be greater than 500 hours.

### **15-8.20 PAID HOLIDAY**

The City of Newport will grant paid holiday time to all employees working 20 or more hours per week.

If a holiday falls on a Saturday, it will be observed the Friday prior; if falling on a Sunday, it will be observed the Monday following. The city currently provides fourteen (14) paid holidays, eleven (11) of which are defined and three (3) of which are selectable by the employee.

These holidays, and/or any additional time observed, will be determined at the discretion of the City Manager. Unused holiday time will not be paid; you must use your selectable holidays between July 1 and June 30, each year.

Defined Holidays for the City of Newport (non-represented staff) (Office Closed)

1. New Year's Day (January 1)
2. Martin Luther King Day (third Monday in January)
3. President's Day (third Monday in February)
4. Memorial Day (last Monday in May)
5. Juneteenth (June 19)
6. Independence Day (July 4)
7. Labor Day (first Monday in September)
8. Veteran's Day (November 11)
9. Thanksgiving Day (fourth Thursday in November)
10. Day After Thanksgiving (Friday following Thanksgiving)
11. Christmas Day (December 25)

In addition, the day before the Christmas day holiday shall be a half day holiday, with employees required to work only the first half of the day.

On days when December 24 falls on a Monday, the day shall be a full day holiday.

For purposes of this section, a half day shall mean four hours. The half day holiday shall be at the end of the work day. In years when the library is open the day after Thanksgiving, the day after Thanksgiving shall not be a holiday, but library workers shall have an additional Selectable Holiday.

The Library Director shall have the discretion to determine whether the library shall be open the day after Thanksgiving.

**Effect of Holidays on All Work Schedules** (Except as defined in a Collective Bargaining Agreement) See Holiday Policy.

Holidays

- Employees will receive eight (8) hours of holiday pay for the recognized city holiday regardless of their work schedule.
- For employees scheduled to work more than eight (8) hours a day, an employee may use available accrued leave time (vacation or comp) or Selectable Holiday

time to make up the difference between the eight (8) hours of holiday pay and their scheduled work hours.

- Holidays during scheduled vacation or sick leave will not be charged against such leave for the eight (8) hours of holiday pay. Employees may use available accrued leave time (vacation or comp) or Selectable Holiday time to make up the difference between the eight (8) hours of holiday pay and their scheduled work hours.

#### Veterans Day, Juneteenth, 4<sup>th</sup> of July, Christmas Eve, Christmas, and New Year's Holidays

- The city will establish a holiday calendar identifying the day the holiday will be observed when the holiday falls on a non-scheduled workday.

#### Thanksgiving Holiday

- Regardless of the work schedule, there will be three days worked in a week (Monday – Wednesday).
- Employees working a 4/10 work schedule: The employee will work thirty (30) hours and receive sixteen (16) hours of holiday time. Ten (10) hours will be paid time for that workweek, and six (6) hours will be credited to the employee's selectable holiday bank of time.
- Employees working a (9) hour day work schedule (4/9's and 1/4 schedule): The employee will work twenty-seven (27) hours and will receive sixteen (16) hours of holiday time. Thirteen (13) hours will be paid time for that work week, and three (3) hours will be credited to the employee's selectable holiday bank of time.
- Employees working a 9/80 work schedule: If the holiday falls within the first week of the workweek schedule the employee will work twenty-seven (27) hours in week one of the schedule and will receive sixteen (16) hours of holiday time. Thirteen (13) hours will be paid time for that work week, and three (3) hours will be credited to the employee's selectable holiday bank of time. If the holiday falls within the second workweek of the schedule the employee will work twenty-seven (27) hours in week two of the schedule and will receive sixteen (16) hours of holiday time. Nine (9) hours will be paid time for that work week, and seven (7) hours will be credited to the employee's selectable holiday bank of time.

#### Working on a Holiday

- Employees eligible for holiday pay who work on a recognized holiday as part of their regular work week will be compensated at one and a half (1 1/2) times their regular rate of pay for actual hours worked in addition to holiday pay.
- If the employee works the scheduled holiday, eight (8) hours of holiday time will be granted, normally within 90 days of the holiday worked, but within the same calendar year.

Represented employees will be compensated for working on a holiday in accordance with the provisions of their Collective Bargaining Agreement.

#### Holidays Not Worked – Scheduled Workday

- When a paid holiday falls on an employee's scheduled workday, the employee will be paid eight (8) hours for the holiday. If the employee is on a work schedule where their normal workday for that day is greater than eight (8) hours, vacation or compensatory time must be taken to satisfy the alternate schedule work hours for that day. For example: If the employee is on a 4/10 schedule, they must apply two hours of vacation or compensatory time towards each holiday. Hours can be worked on another day within the same workweek with advance supervisor approval.
- Employees have the option of using selectable holiday pay, vacation or any available compensatory time to make up the difference between the 8 hours holiday time and their scheduled work hours for that day (i.e. 10 hours for a 4/10 workweek schedule).

Represented employees will be compensated for working on a holiday in accordance with the provisions of their Collective Bargaining Agreement.

#### Holidays Not Worked – Unscheduled Workday

- Employees whose regularly scheduled day off falls on a holiday will be compensated with eight (8) hours of time off mutually agreed upon between the employee and immediate supervisor (normally to be taken within 30 days of the holiday, but within the same calendar year), or receive an additional eight (8) hours of pay.

Represented employees will be compensated for working on a holiday in accordance with the provisions of their Collective Bargaining Agreement.

### **15-8.30 SELECTABLE HOLIDAY**

Employees may use three (3) selectable holidays during a fiscal year (July – June 30), to be used on any day they choose, subject to supervisor approval.

Employees must coordinate requests for the selectable holidays with their supervisor.

Selectable holidays may be used in hourly increments; partial increments (1/2-hour, 1/4-hour, etc.) are not allowed.

Non-exempt employees certify their use of a selectable holidays when they certify their monthly timesheets.

Employees, who begin employment after July 1, receive a pro-rated number of hours for their selectable holidays.

For part-time employees who work an average of 20 or more hours per week, the amount of pay and/or time off will be pro-rated.

An employee must use the selectable holidays within that fiscal year or lose any unused selectable holiday time.

Other holiday leave provisions may be in place for employees covered by a collective bargaining agreement.



## **15-8.40 VETERANS DAY**

An employee who is a veteran, as defined in ORS 408.225, and is scheduled to work on Veterans Day, shall be provided the day off under the following circumstances:

1. The employee would otherwise be required to work on that day;
2. The employee requests the day off at least twenty-one (21) calendar days in advance of the holiday;
3. The employee documents their status as a qualifying veteran; and
4. Granting the day off will not create a significant economic or operational disruption or an undue hardship (as defined under ORS 659A.121) for the work unit. (NOTE: Supervisors who believe granting the time off will create a significant disruption or undue hardship must contact Human Resources before responding to the employee.)

Supervisors must respond to the employee's request no later than fourteen (14) days prior to Veterans Day.

When the supervisor responds to a request for leave on Veterans Day, the supervisor must let the employee know two things:

- Whether an employee will be given Veterans Day off (or another day); and
- The City of Newport offers Veterans Day as a paid holiday. Therefore, holiday pay for approved requests under the law for non-represented employees and represented employees, if allowed by their collective bargaining agreement, will correspond to the employee's regular work schedule. As examples: If scheduled to work ten (10) hours on the holiday, the employee's holiday pay will be 10 hours. If scheduled to work four (4) hours on the holiday, the employee's holiday pay will be 4 hours.

Pay status for the day off shall be governed by these rules and applicable collective bargaining agreements.

Employees who are denied leave may elect, with supervisor's approval, another day off during the year following Veterans Day (and before the next Veterans Day) to celebrate Veterans Day.

If the city receives timely leave requests from more than one veteran/employee, and if the city determines that it cannot grant leave to all of the veterans who have requested it, then the city may choose to either:

- Deny all of the requests for leave on Veterans Day and make arrangements with the employees for alternate days off; or
- Deny leave only to the minimum number of veterans necessary to avoid disruption or hardship and make arrangements with the other requesting employees for alternate days off.

The following veterans may take advantage of the Veterans Day Off law:

- A veteran who has served on active duty for at least six months and received an honorable discharge;

- A veteran who served on active duty and received a disability rating; and
- A veteran who served on active duty in a combat zone.

Military service in a reserve or National Guard unit does not qualify an employee as a veteran, unless the employee was deployed or served on active duty for at least 6 months. The city may require the employee to provide documents establishing his or her status as an eligible veteran.

## **15-8.50 SICK LEAVE BENEFIT**

### Employees Working 20 or More Hours/Week

In order to receive the full sick leave benefits, set forth above, an employee must be employed on a full-time basis. Part-time employees who work an average of 20 or more hours per week are eligible for prorated sick leave accrual based on annual scheduled hours. Part-time employees working an average of less than 20 hours per week and temporary employees are not eligible to receive sick leave under this policy (See Oregon Paid Sick Leave Policy).

Full-time employees accrue sick leave at the rate of eight (8) hours per month and the maximum accrual is 910 hours, unless otherwise provided by law or agreement. When this total reaches the maximum accrual, this benefit will cease accumulation until the accrual is reduced below the maximum allowable.

Sick leave is accumulated on the last workday of the pay period. If the employee is on unpaid status for a portion of the pay period, the time will be pro-rated. Sick leave can be used after the employee has completed one full month of service.

Sick leave is intended for employee's use due to illness or injury; to allow employees to care for an ill or injured member of their family member (as defined below); or for employee medical appointments.

### Use of Sick Leave

- For the diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care. This is available for the employee or their covered family member. A family member is defined as:
  1. Spouse or registered (registered in Oregon) domestic partner
  2. Child (biological, adopted, stepchild, or foster child), your spouse or registered domestic partner's child, or the child's spouse or registered domestic partner
  3. Parent (biological, adoptive, stepparent, foster parent, or legal guardian), the parent of your spouse or registered domestic partner, or your parent's spouse or registered domestic partner
  4. Sibling or stepsibling or their spouse or registered domestic partner
  5. Grandparent or your grandparent's spouse or registered domestic partner
  6. Grandchild or your grandchild's spouse or registered domestic partner
  7. Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.

- For any purpose allowed under the Oregon Family Leave Act, including bereavement leave.
- If the employee, or the employee's minor child or dependent, is a victim of domestic violence, harassment, sexual assault or stalking as defined by Oregon law and requires leave for any of the purposes under Oregon's domestic violence leave law (ORS 659A.272).
- In the event of certain public health emergencies or other reasons specified under Oregon's sick leave law and Paid Leave Oregon

Although the city realizes that an employee with a temporary illness such as influenza, COVID-19, cold, and other viruses often need to continue with normal life activities, including working, your supervisor may require you to go home from work if you appear to be too ill to be at work or if you are unable to perform normal job duties and meet regular performance standards. If your supervisor determines you pose no health risk to you, other employees, or customers, you may be allowed to work. You must submit a statement from your attending health care provider that your continued presence in the workplace poses no significant risk to you, other employees, or customers.

If you have been ill or injured, have missed time from work, and have a fitness for duty certification from your doctor to return to temporarily modified work, please contact your supervisor before returning to work. The City of Newport will determine whether you may return to work in a temporarily modified job.

If you miss more than three (3) consecutive days work, you may be required to provide information from your doctor certifying your need for sick leave.

Please refer to the ADA policy if an injury or illness requires accommodation to perform essential job functions.

Time for routine doctor or dentist appointments should be charged to sick time unless other arrangements have been made with your supervisor. You are encouraged to schedule such appointments to occur outside of work hours.

You are expected to notify your supervisor of absence due to illness or injury at the beginning of each workday during your absence. Exceptions to this include a serious accidental injury, hospitalization, or when it is known in advance that you will be absent for an extended period of time.

A Medical Release Statement and Fitness for Duty Examination may be requested for review before you return to work in certain situations.

Please refer to the FMLA/OFLA sections of this handbook, for sick leave use when on FMLA/OFLA leave.

Unused sick leave is not paid out at termination of employment.

Sick leave is not accumulated while an employee is on a leave of absence without pay. In the case of a work-related accident or injury, sick leave may be used to offset any hours not paid through Workers' Compensation, or to offset the reduction in regular pay until accumulated sick leave is used. However, at no time can the combination of these exceed normal earnings, nor can you use more sick leave than that accumulated. PERS

retirement provisions may supersede this provision of the Handbook. Employees who are found to have abused the city's sick leave policy may be subject to disciplinary action, up to and including termination.

#### Employees Working **less** than 20 Hours a week

Employees working less than 20 hours a week are covered under the Oregon Paid Sick Leave Law. Part-time (less than 20 hours per week), seasonal, and city temporary employees will accrual paid sick leave as follows: one (1) hour of sick time for every 30 hours worked and one and a half (1.5) hours of sick time for every 40 hours worked. Sick leave runs concurrently with Oregon Family Medical Leave, Family and Medical Leave, Paid Leave Oregon benefits and other leave where allowed by law.

Employees accrue paid sick leave on the first day of employment, but may not use paid sick leave until the 91st day of employment. After the 91st day of employment, paid sick leave may be used as it is accrued.

Employees subject to this policy may accrue and use up to 40 hours of paid sick leave per calendar year. Paid sick leave shall accrue at the rate of one hour for every 30 hours worked until the 40-hour yearly accrual cap is reached. Paid sick leave shall be taken in hourly increments.

#### Pay Rate and Carryover

Paid sick leave will be paid at the employee's regular rate of pay. Exempt employees are presumed to work 40 hours in each workweek for purposes of their sick leave accrual unless their normal workweek is less than 40 hours, in which case sick leave is accrued based on the employee's normal workweek. Generally, sick leave pay will be included in the paycheck for the next payroll period after sick leave is used, provided the employee submits adequate documentation verifying that the absence was for a qualifying reason as defined in the "Use of Sick Leave" SECTION below.

Sick leave is meant to be used or carried over; any unused sick leave will not be cashed out upon separation from employment. If an employee leaves employment and is rehired within 180 days, the employee's sick leave balance will be restored.

Employees may carry over up to a maximum of 40 hours of accrued and unused sick leave for use in a subsequent calendar year, but may use only 40 hours of sick leave each calendar year. Sick leave accrual is capped at 80 hours.

#### Use of Sick Leave

Up to 40 hours of paid sick leave may be used each calendar year for any of the following reasons:

- For the diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care. This is available for the employee or their covered family member. A family member is defined as:
- Spouse or registered (registered in Oregon) domestic partner
- Child (biological, adopted, stepchild, or foster child), your spouse or registered domestic partner's child, or the child's spouse or registered domestic partner

- Parent (biological, adoptive, stepparent, foster parent, or legal guardian), the parent of your spouse or registered domestic partner, or your parent's spouse or registered domestic partner
- Sibling or stepsibling or their spouse or registered domestic partner
- Grandparent or your grandparent's spouse or registered domestic partner
- Grandchild or your grandchild's spouse or registered domestic partner
- Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.
- For any purpose allowed under the Oregon Family Leave Act, including bereavement leave.
- If the employee, or the employee's minor child or dependent, is a victim of domestic violence, harassment, sexual assault or stalking as defined by Oregon law and requires leave for any of the purposes under Oregon's domestic violence leave law (ORS 659A.272).
- In the event of certain public health emergencies or other reasons specified under Oregon's sick leave law and Paid Leave Oregon

Employees absent from work for a qualifying reason must use accrued sick time hours for that reason and on each subsequent day of absence.

#### Employee Notice of Need for Sick Leave

*Foreseeable Sick Leave.* If the need for sick leave is foreseeable, an employee must notify their supervisor as soon as practicable before the leave is to begin. Generally, an employee must provide at least 10 days' notice for foreseeable sick leave. The request shall include the anticipated duration of the sick leave, if possible. Employees must make a reasonable effort to schedule foreseeable sick time in a manner that minimally disrupts the operations of the city. Employees must notify their supervisor of any change in the expected duration of sick leave as soon as is practicable.

*Unforeseeable Sick Leave:* If the need for sick leave is unforeseeable, the employee must notify their supervisor as soon as practicable and comply generally with the city's call-in procedures. *See Attendance Section 12.5*

An employee must contact their supervisor daily while on sick leave, unless an extended period of sick leave has been prearranged with the supervisor or when off work on protected leave. The employee shall inform their supervisor of any change in the duration of sick leave as soon as practicable.

If an employee fails to provide proper notice or make a reasonable effort to schedule leave in a manner that is only minimally disruptive to the organization and operations, the city may deny the use and legal protections of sick leave.

#### Sick Leave Documentation

If an employee takes more than three consecutive scheduled workdays as sick leave, the city may require reasonable documentation showing that the employee was absent for an approved reason. Reasonable documentation includes documentation signed by a healthcare provider, or documentation for victims of domestic violence, harassment, sexual assault or stalking.

#### Sick Leave Abuse

If the city suspects sick leave abuse, including but not limited to repeated use of unscheduled sick leave or repeated use of sick leave adjacent to weekends, holidays,

vacations and paydays, the city may require documentation from a healthcare provider. Employees found to have abused sick leave as described here may also be subject to discipline, up to and including termination.

## **15-8.60 PAID LEAVE OREGON (PLO)**

Paid Leave Oregon (PLO) is a state-run program, administered by the Oregon Employment Department (OED), that allows eligible employees to take up to 12-weeks of paid time off per benefit year, for the following reasons:

- **Family leave** – for an employee to care for an eligible family member with a serious illness or injury, to bond with a new child after birth, adoption, or foster care placement, *or to effectuate the legal process required for placement of a foster child or the adoption of a child. (eff 1/1/25)*
- **Medical leave** – for an employee experiencing their own serious health condition or disability due to pregnancy.
- **Safe leave** – for an employee or eligible child dependent experiencing issues related to sexual assault, domestic violence, harassment, bias, or stalking.
- **Fostering or Adoption Process** - to effectuate the legal process required for placement of a foster child or the adoption of a child (effective 1/1/25).

The Paid Leave program also allows employees to take an additional two (2) weeks of Paid Leave for pregnancy, childbirth, or related medical conditions.

A poster with Paid Leave Oregon (PLO) information, including information about how to apply for benefits is in the breakroom of each facility, and should be cross-referenced while reviewing this policy.

The poster is also available at [www.newportoregon.gov/employment/Forms](http://www.newportoregon.gov/employment/Forms).

## **DEFINITIONS**

**Eligibility:** Employees are generally covered if they are full-time, part-time, or seasonal, and have earned at least \$1,000 the year prior to applying for benefits, and have a qualifying life event.

**Family Member:** A family member under Paid Leave Oregon can be any of the following:

- Spouse or registered (registered in Oregon) domestic partner
- Child (biological, adopted, stepchild, or foster child), your spouse or registered domestic partner's child, or the child's spouse or registered domestic partner
- Parent (biological, adoptive, stepparent, foster parent, or legal guardian), the parent of your spouse or registered domestic partner, or your parent's spouse or registered domestic partner
- Sibling or stepsibling or their spouse or registered domestic partner
- Grandparent or your grandparent's spouse or registered domestic partner
- Grandchild or your grandchild's spouse or registered domestic partner
- Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.



Bias Crime: A bias crime is motivated in whole or in part by prejudice against another person because of race, color, disability, religion, national origin, sexual orientation or gender identity.

Serious Health Condition: "Serious health condition" means an illness, injury, impairment, or physical or mental condition of a claimant or their family member that:

- Requires inpatient care in a medical care facility such as, but not limited to, a hospital, hospice, or residential facility such as, but not limited to, a nursing home or inpatient substance abuse treatment center;
- In the medical judgment of the treating health care provider poses an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;
- Requires constant or continuing care, including home care administered by a health care professional;
- Involves a period of incapacity. "Incapacity" is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days. A period of incapacity includes any subsequent required treatment or recovery period relating to the same condition. The incapacity must involve one of the following:
  1. Two or more treatments by a health care provider; or
  2. One treatment plus a regimen of continuing care.
- Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as, but not limited to, asthma, diabetes, or epilepsy;
- Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as, but not limited to, Alzheimer's Disease, a severe stroke, or terminal stages of a disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;
- Involves multiple treatments for restorative surgery or for a condition such as, but not limited to, chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three calendar days;
- Involves any period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care; or
- Involves any period of absence from work for the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

Claimant Designated Representative: A claimant designated representative is a person 18 years or older who you give permission to provide Paid Leave Oregon with information and receive information about your claim.

Health Care Provider: Someone other than the claimant or the person for whom the claimant is providing care.



**Affinity Relationship:** An affinity relationship exists when:

- 1) Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills, or beneficiary designations
- 2) Emergency contact designation of the [employee] by the other individual in the relationship, or vice versa
- 3) The expectation to provide care because of the relationship or the prior provision of care
- 4) Cohabitation and its duration and purpose
- 5) Geographical proximity; and
- 6) Other factors that demonstrate the existence of a family-like relationship

**First Year:** The first year after the child's birth, foster placement, or adoption for use with family leave determinations is the day before the one-year anniversary.

**Notification Requirements**

Although the plan is administered by Paid Leave Oregon, the City of Newport requires employees to notify the city when they have applied for PLO leave.

*Foreseeable Leave:* If the need for PLO leave is foreseeable or planned, the employee is required to provide the city at least 30 days' written notice before paid leave is to begin (see notice requirements below). Written notice should be submitted to the direct supervisor and Human Resources jointly using *the city's Employee Leave Request Form (located at y drive/shared/HR Resources/Request for Time Off/FMLA/OFLA/PLO Leave Request Form)*.

*Unforeseeable:* If the need for PLO leave is unforeseeable or unplanned, an employee is required to provide oral notice to the city within 24 hours of the start of the leave, and the employee must also provide written notice within three (3) days after the start of the leave. Written notice should be submitted using *the city's OFLA/FLMA/PLO Employee Leave Request Form*.

Written notice must include the employee's first and last name, type of leave, explanation of the need for leave, and anticipated timing and duration of leave. Timing and duration of leave should include the employee's plan for taking leave on an intermittent basis or in one block of time.

If the employee's dates of scheduled leave change, are extended by PLO, or if the reason for leave becomes known and/or, if circumstances change during the leave and the leave period differs from the original request, the employee must notify Human Resources within three business days, or as soon as possible.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees are expected to comply with the city's normal call-in procedures.

*Under Oregon law, an employee who fails to follow these notification requirements may receive reduced PLO benefits; specifically, the first weekly benefit amount will be reduced by 25 percent (the penalty calculated for leaves that are taken in increments of less than a full work week differs). See OAR 471-070-1310(9) and (10).*

### **Concurrent Use of FMLA Leave**

As allowed by law:

If an employee's PLO leave is also eligible for protected leave the Family Medical Leave Act (FMLA), FMLA leave must be taken concurrently with PLO leave.

Employees must provide sufficient information for the city to determine if the leave qualifies for FMLA protection. Employees who have requested or have been approved for PLO leave are required to complete a FMLA Employee Leave Request Form and return it to Human Resources.

If an employee is eligible for FMLA leave due to a "serious health condition" or has a family member with a "serious health condition", employees must furnish the city medical certification information as required by the city's FMLA policy.

Please refer to city's FMLA policies for more information about submitting a FMLA Leave Request Form, and/or medical certification.

An employee seeking to take Paid Leave Oregon for reasons related to domestic violence, harassment, sexual assault, stalking, or bias must provide the following documentation:

- A copy of a federal agency, state, local, or tribal police report indicating the employee was a victim.
- A copy of a protective order or other evidence from enforcement agencies or an attorney that the employee or employee's child appeared in, or was preparing to appear, in a civil, criminal, or administrative proceeding as a victim.
- Documentation from an attorney, law enforcement officer, healthcare provider, licensed mental health professional or counselor, member of the clergy, or employee of the U.S. Department of Justice that the employee is undergoing treatment or counseling or relocating as a result of being a victim.

### **Accrued Leave and Holiday Pay While on Leave**

Employees on PLO leave will not accrue sick, vacation, or other employer-provided leave, and employees will not receive holiday pay, unless they are concurrently applying paid time (sick, vacation, or comp time).

### **Benefits While on Leave**

If an employee is on a state approved PLO leave, the city will continue the employee's medical, dental, life, disability, and all eligible voluntary coverage, on the same terms as if the employee had continued to work. An employee wishing to maintain coverage when on a state approved PLO leave, is responsible for paying their share of premiums, the same as when premiums were paid by the employee, prior to the PLO leave.

### **Medical Certification Prior to Returning to Work**

If an employee takes more than three consecutive scheduled workdays for their own serious health condition, and the leave is used concurrently with FMLA, the employee must furnish, prior to returning to work, medical certification from their health care provider stating that the employee is able to resume work.

### **Job Protection (ORS 657.060)**

Employees who have worked for the city for more than 90 consecutive calendar days prior to taking PLO leave will be reinstated to their former position, if the position still exists. If the position has been eliminated, the employee will be reassigned to an available equivalent position for which the employee is qualified with equivalent employment benefits, pay and other terms and conditions of employment.

Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring PLO leave have been resolved. If an employee does not return to work at the end of a PLO leave, reinstatement may not be available unless the law requires otherwise.

Employees who work for other employers while taking PLO leave may be subject to discipline up to and including termination. Additionally, all employees who use PLO leave for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

### **Use of Accrued Leave to Supplement Paid Leave Oregon Benefit**

Paid Leave Oregon benefits will not provide the majority of employees with 100% of their gross regular wages, so employees receiving PLO benefits, may choose to supplement their PLO benefits with other available paid leave such as accrued paid leave (sick, vacation, and/or comp time).

To request use of employer compensation, employees are required to complete, sign, and then submit, a Supplemental Compensation Request Form, along with their PLO Benefit Determination Letter, no later than the last date and time the city requires employees' regular payroll submissions to be submitted. Failure to complete, sign, and return the Supplemental Leave Authorization Form to Human Resources in a timely manner may result in the employee not being allowed to use employer compensation to supplement PLO benefits.

Employees can use partial accrued leave in no less than one (1) hour increments to supplement PLO benefits.

### **Complaint Procedure**

The City of Newport prohibits discrimination and harassment against an employee who takes protected paid leave. Conduct that violates the city's no-harassment and no-discrimination policies will not be tolerated and may subject an employee to discipline, up to and including termination.

Employees who have experienced discrimination or harassment, or have witnessed such behavior, should bring the matter to the attention of the Human Resources Director or City Manager, or a supervisor or member of management as soon as possible.

### **Who to Contact for More Information**

For more information about city's Paid Leave Oregon policy, contact Human Resources.

For more information about the PLO program, including steps for applying for PLO benefits and contact information, go to <https://paidleave.oregon.gov/>

Employee information and Paid Leave Oregon contact information is available at the following website: <https://paidleave.oregon.gov/employees/overview.html>

## **15-8.70 HEALTH BENEFITS**

The City of Newport currently offers health, dental, and vision insurance coverage. Employees will be provided with information about the plan during new hire orientation and during open enrollment each October. You are asked to review the summary plan description for answers to questions you may have. Further information is available through Human Resources OR our benefits administrator, CIS at 503.763.3800.

### Eligibility

The city provides employees working 30 or more hours per week, and their eligible dependents, with medical, dental, and vision care insurance benefits. Eligibility begins the first of the month following a full 30 days of employment.

The city reserves the right to modify or terminate benefit plans at any time.

### Medical, Dental, Vision Insurance

Eligible Employees are provided with a health insurance plan (medical, dental, vision) for themselves, their eligible dependents, and their domestic partners (if they meet all of the coverage criteria). The children of covered domestic partners are eligible under the same terms and conditions as children of enrolled employees.

### Health Savings Account

The city provides a Health Savings Account (HSA) in conjunction with the health plan. The city contributes to the plan at the beginning of each plan year.

The dollar amount of an employee contribution is subject to the number of dependents covered in the city's medical benefits plan.

You must be enrolled in the city's medical benefits program in order to qualify for an HSA contribution.

New-hires may receive a pro-rated HSA Contribution as outlined below once they have met the enrollment eligibility period.

- Enrollment eligibility date between January 1 and March 31: 75%
- Enrollment eligibility date between April 1 and June 30: 50%
- Enrollment eligibility date between July 1 and September 30: 25%
- Enrollment eligibility date between October 1 and December 31: 0%

The new hire pro-rated contribution will be made within 30 days of becoming covered in the plan.

Employees with health coverage through another source may waive coverage with the City of Newport, provided that at least 75% of the city's eligible employees are covered. Employees having health coverage through another source are entitled to compensation

of \$100 monthly in lieu of city health coverage. Proof of other coverage is required to be eligible for the monthly compensation.

Part of the city's health insurance coverage is the Healthy Benefits program, which provides a valuable package of services to employees and eligible family members to help achieve or maintain optimum health. City of Newport employees are encouraged to participate in wellness programs/resources offered via a healthy benefits program, the medical insurance carrier programs, etc.

Summary Plan Descriptions (SPDs) for the City of Newport benefit programs are available via CIS website at [CISbenefits.org](http://CISbenefits.org). The benefit programs terms and conditions are explicitly defined in legal documents, including insurance contracts, official plan texts, and trust agreements. These documents govern all issues relating to employee health insurance. In the event of a conflict between these documents and this policy, the plan documents will govern. All of these official documents are readily available from the benefit plan administrator (CIS) for your review. We ask that you refer any questions about this information to Human Resources.

#### Premium Contribution

Employees contribute to the cost of their coverage based on the coverage level they select.

#### Pre-Tax Account

The City of Newport makes pre-tax options available to eligible employees for dependent care expenses, medical and dental services, and employee insurance premiums. Because taxable income is reduced by using one or more of these options, employees pay fewer taxes -. A brochure explaining the details of each program is available by contacting HR or CIS.

### **15-8.80 BENEFITS CONTINUATION (COBRA)**

If otherwise qualified, the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and qualified dependents the opportunity to continue health insurance coverage under their employer's health plan. Eligibility is initiated when a "qualifying event" would normally result in the loss of eligibility (e.g., work separation, death of an employee, a reduction in an employee's hours, leave of absence, an employee's divorce or legal separation, or a dependent child who no longer meets eligibility requirements).

Under COBRA, the employee or beneficiary pays the full cost of coverage at the group rates, plus a 2% administrative fee to CIS. Employees will receive a written notice describing rights and obligations granted under COBRA when the employee becomes eligible for coverage under the city's insurance plan.

### **15-8.90 VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION (VEBA)**

All employees who turn age 65 will be converted to a VEBA plan the following plan year, the contributions are the same as HSA. The amount of the contribution is based upon an employee's enrollment status in the city's medical benefits program as of January 1.

The dollar amount of an employee contribution is subject to the number of dependents covered in the city's medical benefits plan.

You must be enrolled in the city's medical benefits program in order to qualify for a VEBA contribution.

New-hires will receive a pro-rated VEBA Contribution as outlined in the HSA policy.

The new hire pro-rated contribution will be made within 30 days of becoming covered in the plan.

Employees participating in the VEBA plan are also able to contribute their own funds into a Flexible Spending Account (FSA).

#### **15-8.100 LONG-TERM DISABILITY**

The City of Newport provides a long-term disability (LTD) benefit plan to help employees working in benefits-eligible positions (refer to Employee Classifications) cope with an illness or injury that results in a long-term absence from employment. LTD is designed to ensure continuing income for employees who are disabled and unable to work, but it is not intended to fully replace your wages. LTD coverage begins on the first of the month following 30-days of employment and is subject to all the terms and conditions of the agreement between the city and the insurance carrier. LTD benefits are offset by amounts received under Social Security, PERS, other retirement income, or workers' compensation for the same time period.

#### **15-8.110 LIFE INSURANCE**

The City of Newport provides a basic life insurance plan that is based upon an employee's job classification, up to a maximum benefit amount for employees working in benefits-eligible positions; it is subject to all the terms and conditions of the agreement between the employer and the insurance \$10,000 for non-exempt employees and \$30,000 for exempt employees. Employees are eligible for coverage the first of the month following 30 days of employment. Employees will be asked to designate beneficiaries at the time of enrollment.

Also, additional voluntary and/or dependent life insurance may be purchased and will be deducted from the employee's monthly salary. Voluntary coverage may be subject to medical underwriting by the life insurance company.

#### **15-8.120 ACCIDENTAL DEATH AND DISMEMBERMENT (AD&D INSURANCE)**

The City of Newport provides AD&D insurance coverage in the same dollar amount as an employee's city-paid life insurance coverage, for employees working in benefits-eligible positions, who suffer accidental death or dismemberment. Employees working 30 or more hours per week are eligible for coverage the first of the month following 30 days of employment.

### **15-8.130      EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The city promotes the EAP program through the monthly EAP Lunch and Learn program for all employees. The EAP program is a free, confidential service provided to all employees and their dependents who may be experiencing life problems. Information regarding this service can be obtained by contacting Human Resources.

EAP also provides educational tools as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, home ownership, and gym membership discounts.

More information regarding this service can be obtained by contacting the EAP provider.

### **15-8.140      CITY OF NEWPORT EMPLOYEES' RETIREMENT PLAN**

Eligibility – Qualified regular employees scheduled to work 30 or more hours per week, other than public safety employees, become participants of the City of Newport Employees' Retirement Plan on the first of the month following six (6) months of continuous employment.

Defined Contribution Plan Qualified Employee - 1) Non-union Employees hired after March 5, 2012, 2) Newport Employees' Association Employees hired after October 15, 2012, and 3) Newport Police Employees (Non PERS) hired after October 15, 2012.

Defined Benefit Plan Qualified Employee - 1) Non-union Employees hired on or before March 5, 2012, 2) Newport Employees' Association Employees hired on or before October 15, 2012, and 3) Newport Police Employees (non PERS) hired on or before October 15, 2012.

A Retirement Benefit Employee Handbook of the City of Newport Employees' Retirement Plan, which describes the retirement program and benefits is available to employees at the time of hire and upon request.

Retirement Date - There is no mandatory retirement date for city employees. Employees may continue to work while they meet the expectations and requirements of the position and fulfill their duties.

For the purposes of the City of Newport Retirement Program, years of service means a 12-month period during which the employee is employed by the city as a qualified employee.

### **15-8.150      PERS (Public Employees' Retirement System) Benefits**

Public Safety Employees - Sworn police officers and firefighters participate in the Oregon Public Employees Retirement System (PERS) or Oregon Public Service Retirement Plan (OPSRP) as applicable. Member's Handbooks are available from PERS or OPSRP, which describe these programs in additional detail.

An employee's designation and eligibility for participation in PERS or the OPSRP are determined by law. For more information about these plans, please contact PERS at 1-888-320-7377 or visit their website at [www.oregon.gov/PERS](http://www.oregon.gov/PERS). For information about the city's contributions to employee PERS or OPSRP plans, please see human resources.



For more information on PERS membership, contact the PERS Customer Service line: 1-888-320-7377 or 503-598-7377, Monday – Friday between the hours of 8:30 a.m. and 5:00 p.m.

Public safety employees will become a PERS member after working six full calendar months for a PERS-covered employer in a qualifying position requiring at least 600 hours per calendar year period. That six-month “waiting period” cannot be interrupted by more than 30 consecutive working days. Your effective date of membership is the first day of the month after you have met this requirement. The City of Newport makes two contributions to PERS on your behalf. The first contribution is an amount based on the actuarial requirements for funding the city employee pensions. It is a percentage of payroll set by PERS. The amount may be different for each designation (Tier I, Tier II, OPSRP), and changes from year to year.

The employee contribution paid by the city to the PERS system, is set by statute at 6% of your pay.

### **15-8.160 WORKING AFTER PERS**

The city may consider allowing PERS-eligible employees to retire from employment with the city and then rehiring them, as permitted under Oregon law. The city will consider, among other factors, the uniqueness of the employee’s skills or experience, the needs of the city, and the ability of existing employees to perform the work of the retiring employee.

A Public Employees’ Retirement System (PERS) Retiree who is receiving a service retirement benefit under Tier One/Tier Two or the Oregon Public Service Retirement Plan (OPSRP), or who has elected to retire without a PERS service retirement benefit may be employed by the City of Newport subject to the provisions outlined below as allowed by law.

#### Policy Guidelines

1.1. PERS Retirees may be employed in a Regular, Seasonal, or Temporary employment assignment. The PERS Retiree is subject to the limitations of the employment category of the new assignment as defined in the City of Newport Personnel Rules and Regulations.

1.2. The terms and conditions of the employment of a PERS retiree must be approved by the Department Head after consulting with Human Resources prior to the employment of the retiree. The City Manager shall determine whether it is in the public interest to employ the PERS Retiree because of the person’s knowledge, skills and abilities.

1.3. Eligible PERS retirees may be considered for reemployment if, at the time of retirement, they were not on a work improvement plan and were not the subject of any written disciplinary actions within 12 months preceding retirement.

1.4. The employment assignment of a PERS Retiree may be to a classification which they previously held career status or to another classification provided the retiree is qualified for the classification.

1.5. Oregon statutes may impose certain restrictions on the employment of a person receiving PERS and OPSRP retirement benefits. The employee is responsible for complying with statutory requirements. The City of Newport is not responsible for the impact upon the retirement benefits of a PERS or OPSRP retiree resulting from their employment with the city.

1.6. City of Newport PERS Retirees may continue their employment, subject to any statutory limitations, for as long as the city determines their services are needed.

1.7. The City Manager is not required to use an active eligible list when hiring a City of Newport PERS Retiree into the position or classification they most recently held provided the break in service is no longer than thirty (30) days.

1.8. The City Manager is not required to use a City of Newport active eligible list when hiring a City of Newport PERS Retiree into the same position they retired from, or temporary employment assignment.

1.9. City of Newport PERS retirees may be considered for employment in Regular or Seasonal positions other than the position or classification they most recently held provided they have applied for and have been hired through a competitive recruitment process or through re-employment under the provisions outlined in the City of Newport Personnel Rules and Regulations.

2.0. City of Newport employees who retire from PERS and return to work at the City of Newport, without having to apply and be selected through a regular hiring process, do not have recall rights covered in City of Newport Personnel Rules and Regulations or current collective bargaining agreements.

#### **15-8.170 DEFERRED COMPENSATION**

To supplement your City of Newport Defined Contribution retirement plan, non-PERS benefit eligible employees may elect to participate in a 457(b) Deferred Compensation program. This allows you to set aside part of your salary and defer the taxes on it until you retire. You are eligible to participate, beginning with your first paycheck. Eligible employees may receive a contribution match of up to 6%, see City Retirement Plan section.

PERS eligible employees may participate in the 457(b) Deferred Compensation program. However, they are not eligible to receive a contribution match from the city.

##### City of Newport Defined Contribution Plan - Qualified Employee Definition

- 1) Non-union Employees hired after March 5, 2012,
- 2) Newport Employees' Association Employees hired after October 15, 2012, and
- 3) Newport Police Employees (Non PERS) hired after October 15, 2012.

#### **15-8.180 TRAINING AND DEVELOPMENT**

The City of Newport is committed to ensuring that all staff have access to learning, development and training opportunities that will enable them to continue to develop the required knowledge and skills to carry out their role within the city.

The goal of this policy is to ensure that employees are provided the necessary training and are supported, to meet the changing demands of the city and its citizens. This training and support will enable the city to achieve its strategic objectives and in turn foster a culture of respect, professionalism, and commitment to safety, customer service, and risk management.

The city's commitment to Diversity, Equity, Inclusion, and Belonging:

- Facilitate employee development and/or personal development by assisting by supporting efforts to broaden, deepen, and enhance their existing skill base.
- Provide a work environment where continuous learning and development takes place that help staff gain more personal satisfaction from their roles, increase motivation and enhance staff retention.
- Provide ongoing training and education required by local, state, and federal laws/regulations, including but not limited to, safety/OSHA, risk management, harassment, EEO, workplace violence, wage and hour, and workers compensation.

The city has developed a comprehensive training program for all regular employees. The city will administer these training programs to promote the professional growth and continued development of its employees, and to provide ongoing education in the areas of safety, compliance, and risk management.

A component of the training is administered through online training modules. All employees will be assigned mandatory training; completion will be expected in a reasonably defined timeframe. Training plans may be adjusted depending on the changing risks, industry standards, or regulatory landscape. In addition to web-based delivery, trainings may also be delivered via classroom, and/or interactive/hands-on, or in the field.

All new employees will be assigned and required to complete the mandatory online Training courses as part of their trial service period. Additional learning needs and opportunities will also be identified through the support, supervision, and review process, and through internal assessments that align with the city's needs and individual jobs.

It is the responsibility of all city employees, in partnership with their supervisor, other employees, city Safety Officer and Human Resources, to participate in reducing workplace/safety risks for themselves and their co-workers, and to comply with the legal requirements of the city. The success of the training program depends on the professionalism, skill, and commitment of all personnel. Therefore, the city expects all employees to also take a proactive approach to further the city-wide learning and development.

In pursuit of the City of Newport's objectives of long-term growth, compliance, safety, and operational stability, and in conjunction with feedback and input from management, the City Safety Officer and Human Resources will be responsible for discussing, planning, implementing, organizing, and reviewing, with management and the City Manager, all employee training specific to the online training system.

The City Manager is the ultimate authority for the content and adoption of specific programs, and will be responsible for ensuring compliance with all applicable federal, state, and local laws. The City Manager, or authorized designee, may modify or revise

the training program, including, but not limited to, content, employee compliance requirements, and the program vendor.

The City of Newport will strive to have an active training plan in place at the beginning of every fiscal year.

## **15-8.190      PROFESSIONAL DEVELOPMENT**

The city encourages professional development that can be obtained through attendance at seminars, educational courses and degree programs that once acquired will assist the employee in performing his or her essential job functions and increase the employee's contribution to the organization.

The city offers a Leadership Training Program for full-time regular employees. This program is administered through Human Resources and the Leadership Program Committee.

All regular full-time employees are eligible for professional development reimbursement.

Other professional development expenses that are reimbursable under this policy are membership fees to professional organizations, registration fees for meetings, conferences, workshops and seminars, fees and subscriptions for scholarly journals, books, and computer-based resources.

Employees must request permission from their immediate supervisor for review and approval to attend and to receive reimbursement for desired training and/or resource.

## **15-8.200      TUITION REIMBURSEMENT PROGRAM**

The objective of this policy is to assist employees who wish to pursue further education in an effort to enhance current skills as well as to improve future potential benefit to the city.

This policy complies with Section 127 of the IRS code for tuition reimbursement and is excludable from wages for tax withholding purposes.

The city may reimburse full-time, regular benefit eligible employees who have worked for the city a minimum of 12 months, for education costs for courses approved by the City of Newport up to an annual maximum. The approval for reimbursement will be dependent on the course and its relevance to the employee's current or future potential position. Approval must be obtained prior to commencement of each course per semester.

Participant in the Tuition Reimbursement Program is limited to the availability of budget funds for each fiscal year. Should funding become insufficient to meet reimbursement requests due to increased demand, budget cutbacks, or for any other reason, reimbursements will be processed on a first-come, first-served basis.

## **APPROVED PROGRAMS AND COURSES**

### **Degree Programs**

Tuition reimbursement is available for associate, bachelor, or graduate degree programs. Colleges or universities must be accredited by an accrediting agency that is

recognized by the U.S. Secretary of Education. A list is available on the U.S. Department of Education website.

### Non-Degree Programs

Individual classes outside of a degree program will be reviewed for approval on a case-by-case basis and are restricted to courses that are directly related to your present position or to prepare you for another specific position within the city. Courses that meet these criteria, but are not consistent with the intent of this program may be denied for reimbursement. A preparatory class intended solely to prepare the student for an examination or certification will not be covered under the tuition reimbursement program. This program does not cover flying lessons, ground school, and other flight crew training or exams.

### Reimbursement Level

Tuition or registration fee reimbursement will be provided up to an annual maximum of \$5,250. Text books, supplies, meals, lodging, and travel are not reimbursable under this policy. The annual maximum is based on a calendar year. Reimbursement will be credited to the calendar year in which the class was completed.

Funding will come from the employee's department's training budget.

The city will not reimburse for costs covered by scholarships or grants.

Initial approval of a course of study does not obligate the city to future/continued approval of courses in that course of study. Approvals are only valid for the course and semester given.

### Employee Eligibility

- Must be a full-time, regular benefit eligible employees (30 or more hours/week)
- Have worked for the city a minimum of 12 months
- Must be currently employed at the time of reimbursement.
- Requests signed by the employee and department head must be submitted to Human Resources thirty (30) days prior to the beginning of the semester.

### Employee Responsibility

- Employees must satisfactorily complete the course work (grade 'C' or above) to receive reimbursement.
- Furnish the city with proof of satisfactory completion of approved course work.
- Course work must not conflict with the employees work schedule.

### Applying for Reimbursement

To receive reimbursement for educational expenses, employees should follow the procedures listed here:

- Prior to enrolling in an educational course, the employee must provide their supervisor/department head with information about the course for which the employee would like to receive reimbursement and discuss the job-relatedness of the continuing education.
- An Employee Tuition Reimbursement Application form must be completed by the employee, and the appropriate signatures obtained.

- Application form must be approved by the Department Head and the City Manager.
- A copy of the Employee Tuition Reimbursement Application form must be submitted to HR. The employee will maintain the original until they have completed the educational course.
- Once the course is successfully completed, the employee must resubmit the original Employee Tuition Reimbursement Application form with the reimbursement section filled out, including appropriate signatures, as well as receipts and evidence of a passing grade or certification attached.
- The HR department will coordinate the reimbursement with the Finance department. The reimbursement will be paid directly to the employee.

#### Termination of Employment

Employees who leave employment by their own initiative within one (1) year of completion of the course shall be required to reimburse the city 100% for tuition reimbursement amounts.

### **15-8.210 ELECTRIC VEHICLE CHARGING**

This policy applies to all City of Newport employees.

#### Definitions

##### Electric Vehicle

Electric Vehicles (EV) with rechargeable batteries with the wheels powered by the electric motor; Plug-in Hybrid Electric Vehicles (PHEV) with a rechargeable battery/electric motor in combination with an internal combustion motor to power the vehicle. Also refer to Zero Emission Vehicle.

##### Electric Vehicle Charging Station

Any device that delivers electric power to charge an Electric Vehicle. Includes electric outlets that an agency allows employees or the public to access for charging EVs as well as installed charging devices such as:

- Level One, 110/120-volt dedicated charging devices

#### Public Charging Stations

Only electric vehicles may use the EV parking spots.

Parking spaces with charging stations are available on a first come, first serve basis for the general public and all employees, in accordance with the Policy and Guidelines.

During normal business hours, electric vehicles must be moved from the charging station stall once charging is complete or after four hours, whichever comes first.

The user shall neatly replace the charging cords when finished. Coil the cord onto the station when completing the charge. Any visible damage to the charging station or cord should be reported immediately to the City Manager's Office.

Vehicles that are non-electric or electric vehicles not being charged are not allowed to be parked in the EV parking spots.

Any vehicle parked in the charging station stall must be actively charging. If the charging event is complete, the user must vacate the stall. The vehicle time allotted in the charging station stall is limited to four hours.

Vehicles need to be legally parked for charging.

Payment for the use of the charging station will be fully paid by the employee.

Failure to follow the policy and guidelines will result in termination of the user's workplace charging program enrollment.

#### **Accessing City Power (110/120V)**

Employees must pay a minimum monthly charge to access city-owned power for charging vehicles.

The vehicle power cord must be the property of the employee.

Level-1 (110/120V) charging of vehicles will be charged \$10 per month.

Employees will be required to complete an Employee Electric Vehicle Charging Application.

Employees will be required to sign a Payroll Deduction Authorization form. Payroll deductions for charging are made in arrears and are post-tax.

The rate per month will not be prorated due to employee absence, vacation, and early termination of this agreement, or for any other reason within a calendar month.

Vehicles need to be legally parked for charging.

Employee safety is the highest concern addressed by the policy and emphasized as a priority to all EV charging station users. Although the charging station has many built-in safety factors to minimize the potential for electrical injury, tripping hazards and other cord management issues can be problematic. Do not route the power cord where it could be a hazard to others.

Any place the charging cord crosses pedestrian traffic areas, the employee must provide and use a high visibility cord cover to prevent cord damage and trip hazards.

The charging cord must be plugged into an exterior outlet.

The exterior outlet must be within reasonable proximity to the vehicle being charged.

No daisy chaining of power cords will be allowed.

Vehicle charging cords must be the property of the employee.

Employee vehicle charging cords may be inspected by the city periodically and if found to be damaged or worn, the use of city charging may be revoked until the power cord is replaced or properly repaired.

Failure to observe these rules may result in the loss of charging privileges.



### **Responsibilities for Vehicles Being Charged**

The city assumes no responsibility or liability for damage to vehicles using the electric vehicle charging stations.

Users may not hold the city responsible for any damage or theft that occurs to their vehicle or associated charging equipment while actively charging or parked in an electric vehicle charging station stall. The user accepts any risks associated with the use of the Electric Vehicle Supply Equipment (EVSE).

## **SECTION 15-9 LEAVES**

### **15-9.10 DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING LEAVE**

All employees are eligible for reasonable unpaid leave to address domestic violence, harassment, sexual assault, bias, or stalking of the employee or their minor dependents.

Employees involved in domestic or non-work-related situations that may pose a risk to the workplace are encouraged to inform their supervisor or human resources as soon as practicable.

Reasons for taking leave include the employee's (or the employee's dependent's) need to: seek legal or law enforcement assistance or remedies; secure medical treatment for or time off to recover from injuries; seek counseling from a licensed mental health professional; obtain services from a victim services provider; or relocate or secure an existing home.

Leave is generally unpaid, but the employee may use any accrued vacation or sick leave while on this type of leave. Employees may also be eligible to use PLO benefits.

Finally, employees who are victims of domestic violence, harassment, sexual assault, bias, or stalking may be entitled to a "reasonable safety accommodation" that will allow the employee to more safely continue to work, unless such an accommodation would impose an "undue hardship" on the city.

Please contact HR immediately with requests for reasonable safety accommodations., The city will engage in discussions with the employee about the nature and scope of a reasonable safety accommodation that will best address the particular safety concern affecting the individual employee.

Examples of reasonable accommodation, but not limited to, may include: transfer, reassignment, modified schedule, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure, or any other adjustment to a job structure, workplace facility, or work requirement in response to actual or threatened domestic violence, sexual assault, stalking, or criminal harassment.

In accordance with ORS 659A.280(5), all records and information kept by the City of Newport regarding an employee's request for, or use of, leave and/or a reasonable safety accommodation under this rule will be kept confidential and may not be released without the express written permission of the individual, unless otherwise required by law

or required for litigation. Documents provided to the city regarding the leave will be maintained in a confidential, locked file separate from employee personnel files.

#### Notice and Authorization

When seeking this type of leave, the employee should provide as much advance notice as is practicable of their intention to take leave, unless giving advance notice is not feasible. The supervisor will forward the request to HR for authorization by the City Manager.

Notice of need to take leave should be provided by submitting a request for leave in writing to their supervisor as far in advance as possible, indicating the time needed, when the time will be needed, and the reason for the leave. The city will then generally require certification of the need for the leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, healthcare professional, member of the clergy, or victim services provider.

If more leave than originally authorized needs to be taken, the employee should give the city notice as soon as is practicable prior to the end of the authorized leave. When taking leave in an unanticipated or emergency situation, the employee must give oral or written notice as soon as is practicable. When leave is unanticipated, this notice may be given by any other person on the employee's behalf.

### **15-9.20 CRIME VICTIM LEAVE**

Any employee who has worked an average of at least 25 hours per week for 180 days is eligible for reasonable, unpaid leave to attend criminal proceedings if the employee or his or her immediate family member (defined below) has suffered financial, social, psychological or physical harm as a result of being a victim of certain felonies, such as kidnapping, rape, arson, and assault.

"Immediate family member" includes a spouse, registered same-sex domestic partner, father, mother, sibling, child, stepchild or grandparent.

In all circumstances, the city may require certification of the need for leave, such as copies of any notices of scheduled criminal proceedings that the employee receives from a law enforcement agency or district attorney's office, police report, a protective order issued by a court, or similarly reliable sources.

#### Notice and Authorization

Employees who are eligible for crime victim leave must:

- Use any accrued, but unused vacation/sick leave during the leave period;
- Provide as much advance notice as is practicable of their intention to take leave (unless giving advance notice is not feasible); and
- Submit a request for the leave in writing to the supervisor as far in advance as possible, indicating the amount of time needed, when the time will be needed, and the reason for the leave. The request will be forwarded to HR for authorization by the City Manager.

### **15-9.30 OREGON FAMILY MEDICAL LEAVE (OFLA)**

The following is a summary of Oregon Family Leave Act (OFLA) policy and procedures. Generally, and as will be discussed, eligible employees are entitled to 12 weeks of unpaid leave for the reasons identified below. Oregon law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used OFLA Leave. In all cases, applicable Oregon laws, rules, policies, and collective bargaining agreements govern the employee's and the city's rights and obligations, not this policy.

Employees seeking further information should contact human resources. Please also refer to the "Oregon Family Leave Act" notice posted in the breakroom of each facility, which is incorporated here by reference.

The city will run an employee's OFLA leave concurrently with any leave taken under Paid Leave Oregon for the same reason.

#### **Definitions**

**Family Member** - Is defined as a spouse or domestic partner, a child of a covered individual or the child's spouse or domestic partner, a parent of a covered individual or the parent's spouse or domestic partner, a sibling or stepsibling of a covered individual or the sibling's or stepsibling's spouse or domestic partner, a grandparent of a covered individual or the grandparent's spouse or domestic partner, a grandchild of a covered individual or the grandchild's spouse or domestic partner, any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.

**Child** - Includes a biological, adopted, foster or stepchild, the child of a registered domestic partner, or a child with whom the employee is in a relationship of *in loco parentis*, under the age of 18 or over 18 if incapable of self-care because of a mental or physical disability.

#### **Eligible Employee**

**OFLA** - To qualify for OFLA leave an employee must have been employed for at least 180 days and worked an average of at least 25 hours per week.

**OMFLA** - For purposes of Oregon Military Family Leave Act leave, the employee need have only worked 20 hours per week (no minimum length of employment required). A different calculation method applies for reemployed service members under USERRA who seek OMFLA leave; see human resources for more information.

**Public Health Emergency Leave** - Employees are eligible to take any OFLA leave during a Public Health Emergency if they have worked: (a) more than 30 days immediately before the date on which the leave would begin; or (b) an average of 25 hours per week in the 30 days immediately before the date on which the leave would begin. See definition of "public health emergency" definition below.

**Public Health Emergency** -A "public health emergency" is a public health emergency declared under ORS 433.441 or an emergency declaration declared under ORS 401.165. An example of this is when the State of Oregon declared a COVID-19 state of emergency in March 2020 and the wildfire state of emergency in June 2021.

Affinity- Anyone related to the employee by blood or anyone who lives with or is connected to the employee like a family member. A number of factors are looked at to determine whether an “affinity” relationship exists:

- Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills, or beneficiary designations;
- Emergency contact designation of the [employee] by the other individual in the relationship, or vice versa;
- The expectation to provide care because of the relationship or the prior provision of care;
- Cohabitation and its duration and purpose;
- Geographical proximity; and
- Other factors that demonstrate the existence of a family-like relationship.

### Reasons for Taking Leave

OFLA leave may be taken for any of the following purposes:

1. Pregnancy Disability Leave: For incapacity due to pregnancy, prenatal medical care or birth.
2. Sick Child Leave: To care for a child who suffers from an illness or injury that requires home care or has a serious health condition, or to care for a child whose school or place of care has been closed due to a public health emergency. This type of leave does not provide for routine medical and dental appointments or issues surrounding the availability of childcare when the child is not ill or injured.
3. Bereavement Leave. To deal with the death of a Family Member by attending the funeral of the Family Member, making arrangements necessitated by the death of the Family Member, or grieving the Family Member’s death. Employees are eligible for two (2) weeks per family member, up to a maximum of four (4) weeks per leave year.
4. Oregon Military Family Leave Act Leave (“OMFLA”): During a period of military conflict, as defined by the statute, eligible employees with a spouse or registered domestic partner who is a member of the Armed Forces, National Guard, or military reserve forces (“Military Spouse”), and who has been notified of an impending call or order to active duty (or who has been deployed) is entitled to a total of 14 days of unpaid leave per deployment after the Military Spouse has been notified of an impending call or order to active duty and before deployment and when the Military Spouse is on leave from deployment.
5. Public Health Emergency Leave - Employees are eligible to take any OFLA leave during a Public Health Emergency if they have worked: (a) more than 30 days immediately before the date on which the leave would begin; or (b) an average of 25 hours per week in the 30 days immediately before the date on which the leave would begin. This is available to employees who are eligible for OFLA only. See the definition of “public health emergency” below.

**Note:** For purposes of sick child leave, the child must be either under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

If applicable, OFLA leave will run concurrently with FMLA when permitted.

### Length of Leave

In any One-Year Period, eligible employees may take up to 12 weeks of unpaid protected time off per leave year. Employees are eligible to take up to two (2) weeks of unpaid Bereavement leave, up to a maximum of four (4) weeks per leave year.

### One-Year Period

For purposes of determining the amount of OFLA leave that an eligible employee may take, "One-Year Period" means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which the employee's OFLA leave begins.

### Intermittent Leave

Intermittent or reduced-schedule leave may be taken when medically necessary. Employees must make reasonable efforts to schedule planned medical treatments to minimize disruption of city operations, including consulting management prior to the scheduling of treatment to work out a treatment schedule which best suits the needs of both city and the employee.

### Employee Responsibilities - Notice

Employees must provide at least 30 days' notice before OFLA leave is to begin. If 30 days' notice is not practicable, because of a lack of knowledge of approximately when leave will be required to begin or a change in circumstances, notice must be given as soon as practicable. If the situation giving rise to a Sick Child Leave is unforeseeable, an employee must give verbal or written notice to the city within 24 hours of commencement of the leave.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise their supervisor and human resources as soon as practicable if dates of scheduled leave change or are extended or were initially unknown.

If circumstances change during the leave and the leave period differs from the original request, the employee must notify human resources within three business days, or as soon as possible.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with the city's normal call-in procedures. Employees who fail to comply with the city's call-in procedures may be disciplined or may have their period of OFLA leave reduced.

### OFLA Bereavement Leave

Employees who have worked for the city for 180 calendar days, and averaged at least 25 hours per week, may take up to two weeks of unpaid bereavement leave per death of a Family Member (defined below). Employees who have worked for the city for 90-180 days may use up to 40 hours of accrued sick leave for bereavement purposes, and who have experienced the death of a Family Member (defined below). Employees who have worked for the city for fewer than 90 days may not be eligible for leave.

Bereavement leave may be used to attend the funeral or alternative to a funeral of the family member, to make arrangements necessitated by the death of the family member, or to grieve the death of the family member. The two weeks of bereavement leave must

be taken in the 60-day period following notice of death of a family member, and will be deducted from the employee's available leave time under OFLA.

For purposes of OFLA bereavement leave, "immediate family member" is defined as:

- The eligible employee's spouse, registered (by the state of Oregon) domestic partner, sibling/step-sibling, parent, grandparent, child, or grandchild;
- The spouse, or registered domestic partner of the eligible employee's sibling/step-sibling, parent, grandparent, child or grandchild; or
- Any individual related by blood or affinity whose close association with an eligible employee is the equivalent of a family relationship.

Employees who wish to take bereavement leave must inform your Supervisor and Human Resources as soon as possible after receiving notification of a Family Member's death. Although prior notice is not required, oral notice must be provided within 24 hours of beginning leave. Written notice must be provided to Human Resources within three days of returning to work.

Employees are required to use any available sick leave during the period of bereavement leave; vacation time will be used if the employee has no available sick leave.

#### Certification

Generally speaking, employees may be required to provide sufficient information for the city to determine if the leave may qualify for OFLA protection and the anticipated timing and duration of the leave. An employee will be required to provide a note from a doctor or healthcare provider if the employee has used more than three days (*i.e.*, one, three-day occurrence or three separate instances) of sick child leave within a One-Year Period, employees must furnish the city's requested medical certification information within 15 calendar days after such information is requested by the city.

#### Substitution of Paid Leave for Unpaid Leave

Employees are required to use accrued paid leave, including floating holidays, vacation, compensatory time, and sick leave prior to a period of unpaid leave of absence on OFLA leave. Use of accrued paid leave will run concurrently with OFLA leave.

#### Holiday Pay While on Leave

Employees using vacation pay or sick pay during a portion of approved Family Medical Leave in which a holiday occurs will qualify to receive holiday pay. Employees who are on unpaid leave during a holiday will not qualify to receive holiday pay.

#### Benefits While on Leave

The city will continue the employee's health coverage under any group health plan during a period of approved OFLA leave on the same terms as if the employee had continued to work. The employee must continue to make any regular contributions to the cost of the health insurance premiums during the period of approved OFLA leave.

Employees will not accrue vacation, sick leave or other benefits (other than health insurance) while the employee is on an unpaid OFLA leave. The leave period, however, will be treated as continuous service (*i.e.*, no break in service) for purposes of vesting and eligibility to participate in the city benefit plans.



### Job Protection

Employees returning to work from OFLA Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring OFLA Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated OFLA Leave period, reinstatement may not be available unless the law requires otherwise.

The use of OFLA Leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

### Restoration of Leave Bank at Time of Re-Employment

An employee who leaves employment with the city for any reason may be eligible for OFLA leave if they are re-employed by the city within 180 days of the separation and if the employee was eligible for OFLA leave at the time of the separation. Special rules apply to employees who temporarily stop working for the city for 180 days or less; please speak with human resources for more information.

## **15-9.40      FAMILY MEDICAL LEAVE ACT (FMLA)**

The following is a summary of the policy and procedures under the federal Family Medical Leave Act (FMLA).

Generally, and as will be discussed, eligible employees are entitled to 12 weeks of unpaid leave for the reasons identified below. Federal law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used FMLA. In all cases, applicable federal laws, rules, policies and collective bargaining agreements govern the employee's and the city's rights and obligations, not this policy.

Employees seeking further information should contact [Contact]. Please also refer to the "Employee Rights and Responsibilities Under the Family Medical Leave Act" posted in the breakroom in each facility, which are incorporated here by reference.

### Definitions

#### *Child/Son or Daughter*

A "son or daughter" is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence. FMLA military family leave are not restricted by age — see below.

#### *Eligible Employee*

Employees are eligible for FMLA leave if they have worked for a covered employer for at least one year (which may be based on separate stints of employment) and for 1,250 hours during the 12 months preceding the date leave is to begin. They must also be



employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.

Leave under FMLA and OFLA will run concurrently when permitted. If applicable, leave under FMLA will also run concurrently with Paid Leave Oregon leave – see Paid Leave Oregon policy below.

#### *Family Medical Leave*

This includes all the types of leave identified in the section below, entitled “Reasons for Taking Leave,” unless otherwise specified.

#### *Family Member*

A “family member” is defined as a spouse, parent or a “son” or “daughter” (defined above).

#### *Serious Health Condition*

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

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a healthcare provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of a “serious health condition;” see human resources for more information. The common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and cosmetic treatments (without complications), are examples of conditions that are not generally defined as serious health conditions.

#### Reasons for Taking Leave

FMLA may be taken under any of the following circumstances:

1. Call to Active Duty Leave: Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the regular Armed Forces, National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain “qualifying exigencies.” “Qualifying exigencies” may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
2. Employee’s Serious Health Condition Leave: To recover from or seek treatment for an employee’s serious health condition, including pregnancy-related conditions and prenatal care.
3. Family Member’s Serious Health Condition Leave: To care for a family member with a serious health condition.
4. Parental Leave: For the birth of a child or for the placement of a child under 18 years of age for adoption or foster care. Parental leave must be completed within 12 months of the birth of a newborn or placement of an adopted or foster child.

5. **Servicemember Family Leave:** Eligible employees may take up to 26 weeks of leave to care for a “covered servicemember” during a single 12-month period. A “covered servicemember” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform their duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Under some circumstances, a veteran will be considered a “covered servicemember.”

#### Length of Leave

In any one-year period, eligible employees may take up to 12 weeks of unpaid protected leave.

When leave is taken for Servicemember Family Leave, an eligible employee may take up to 26 weeks of leave during the One-Year Period to care for the servicemember. During the One-Year Period in which Servicemember Family Leave is taken, an eligible employee is entitled to a combined total of 26 weeks of FMLA Leave (some of which may include other types of FMLA-specific leaves of absence).

#### One-Year Period

The “12-month period” during which leave is available (also referred to as the “One-Year Period”) is a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which the employee’s FMLA leave begins.

#### Intermittent Leave

Intermittent or reduced schedule leave may be taken during a period of Family Member or Employee Serious Health Condition Leave or Servicemember Family Leave. Additionally, Call to Active Duty Leave may be taken on an intermittent or reduced leave schedule basis. An employee may be temporarily reassigned to a position that better accommodates an intermittent or reduced schedule. Employees must make reasonable efforts to schedule planned medical treatments to minimize disruption of city operations, including consulting management prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the city and the employee. Intermittent leave for Parental Leave is not available.

#### Employee Responsibilities - Notice

Employees must provide at least 30 days’ notice before FMLA leave is to begin if the reason for leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned treatment for a serious injury or illness of a covered servicemember (Servicemember Family Leave). If 30 days’ notice is not practicable, because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

For Call to Active Duty Leave, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee must let [Contact]

know as soon as practicable if dates of scheduled leave change or are extended or were initially unknown.

If circumstances change during the leave and the leave period differs from the original request, the employee must notify [Contact] within three business days, or as soon as possible. Further, employees must provide written notice within three days of returning to work.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with the city's normal call-in procedures. Employees who fail to comply with the city's leave procedures may be denied leave, subject to discipline, or the start date of the employee's FMLA leave may be delayed.

#### Certification

Generally speaking, employees must provide sufficient information for the city to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a healthcare provider, or circumstances supporting the need for either Call to Active Duty or Servicemember Family Leave.

Employees also must inform the city if the requested leave is for a reason for which FMLA leave was previously taken or certified. Additionally, Employees requesting serious health condition leave for themselves or to care for a covered family member will be required to provide certification from the healthcare provider of the employee or the covered family member to support the request.

Employees must furnish the city's requested medical certification information within 15 calendar days after such information is requested by the city. In some cases, the city may require a second or third opinion, at the city's expense. Employees also may be required to submit subsequent medical verification.

Employees will not be asked for, and they should not provide, any genetic information about themselves or a family member in connection with a medical certification.

#### Medical Certification Prior to Returning to Work

If FMLA leave is for the employee's own serious health condition, the employee must furnish, prior to returning to work, medical certification from their healthcare provider stating that the employee is able to resume work.

#### Substitution of Paid Leave for Unpaid Leave

Employees are required to use accrued paid leave, including floating holidays, vacation, compensatory time, and sick leave prior to a period of unpaid leave of absence on Family Medical Leave, unless the employee has applied for Paid Leave Oregon (PLO) benefits. An employee on approved PLO is permitted to apply their paid time in addition to the PLO benefits, but will not be required to apply paid time while receiving PLO benefits. Use of accrued paid leaves will run concurrently with Family Medical Leave.

#### Holiday Pay While on Leave

Employees using vacation pay or sick pay during a portion of approved FMLA leave in which a holiday occurs will qualify to receive holiday pay. Employees who are on unpaid leave during a holiday will not qualify to receive holiday pay.

#### On-the-Job Injury or Illness

Periods of employee disability resulting from a compensable on-the-job injury or illness will qualify for FMLA Leave if the injury or illness is a “serious health condition” as defined by applicable law.

If the employee’s serious health condition is the result of an on-the-job injury or illness, the employee may qualify for workers’ compensation time-loss benefits.

#### Benefits While on Leave

If an employee is on approved FMLA Leave, the city will continue the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved FMLA leave will be responsible for bearing the cost of their share of group health plan premiums which had been paid by the employee prior to the FMLA leave. Employees will not accrue vacation, sick leave or other benefits (other than health insurance) while the employee is on an unpaid FMLA leave. The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in city benefit plans.

#### Job Protection

Employees returning to work from FMLA leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring FMLA leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated FMLA leave period, reinstatement may not be available unless the law requires otherwise.

The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

Employees who work for other employers during a “serious health condition” leave may be subject to discipline up to and including termination. Additionally, all employees who use FMLA leave for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

#### **Federal Military Family Leave**

##### **Qualifying Exigency Leave for Families of National Guard and Reserves:**

The National Defense Authorization Act for 2008 (NDAA) amends FMLA to allow military family members (spouse, son, daughter, or parent) of people who are on, or about to go on active duty, leave entitlement to manage their affairs (“qualifying exigency”).

For purposes of qualifying exigency leave, family members of covered military members called to active duty may take leave for one or more of the following qualifying

exigencies: (1) to address any issues which arise from the military member learning of a call or order to duty seven or less calendar days prior to deployment; (2) to attend military events or sponsored family support programs; (3) to arrange for alternative childcare or school attendance, attend childcare or school meetings, or provide childcare on an urgent immediate need basis when necessitated by the call to duty; (4) to make or update financial and legal arrangements to address the military member's absence, or to serve as the military member's Representative in obtaining, arranging or appealing military service benefits; (5) to attend counseling (not provided by a health care provider) for oneself, the military member, or child of the military member; (6) to spend time (up to 5 days of leave for each instance) with a military member on temporary rest and recuperation leave; (7) to attend post-deployment activities, and (8) any other events which employer and employee agree arise out of the military member's call to duty, qualify as an exigency, and agree as to the timing and duration of leave.

**Military Caregiver Leave:** The NDAA FMLA amendments also allow up to 26 weeks of unpaid FMLA caregiver leave for a service member who incurs a serious illness or injury in the course of active duty. This leave is called "Service member Family Leave" (SMFL). A caregiver may be the spouse, son, daughter, parent or next of kin (defined as nearest blood relative). For this leave only, a "serious injury or illness" is defined as any injury or illness incurred in the line of duty that "may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating." This means that the SMFL serious health condition may not meet the definition of other FMLA serious health condition.

**Oregon Military Family Leave (OMFLA):** Employees who work an average of 20 hours per week, regardless of how long the employee has worked for the City of Newport, may be eligible for this leave. The OMFLA provides spouses of armed service members with 14 days of unpaid leave each time an employee's spouse is deployed for military service. In order to take this leave, the employee must give notice to the employer within five days of receiving official notice of the spouse's deployment. The 14 days count against the employee's 12-week OFLA allotment for the year; this means the days are included in, not in addition to, the 12 weeks of family leave available under Oregon's Family Leave Act (OFLA). Benefits and Compensation may be continued during OMFLA leave. Upon completion of OMFLA, an employee is eligible to be restored to employment in the position held at the beginning of the leave. No retaliation or discrimination may occur because an employee has requested OMFLA leave.

**Length of Military Leave:** Military family members using leave for any "qualifying exigency," do not receive an additional 12-weeks leave. The leave is subject to the same 12-week limitation as most other FMLA/OFLA situations.

### **Retaliation**

Federal law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used FMLA. In all cases, applicable federal laws, rules, policies and collective bargaining agreements govern the employee's and the city's rights and obligations, not this policy. Any act of retaliation by a supervisor and/or coworker may result in serious adverse disciplinary action up to and including termination.

## **15-9.50 LEAVE DONATION AND USE**

All employees, are eligible to participate in the Leave Donation Program as employee donors and/or recipients. Participation in the Leave Donation Program is strictly voluntary.

Employees may request donated leave if they meet the requirement below:

- A. Must be in an unpaid status due to a serious medical condition of the employee or qualifying family member (child or spouse), and
- B. Must be on an approved FMLA/OFLA leave.
- C. Must be ineligible for other forms of disability or retirement payments, such as time loss, long term disability (LTD), PERS disability or Social Security disability. Employees must apply for the city's long-term disability benefits or other disability benefits they are eligible for.
- D. Must have exhausted benefits under Paid Leave Oregon (PLO).

Employees receiving the donations are allowed to receive sufficient donated leave time to cover their projected unpaid through their FMLA/OFLA period. However, the amount of donated leave transferred to the recipient shall not exceed the amount of time off needed for the specified injury or illness.

While an employee is receiving donated leave time, he/she will continue to be classified as a city employee and shall receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using their own leave.

Donated leave may not be used to extend employment beyond the point that it would otherwise end by rule or law. For example, if employment would have otherwise been terminated due to layoff or other non-discriminatory reasons, donated leave may not be used to extend employment.

The recipient is responsible for the payroll taxes when the donated hours are paid out to the recipient.

### Donating Vacation and Comp Time Accruals

Employees may donate a maximum of 80 leave hours per person but must retain at least 40 hours of accrued vacation time.

Donors must sign a declaration that their donation is voluntary, is intended as a gift, and has been made without coercion, compensation, or for other consideration. Donations must be made in increments of whole hours, and they will be transferred as an hour-for-hour exchange.

Donations are irrevocable and must be made with the understanding that the donated leave is lost to the donor forever for all purposes including, but not limited to, use for paid time off and vacation cash out upon termination.

Donated hours that are unused will be returned to the donor.



#### Request for Donated Leave

Any employee who wishes to receive donated vacation and/or comp time must submit a completed Medical Certification form to Human Resources, and be on an approved FMLA/OFLA leave.

Donated leave may continue until: 1) The employee returns to work, or 2) FMLA/OFLA exhausts, or 3) Donated leave exhausts, 4) the employee becomes eligible for disability benefits.

Recipients of donated vacation/comp hours will immediately notify Human Resources in writing of any change in circumstance that negates the employee's continued need or eligibility to participate in the vacation/comp time donation program. Departments receiving such information will immediately notify Human Resources.

### **15-9.60 PERSONAL LEAVE OF ABSENCE**

Personal leave is unpaid and may be approved based on workload and business necessity, for a limited duration. Examples might include education leave, unpaid religious holidays, an extended medical leave, or a leave to participate with a volunteer the city such as the Peace Corps. Maximum duration allowable would not exceed one year. All requests will be considered on a case-by-case basis. Instances of leave without pay may affect an employee's annual performance appraisal date. The City of Newport has the right to make such a change, and may do so at the discretion of the department head. The city may discontinue all, or a portion of, benefits when granting leave without pay (and may be required to due to employee benefits plan requirements).

A Department Head may approve up to two weeks of unpaid time off within a rolling twelve-month period. If an employee seeks more than two weeks of unpaid time off, the City Manager or their designee makes the decision about whether to approve the request.

All eligible and approved vacation and/or comp time is to be used before any unpaid leave of absence will be granted

### **15-9.70 BEREAVEMENT LEAVE**

In addition to leave time granted under OFLA, Oregon's sick leave law and Paid Leave Oregon, the city provides up to three working days of paid bereavement leave as discussed below.

Employees who wish to take time off due to the death of an immediate family member should notify their supervisor immediately. For purposes of bereavement leave provide by the City of Newport, "immediate family member" is defined as:

- The eligible employee's spouse, registered (by the state of Oregon) domestic partner, sibling/step-sibling, parent, grandparent, child, or grandchild;
- The spouse, or registered domestic partner of the eligible employee's sibling/step-sibling, parent, grandparent, child or grandchild; or
- Any individual related by blood or affinity whose close association with an eligible employee is the equivalent of a family relationship.



Up to three (3) working days of paid bereavement leave will be provided to benefits-eligible employees if they have successfully completed their probationary period. If the death in the employee's immediate family should require out-of-state air travel or more than eight hours drive time, the leave may be extended to one working week. The days cannot be split up and need to be taken in a single block of time.

Bereavement leave is calculated on the base pay rate at the time of leave, and will normally be granted unless there are unusual business needs or staffing requirements. For part-time employees (less than 40 hours a week) bereavement leave will be pro-rated based on the number of hours regularly worked based on an 8-hour day. Full-time (40 hours a week) Leave will be based on their normal scheduled hours in a workday.

#### OFLA Bereavement Leave

See OFLA policy above.

### **15-9.80            MILITARY LEAVE - UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)**

The city is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the city's policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under applicable law or this policy. If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee should immediately contact the HR department.

Employees taking part in a variety of military duties are eligible for benefits under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists, National Guard members for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five years of leave of absence. Under ORS 408.290, employees who have been employed by the city for six months prior to being called for active duty for training and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, any officer or employee of the state, or of any county, municipality or other subdivision of the state, is entitled, upon application to the city, to a paid leave of absence for a period, not exceeding, 15 days in any one training year. This includes pay or benefits to which the employee is entitled. Weekend drill obligations are not considered "federal active duty" for training under this policy

A "training year" means the federal fiscal year for any particular unit of the National Guard or a reserve component. A federal fiscal year runs from October 1 of one calendar year through September 30 of the next calendar year.

Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide the city with notice of the need for leave as far in advance as is reasonable under the circumstances. Written notice is preferred, but not required under the law or this policy.

To request a temporary or extended military leave of absence, the employee should generally obtain a Request for Leave of Absence Form from Human Resources. However, a written application is not required under the law or this policy.

Human Resources will review and sign the Request for Leave of Absence Form, collect any applicable insurance premiums from the employee, generate other applicable documents, and process accordingly.

Initial active duty for training and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, is entitled, to a leave of absence from duties for a period not exceeding 15 days in any one training year, without loss of time, pay or regular leave and without impairment of efficiency rating or other rights or benefits to which the employee is entitled.

- Employees must be employed for a period of six months in order to be eligible for paid leave. A "training year" means the federal fiscal year for any particular unit of the National Guard or a reserve component.
- When the employee intends to return to work, he or she must make application for reemployment to Human Resources within the application period set forth below.
- If the employee does not return to work, the supervisor must notify Human Resources so that appropriate action may be taken.

### Benefits

If an employee is absent from work due to military service, benefits will continue as follows:

- An employee on extended military leave may elect to continue group health insurance coverage for the employee and covered dependents under the same terms and conditions for a period not to exceed 31 days from the date the military leave of absence begins. The employee must pay, per pay period, the premium normally paid by the employee. After the initial 31-day period, the employee and covered dependents can continue group health insurance up to 24 months at 102% of the overall (both employer and employee) premium rate. Be sure to elect your coverage and make the required payments to the Benefits Department in a timely manner to continue your coverage.
- The group term life/AD&D insurance provided by the city will terminate the day the employee becomes active military.
- The group long term disability insurance provided by the city will terminate the day the employee becomes active military.
- Employees do not accrue vacation or sick leave while on unpaid military leave of absence status.
- With respect to the city's retirement plan, upon reemployment, employees who have taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service. Immediately upon reemployment, the employee may, at the employee's

election, make any or all employee contributions that the employee would have been eligible to make had the employee's employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reemployment and that is not greater in duration than three times the length of the employee's military service. Employees will receive all associated city match for such contributions.

- Voluntary supplemental life/AD&D insurance will terminate the day the employee becomes active military. Converting to an individual policy may continue voluntary dependent life insurance coverage. To exercise this conversion option, dependents must submit a written application and the first premium payment within 31 days immediately following the termination of coverage.

### Reemployment

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

- *Less than 91 days of military service* - (i) in a position that the employee would have attained if employment had not been interrupted by military service; or (ii) if found not qualified for such position after reasonable efforts by the city, in the position in which the employee had been employed prior to military service.
- *More than 90 days and less than 5 years of military service* - (i) in a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status and pay, the duties of which the employee is qualified to perform; or (ii) if proved not qualified after reasonable efforts by the city, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
- *Employee with a service-connected disability* - if after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in (i) any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the city; or (ii) if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

### Application for Reemployment

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment according to the following schedule:

- *If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service)* - the employee must report for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.
- *If service is for 31 days or more but less than 181 days* - the employee must submit an application for reemployment with Human Resources no later than 14 days following the completion of service.

- *If service is over 180 days* - the employee must submit an application for reemployment with Human Resources no later than 90 days following the completion of service.
- *If the employee is hospitalized or convalescing from a service-connected injury* - the employee must submit an application for reemployment with Human Resources no later than two years following completion of service.

#### Exceptions to Reemployment

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

- The city's circumstances have so changed as to make reemployment impossible or unreasonable
- Reemployment would pose an undue hardship upon the city.
- The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.
- The employee did not receive an honorable discharge from military service.

#### General Benefits upon Reemployment

Employees reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. An employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job at the city. Additionally, upon reemployment, a covered employee will not be discharged except for cause for up to one year following reemployment.

#### Documentation

Human Resources will, upon the employee's reapplication for employment, request that the employee provide the city with military discharge documentation to establish the timeliness of the application for reemployment, the duration of the military service, and the honorable discharge from the military service.

Also see Federal and Oregon Military Family Leave information under the FMLA/OFLA SECTION of the handbook.

### **15-9.90 JURY OR WITNESS DUTY**

If you are notified or subpoenaed to serve as a witness for the city or a juror, you may obtain a leave of absence.

**Length of Leave** - Jury or witness duty leave is available for the period of time covered by the initial subpoena or court order and any involuntary extensions.

**Request Procedure** - You must notify your supervisor as soon as you receive the notice or as soon as is practicable in order for arrangements to be made to cover your position. If requested, you are expected to provide us with a copy of the subpoena or notice.

**Pay while on Leave** - The employee is required to remit to the city any compensation received for such duties, excluding compensation received for mileage and amounts received when required to report outside the employee's normal work shift.

Leave for Jury Duty shall be paid for the number of hours of work scheduled for the day that the employee was actually involved with the activity.

Time spent in such activities on an employee's regularly scheduled day(s) off will not be paid, since the employee was not scheduled to work on that day.

**Status of Benefits** - Benefits are not affected by jury or witness duty leaves.

**Reporting to Work** - When not in court, you are expected to report to work during regular work hours. If requested, you must supply proof of your court appearance or jury service.

Witness for non-city related matters in a court or administrative proceeding

Employees will be required to use available vacation and comp time. Time spent as a witness or party in non-city related matters in a court or administrative proceeding is not protected.

## **15-9.100 RELIGIOUS OBSERVANCES AND ACCOMMODATION**

The city respects the religious beliefs and practices of all employees. The city will make, upon request, an accommodation for such observances when a reasonable accommodation is available that does not create an undue hardship on the city's business. Employees may use vacation and/or comp time for religious holidays or to participate in a religious observance or practice; if accrued leave is not available, then an employee may request to take unpaid leave.

## **15-9.110 PREGNANCY ACCOMMODATION**

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact human resources to discuss their options for continuing to work and, if necessary, leave of absence options. The city will provide one or more reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on the city's operations.

Although this policy refers to "employees," the city will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth or a related medical condition.

Requesting a Pregnancy-Related Accommodation

Employees who are concerned that their pregnancy, childbirth or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made with human resources and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, information from the employee's doctor may be needed to assist the city and the employee find an effective accommodation, or to verify the employee's need for an accommodation. Both

the city and employee must monitor the employee's accommodation situation and make adjustments as needed.

#### No Discrimination, No Retaliation

The city prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by the city; or (3) needed an accommodation.

Employees who ask about, request or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job or when the employee doesn't have a known limitation. Under Oregon law, an employer can't require an employee to use sick leave, OFLA, or FMLA if a reasonable accommodation can be made that doesn't impose an undue hardship on the operations of the city. Also, no employee will be denied employment opportunities if the denial is based on the need of the city to make reasonable accommodations under this policy.

#### Leave of Absence Options for Pregnant Employees

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Oregon's sick leave law, the Oregon Family Leave Act, Paid Leave Oregon, and the Family Medical Leave Act. See these policies in the Employee Handbook or speak with human resources.

## **SECTION 15-10 WORK SCHEDULES**

### **15-10.10 HOURS OF WORK**

The City of Newport has established regular working hours to promote a productive work environment that will best serve our citizens.

The normal workweek is 40 hours. If you are a non-exempt employee, you should not begin work before your normal starting time nor continue working beyond the normal quitting time without advance approval from your supervisor.

The department head or supervisor schedules specific work hours for individual employees. Typically, employees will work from 8:00 A.M. to 5:00 P.M. with an hour for lunch. Changes to work schedules may be made on an individual basis (work hours/work days) based on business necessity, at the discretion of the supervisor with approval from the department head will attempt to notify you of any changes in workdays or work week schedules one week in advance of the effective date of change. Management reserves the right to modify schedules consistent with the needs of the city.

Hours worked for the City of Newport are compensable and include all of the time that an employee is required to be on duty. Travel time and training or meeting time are considered hours worked under specific conditions outlined under wage and hour laws, city policy, or collective bargaining agreements. Please consult with your supervisor regarding these conditions. These provisions do not apply to exempt positions.



## **15-10.20      WORKPLACE SCHEDULES**

The City of Newport has established work week schedules to meet department needs. A standard workweek schedule will be established by the City Manager for each department.

Each department shall have a standard work week schedule established. Some departments may have a standard work week schedule for a classification of employees. Any workweek schedule that differs from the department workweek schedule will be considered an alternate work schedule. The request will be considered, reviewed and recommended by the Department Head, with final approval by the City Manager.

Workweek schedules must be set (not varying from week to week or pay period to pay period), and may be any of the following:

1. Five eight-hour days each week.
2. Four ten-hour days each week. (4/10 schedule)
3. Four nine-hour days, one four-hour day each week (one afternoon or morning off each week). (4/9's and 1/4 schedule).
4. Eight nine-hour days, one eight-hour day and one day off every two weeks. (9/80 schedule)

### Compensation and Benefits

- An employee's salary and benefits will not change as a result of an alternate work week schedule.

### All Workweek Schedules

The city's regular defined work week is 12:01 AM on Monday and ends at midnight on Sunday.

For employees working a 9/80 work schedule, the defined work week is 12:00 PM (Noon) on Friday to 11:59 AM the following Friday.

### Eligibility for Alternate Work Schedules

- All regular full-time employees must work a 40-hour week.
- Operational requirements must be met.
- Service to the customer must be maintained or improved.
- Costs to the city will not be increased.
- Each office or operation open to the public must have sufficient staff coverage during scheduled core business hours. The core hours of business for City Hall will be 8:00 AM – 6:00 PM. Monday – Thursday. For other departments/facilities see Attachment A.



## **Absences on All Work Schedules (Except as defined in a Collective Bargaining Agreement)**

### **Absences**

- Employees who take a leave day (sick/vacation/comp time) are required to use the number of hours of leave that corresponds to the employee's scheduled work hours for the day leave is taken.
- Absences that occur as a result of being on other types of approved leave will be charged based on the actual time utilized up to the total amount of hours scheduled for that particular workday.

### **Partial Day Absences**

- Partial day absences that occur as a result of use of annual leave, sick leave or other leave will require charging the number of hours the employee was absent.

### **Absences of At Least One Full Day or More**

- Full day absences that occur as a result of use of annual leave, sick leave or other leave will require charging the number of hours the employee was normally scheduled to work on the specified day (e.g., an employee scheduled to work 10 hours who is absent due to a vacation or illness, must have 10 hours of annual, personal or sick leave time deducted from their leave accruals).

## **Leave for Miscellaneous Reasons**

### **Jury Duty**

- Leave for Jury Duty shall be paid for the number of hours of work scheduled for the day that the employee was actually involved with the activity.
- Time spent in such activities on an employee's regularly scheduled day(s) off will not be paid, since the employee was not scheduled to work on that day.

### **Bereavement**

- For purposes of bereavement leave a workday is considered eight (8) hours.
- Time spent in such activities on an employee's regularly scheduled day(s) off will not be paid, since the employee was not scheduled to work on that day.

## **Employee Alternate Workweek Schedules**

An alternate workweek schedule is a schedule that differs from what is listed in Attachment A for a department or a position classification as the hours of operation.

### **Approved Alternate Workweek Schedules Will Meet the Following Standards**

- Alternate workweek schedules will not diminish the ability of the city to assign responsibility and accountability to individual employees for the provision of services and performance of their duties.
- The arrangement may be canceled for any business or operations reason by management with a minimum of twenty-one (21) calendar days' notice. An employee wishing to change or cancel an alternate work arrangement must request written approval from his or her director/manager, and final review and approval is determined by the City Manager.

- Alternate work schedules must include appropriate meal and rest periods to meet all Oregon Bureau of Labor requirements. If an employee work period is longer than 10 hours in a day, additional meal and rest periods are required. The requirements vary based on the number of hours worked. Department management is responsible to ensure employees are meeting all meal and rest period requirements.
- Failure to comply with the Policy on Work Schedules may result in the revocation of an alternate work schedule.
- Employees working a 9/80 schedule will not be able to change their day off or adjust their hours of work per day without advanced department management approval, as this could affect overtime.

### **Non-Exempt (Hourly) Employees**

#### **Work Hours**

- The total number of scheduled work hours per week are not expected to change as a result of an alternate work schedule.
- Alternate work schedules should not build-in, create, or necessitate working overtime hours on a regular basis.
- Employees must continue to seek advance approval from their supervisor if they expect to work more than their standard number of scheduled hours.

#### **Performance of Work**

- The performance standards and job requirements for employees working alternate schedules and/or hybrid work arrangements will be equivalent to the standards used when the employee is working a standard work schedule and/or working on site.
- An alternate work schedule arrangement does not change the standards of employee performance, conduct, or behavior.
- The change in work schedule or work location should not impact productivity, customer service, operational efficiency, or team collaboration.

### **Exempt (Salaried) Employees**

#### **Work Hours**

- The nature of an Exempt position may require a regular full-time Exempt Employee to work more than 40 hours in a standard workweek without additional compensation. Correspondingly, the nature of an Exempt position may require an Exempt Employee, including one with an alternate work schedule, to work on scheduled days off and/or hours in excess of their scheduled workday.
- Exempt Employees may work different hours and days with prior approval of their department management or the City Manager (approval is not required to work additional hours or days in order to meet position responsibilities).

#### **Performance of Work**

- The performance standards and job requirements for employees working alternate schedules and/or hybrid work arrangements will be equivalent to the standards used when the employee is working a standard work schedule and/or working on site.
- An alternate work schedule arrangement does not change the standards of employee performance, conduct, or behavior.

- The change in work schedule or work location should not impact productivity, customer service, operational efficiency, or team collaboration.

### **Request and Approval of an Alternate Work Schedule**

When an employee requests a work schedule other than what the established department work schedule is, the following process will be followed:

#### **Request**

- An employee should initiate a proposal for an alternate work schedule by submitting an Alternate Work Schedule Request form to department management.
- The Alternate Work Schedule Request form is found in the share drive under HR Resources.
- The supervisor/department head will consider the proposal. If the department head is not supportive of the request, then the request will be denied. If the request is recommended for approval, the department head will forward the request to Human Resources for City Manager review, and either approval or denial. Final approval is subject to City Manager authorization.
- Significant modifications and/or renewals shall also be documented and approved appropriately.
- An employee's supervisor shall maintain open communication with an employee on an Alternate Work Schedule, shall ensure that the employee's work does not fall below the required hours and remains on the scheduled days, and shall discuss any concerns with the employee as they arise.
- Employees shall provide notice to their supervisors when they deviate from their usual assigned working hours.
- An Alternate Work Schedule may be suspended or discontinued at any time by the city. In such instances, a minimum of twenty-one (21) calendar days written notice is required, unless in emergency situations.
- Alternate work schedules are intended to be an employee benefit. They are not a guaranteed condition of employment, and do not change the terms and conditions of employment with the city.

#### **Approval**

- An employee shall complete the appropriate Alternate Workweek Agreement Request Form. The employee, the supervisor, department head, and the City Manager must sign the form, and it shall be effective for specific periods of time, with a date set for review and reconsideration.
- In positions where an alternate workweek schedule is permitted, all new requests from employees or any type of change in work schedule or work hours will be considered on the basis of the above requirements for consideration and the workload of the city.
- Employees' requests for alternate workweek schedule must not compromise the department and city's goals and supervisory needs. Factors such as punctuality, attendance, performance, the need for intermittent leave use, and the need for close supervision should be considered in decisions about proposals for an Alternate Work Schedule. Decisions concerning change, renewal and continuation of an Alternate Work Schedule will be based on the above criteria. Denials of proposed Alternate Work Schedules will be based on business reasons.

- Alternate work arrangements are not appropriate for all employees or positions and are not a universal employee benefit. In order for an alternate work schedule to be approved, the employee must have a satisfactory attendance record, meet all performance expectations in his or her current role and consistently demonstrate the ability to complete tasks and assignments on a timely basis. The nature of the employee's work and responsibilities must be conducive to an alternate work arrangement without causing disruption to performance and/or service delivery.
- An employee with an Alternate Work Schedule shall work on the schedule agreed on and approved by department management and the City Manager.
- The original Alternate Work Schedule Request form must be signed and kept on file with Human Resources. A copy of the approval will be provided to payroll.
- All approved alternate schedules are effective the first of the pay period and there should be no variance from the approved schedule during its term unless a new alternate schedule is submitted and approved.

### **Change of a Work Schedule**

- Change of a department or alternate work schedule may be discontinued at the will of management based on business or operational needs. In such situations, an employee on an Alternate Work Schedule may be required to work on days not included in the existing Alternate Work Schedule.
- With the exception of emergencies, as defined by the City Manager, discontinuation of an Alternate Work Schedule by management requires a minimum of twenty-one (21) calendar days written notice to the employee.
- An employee wanting to discontinue their Alternate Work Schedule must provide a minimum of twenty-one (21) calendar days written notice to management.

If any provisions of this policy are in conflict with the provisions in the Collective Bargaining Agreement (CBA), the CBA will take precedence over these policies and procedures.

## **15-10.30 MEAL AND REST PERIODS**

Meal and rest periods will be provided according to federal and Oregon law and respective collective bargaining agreements.

### **Meal Periods**

Non-exempt employees are required to take at least a 30-minute unpaid meal period when the work period is six hours or greater. The law requires an uninterrupted period in which the employee is relieved of all duties. No meal period is required if the work period is less than six hours.

Non-exempt employees are not permitted to work through a meal period unless approval from a supervisor or department head is obtained prior to the scheduled meal break. If, because of the nature or circumstances of the work, an employee is required to remain on duty or to perform any tasks during the meal period, the employee must inform his or her supervisor before the end of the shift so that the city may pay the employee for that work. If an employee frequently works through a meal and/or rest period, without supervisor or department head approval, the employee may be subject to disciplinary action.

Meal periods are mandatory and are not optional. An employee's meal period and a rest period may not be taken together as one break. Meal periods may not be "skipped" in order to come in late or leave early. An employee who fails to abide by this policy and applicable laws may be subjected to discipline, up to and including termination.

These provisions do not apply to exempt positions, as they are exempt from meal and rest periods requirements.

Employees with questions about the meal breaks available to him or her should contact Human Resources.

#### Firefighters and Law Enforcement Officers

Meal periods during 24-hour duty shifts are compensable hours of work for firefighters paid under 5 CFR part 550, subpart M. (See 5 CFR 550.112(m)(4) and 551.432(f).)

*On-duty* meal periods are hours of work for FLSA non-exempt employees engaged in law enforcement activities who receive premium pay for administratively uncontrollable overtime (AUO) work under 5 U.S.C. 5545(c)(2). *Bona fide off-duty* meal periods during which such employees are completely relieved from duty are not hours of work for FLSA purposes. (See 5 CFR 551.411(c) and 551.541(b). Compare to Department of Labor FLSA regulations at 29 CFR 553.223(b).)

An AUO pay recipient generally has considerable discretion to recognize, without supervision, circumstances which require the employee to remain on duty. (See 5 CFR 550.151 and 550.153.) Thus, in appropriate circumstances and subject to any agency policies, an AUO pay recipient may determine it is necessary to work during a period that was scheduled as an off-duty meal period, resulting in the employee being in on-duty status and the time being credited as irregular overtime hours of work in applying the AUO provisions.

#### Rest Periods

Non-exempt employees are required to take a paid, uninterrupted 15-minute rest break for every four-hour segment or major portion thereof in the work period. The rest break should be taken in the middle of each segment, whenever possible. Whenever a segment exceeds two hours, the employee must take a rest break for that segment.

Sample rest and meal break schedules are listed below. Employees with questions about the rest or meal breaks available to him or her should contact human resources.

#### Numbers of Meal and Rest Periods Required Based on Length of Work Period

Length of Work Period	Number of rest breaks required	Number of meal periods required
2 hrs. or less	0	0
2 hrs. 1 min - 5 hrs. 59 min	1	0
6 hrs.	1	1

6 hrs. 1 min - 10 hrs.	2	1
10 hrs. 1 min - 13 hrs. 59 min	3	1
14 hrs.	3	2
14 hrs. 1 min - 18 hrs.	4	2
18 hrs. 1 min - 21 hrs. 59 min	5	2
22 hrs.	5	3
22 hrs. 1 min - 24 hrs.	6	3

Rest breaks are mandatory and are not optional. An employee's rest break(s) may not be taken together as one break, nor may they be combined with a meal period. Rest breaks may not be "skipped" in order to come in late or leave early. An employee who fails to abide by this policy and applicable laws may be subjected to discipline, up to and including termination.

Employees with questions about the rest breaks available to him or her should contact Human Resources.

#### **15-10.40 LACTATION BREAKS**

The city will provide reasonable rest periods to accommodate an employee who needs to express milk for her child eighteen (18) months of age or younger.

If possible, the employee will take the rest periods to express milk at the same time as the rest breaks or meal periods that are otherwise provided to the employee. If not possible, or if the employee is exempt from overtime laws, the employee is entitled to take a reasonable period each time the employee has a need to express milk.

The city will treat the rest breaks used by the employee for expressing milk as paid rest breaks up to the amount of time the city is required to provide as paid rest breaks and/or meal periods under applicable personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest breaks and/or meal periods may be taken as unpaid time.

If an employee takes unpaid rest breaks, the city may, at the discretion of the employee's supervisor, allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid rest periods. The city will allow, but not require, an employee to substitute paid leave time for unpaid rest periods taken in accordance with this policy.

The city will make a reasonable effort to provide the employee with a private location within close proximity to the employee's work area to express milk. For purposes of this policy, "close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. A "private location" is a place, other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public.

If a private location is not within close proximity to the employee's work area, the city will identify a private location the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.

#### Notice

An employee who intends to express milk during work hours must give their supervisor or human resources reasonable oral or written notice of her intention to do so in order to allow the city time to make any preparations necessary for compliance with this rule.

#### Storage

Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration for personal use, an employee who expresses milk during work hours may use the available refrigeration.

### **15-10.50 ATTENDANCE/TARDINESS**

#### Absences

It is vital to the city that all employees have reliable attendance. Absenteeism and tardiness negatively affect the city's ability to effectively provide services. The purpose of this policy is to establish the requirements for reporting absences, to provide guidelines for the handling of tardiness and unscheduled absences, and to outline employees' need to adhere to established work schedules to maintain efficient, effective operations within the city.

Non-exempt employees are expected to report to work as scheduled, on time and prepared to start work. Employees are also expected to remain at work their entire work schedule, except for unpaid meal break periods/rest periods or when required to leave on authorized city business, and perform the work assigned to or requested of them. Late arrivals, early departures, or other absences from scheduled hours are disruptive and must be avoided.

All employees are responsible for notifying supervisors of absences or late arrivals each day of the absence or tardiness, in accordance with their unit's call-in procedure, which typically requires employees to advise the supervisor when they will report to work. Unscheduled absences and tardiness (whether excused or unexcused), failure to provide appropriate notification, or abuse of sick leave or other paid time off may result in corrective action up to and including termination of employment. Absences or tardiness due to approved FMLA or OFLA leave, PLO leave, military leave, jury duty, workers' compensation, reasonable accommodation as required by law, or any other legally protected leave will not be counted as unscheduled absences. These guidelines apply to all employees whose departments do not have more specific guidelines, or when department attendance guidelines do not address certain areas covered by this policy.

Notification of any unscheduled absence or tardiness must be made as far in advance as possible. An employee who will be unable to report to work as scheduled, tardy, or leaving early must contact their supervisor or the department's designated call-in number as far in advance as possible and at the latest prior to the start of the shift. Notification of tardiness will not excuse it.



Not reporting to work and not calling to report the absence is a no-call/no-show and is a serious matter and could result in disciplinary action. Three (3) or more consecutive days of no call/no show may be considered job abandonment and result in termination of employment.

Employees should record attendance and absences in the applicable attendance tracking records used by the department. Pattern failure to provide timely notification, or failure to comply with the Sick Leave Policy, or with other applicable leave policies may result in absences being counted as unscheduled absences.

Employees may be subject to corrective action up to and including termination for a pattern of unscheduled absences and no call/no show.

An unscheduled absence typically is unpaid unless an employee's supervisor approves the use of accrued leave in accordance with city policy and appropriate union contract, if applicable. Acceptable means of verifying the reason for the unscheduled absence may be required. Usually, an employee will not be compensated for unscheduled absences that extend beyond their accrual balances.

Requests for scheduled absences, including jury duty, emergency time off (vacation or selectable holiday), bereavement, military leave, and medical leave should be requested as far in advance as possible consistent with city and departmental policy and applicable union contract and law. It is the employee's responsibility to request leave or excused time off and to submit appropriate documentation. Employees who will be unable to report to work as scheduled (except for a city preapproved block of leave time) or using intermittent FMLA/OFLA/PLO leave are required to contact their supervisor or the department each day unless otherwise instructed by their supervisor. Denied leave or other requested time off, failure to return to work after an approved leave, or failure to comply with these guidelines or other applicable city policy may result in the treatment of time away from work as an unscheduled absence or tardiness under this policy.

Employees absent more than three (3) consecutive days due to illness may be required to submit information from a health care provider certifying the employee's need for sick leave. Failure to submit such proof upon request may automatically disqualify the employee for sick leave pay and may result in the absences being counted as unscheduled absences.

Employees who have exhausted all their sick leave, vacation leave, and comp. time and are absent from work and not on an approved FMLA/OFLA or PLO leave may result in termination of employment.

Employees represented by a union are governed by the appropriate bargaining unit agreement.

#### Absences – Definitions

**No Call/No Show** - An unscheduled absence without proper notification to the employee's supervisor or department.

**Pattern Absences** - Unscheduled absences the day before or after a scheduled holiday, vacation, or personal day; on a desirable day off, a specific day of the week, or a

weekend; a specific or unique work day; or as sick leave or other paid time off is accrued.

**Scheduled Absence** - A scheduled absence occurs when an employee requests time off in a timely manner in accordance with departmental and city policies and applicable union contract. Some examples of, but not limited to, scheduled absences include approved vacation, personal holidays, jury duty, military related, bereavement leave, and FMLA, OFLA, or PLO leave.

**Tardy** - Failure to report to an employee's assigned work area at his or her scheduled start time, including returning from breaks and meal periods.

**Unscheduled Absence** - Failure to report to work on a scheduled workday or working less than a scheduled workday due to tardiness or leaving early without a written and approved time off request from at least the previous day. Absences on consecutive days for the same reason will count as one unscheduled absence for each day under this policy. Some examples of unscheduled absences include absences due to car trouble, caring for a family member who has the flu, and home emergency.

## **SECTION 15-11 WORKPLACE GUIDELINES**

### **15-11.10 EMPLOYEE DATING**

The city strongly believes that a work environment where employees maintain clear boundaries between employee personal and business interactions is necessary for effective business operations. Although this policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish boundaries as to how relationships are conducted during working hours and within the working environment.

Individuals in supervisory or managerial roles and those with authority over others' terms and conditions of employment are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to affect the employment of individuals in subordinate positions.

During working time and in working areas, employees are expected to conduct themselves in an appropriate workplace manner that does not interfere with others or with overall productivity.

During nonworking time, such as lunches, breaks, and before and after work periods, employees engaging in personal exchanges in non-work areas should observe an appropriate workplace manner to avoid offending other workers or putting others in an uncomfortable position.

Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate in the workplace by a reasonable person while anywhere on city premises, whether during working hours or not.

Employees who allow personal relationships with co-workers to adversely affect the work environment will be subject to the city's disciplinary policy, including counseling for

minor problems. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.

Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.

Any supervisor, manager, executive or other city official in a sensitive or influential position with the city must disclose the existence of a romantic or sexual relationship with another co-worker. Disclosure may be made to the individual's immediate supervisor or the director of HR. The city will review the circumstances to determine whether any conflict of interest exists.

When a conflict-of-interest or potential risk is identified due to a city official's relationship with a co-worker, the city will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure the parties no longer work together on matters where one is able to influence the other or act for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions and financial transactions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases, other measures may be necessary, such as transfer of one or both parties to other positions or departments. If one or both parties refuse to accept a reasonable solution, such refusal will be deemed a voluntary resignation.

Failure to cooperate to resolve a conflict or problem caused by a romantic or sexual relationship between co-workers or among managers, supervisors or others in positions of authority in a mutually agreeable fashion may be deemed insubordination and result in disciplinary action up to and including termination.

The provisions of this policy apply regardless of the sexual orientation of the parties involved.

Where doubts exist as to the specific meaning of the terms used above, employees should make judgments based on the overall spirit and intent of this policy.

Any concerns about the administration of this policy should be addressed to the Human Resources Director.

## **15-11.20 SOCIAL AND RECREATIONAL ACTIVITIES**

Participation in all off-duty social or recreational activities sponsored by the city such as picnics and holiday parties are entirely voluntary. Participation or nonparticipation will not have any effect on employee wages, hours, working conditions, or employment opportunities.

## **15-11.30 DRESS AND PERSONAL APPEARANCE**

Employees contribute to the culture and reputation in the way they present themselves. A professional appearance is essential to a favorable impression with citizens, customers, and vendors. Good grooming and appropriate dress reflect employee pride

and inspire confidence on the part of such persons. Good grooming includes regular bathing, clean hair, clean hands and nails.

Employees who do not meet a professional standard may be sent home to change, and non-exempt employees will not be paid for that time off.

#### Basic guidelines for appropriate business casual attire

Basic elements for appropriate and professional business casual attire include clothing that is in good repair, and in neat and clean condition. Basic guidelines for appropriate workplace dress do not include excessively tight clothing or excessively short skirts, shorts, pants, tank tops, halter tops, low-cut blouses or sweaters, clothing that allows the back, midriff, breasts, or lower back to be shown, or any extreme style or fashion in dress, footwear, or accessories.

Certain staff members may be required to meet special dress requirements, such as wearing uniforms or protective clothing, depending on the nature of their job. Uniforms and protective clothing may be required for certain positions and will be provided to employees by the city.

Although it is impossible and undesirable to establish an absolute dress and appearance code, the below information will help provide guidance on what is considered appropriate. Management may make exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance.

#### Business Casual

Some departments may require specific guidelines that differ from the business casual guidelines (Fire, Police, Public Works). When meeting clients, business dress guidelines must be observed, unless the client has specifically requested otherwise.

Casual Dress is defined as follows:

#### Casual shirts:

All shirts with collars, business casual crewneck or V-neck shirts, blouses, golf and polo shirts. Examples of inappropriate shirts include T-shirts with sayings or graphics, shirts with inappropriate or offensive slogans, tank tops, muscle shirts, camouflage and crop tops. In specified circumstances, T-shirts with sayings or graphics may be approved and provided for specific events only.

#### Pants:

Casual slacks and trousers and jeans without tears, holes, frays, etc. Examples of inappropriate pants include sweatpants, yoga pants, exercise wear (except Recreation Center staff), shorts, camouflage, and pants worn below the waist or hip line.

#### Footwear:

Casual slip-on or tie shoes, dress sandals and athletic shoes if approved by the department. Examples of inappropriate footwear include flip-flops, slippers, beach sandals (pool staff excluded).

An employee unsure of what is appropriate should check with his or her supervisor.

#### Reasonable Accommodation of Religious Beliefs

The city recognizes the importance of individually held religious beliefs to persons within its workforce. The city will reasonably accommodate a staff member's religious beliefs in terms of workplace attire unless the accommodation creates an undue hardship.

Accommodation of religious beliefs in terms of attire may be difficult in light of safety issues for staff members. Those requesting a workplace attire accommodation based on religious beliefs should be referred to the human resources department.

#### Addressing Workplace Attire and Hygiene Problems

Violations of the policy can range from inappropriate clothing items to perfumes and body odor. If a staff member comes to work in inappropriate dress, they will be required to go home, change into conforming attire or properly groom, and return to work.

If an employee's poor hygiene or use of perfume/cologne is an issue, the supervisor should discuss the problem with the staff member in private and should point out the specific areas to be corrected. If the problem persists, supervisors should follow the normal corrective action process.

### **15-11.40 FRAGRANCE FREE WORKPLACE**

The city strives to maintain a workplace environment that is conducive to efficiency and productivity and free from unnecessary distractions and annoyances. As part of that effort, the city generally requires employees to maintain a neat and clean appearance that is appropriate for the workplace setting and for the work being performed. Recognizing that employees and visitors to our offices may have sensitivity or allergic reactions to various fragrant products, the city is a fragrance-free workplace.

To ensure that city is a fragrance-free workplace, employees are prohibited from bringing onto the premises natural or artificial scents that could be distracting or annoying to others. Scented personal products (such as fragrances, colognes, lotions and powders) that are perceptible to others should not be worn by employees. Other scented products (candles, potpourri and similar items) are also not permitted in the workplace.

Employees required by medical necessity to use medicinal lotions or skin creams that contain odors perceptible to others may request a reasonable accommodation from their supervisor, manager or the human resource (HR) department.

Any employee with a concern about scents or odors should contact his or her manager or the HR department.

### **15-11.50 WORKPLACE INSPECTIONS – NO RIGHT TO PRIVACY OR CONFIDENTIALITY**

This policy applies to inspections and investigations conducted by the city pursuant to policy or law unless otherwise modified by a different policy in this Handbook.

An employee investigation may include, but is not limited to, investigation of criminal records; it may also include a search of desks, work areas, file cabinets, voice-mail systems, computer systems and any other property, equipment, furniture or systems

provided by the city to its employees. *Employees are strongly discouraged from storing personal items in the desks, lockers, work areas, file cabinets and other office equipment or furniture, as well as voice-mail and computer systems assigned to them by the city; these areas are not private.*

All information related to reports generated from inspections and investigations, including the name of the reporting employee(s), will be kept as confidential as possible under the circumstances.

## **SECTION 15-12 INFORMATION, COMMUNICATIONS AND TECHNOLOGY**

Technology resources are critical assets of the City of Newport for communications, data and security purposes. These policies have been designed to help ensure the confidentiality, integrity, and availability of city technology resources, and in particular, information and the systems used to store, process, and access the information.

These policies apply to anyone with access to city systems, city communications or technology resources, including, but not limited to, all employees, contractors, consultants, customers, vendors, business associates, and temporary staff. It is the responsibility of each individual to comply with policies and protect property and proprietary or confidential information.

### **15-12.10 COMPUTER, SOFTWARE AND COMMUNICATIONS SYSTEMS**

The IT Department has sole responsibility and management of the city's IT system

#### **Use**

While at work, employees are expected to exercise discretion in using telephones and technology.

The city's systems, equipment, hardware, software and other information (referred to as "systems") in any form are considered an asset of the City of Newport and thus must be properly used and adequately protected. This includes the transmission of information over computer communication networks.

Systems include but are not limited to, computers, software, electronic mail (e-mail), copiers, fax machines, telephones, cell phones, voice mail, communication tools, various on-line services, and protected health information. All of these systems are operated and managed based upon this policy. The city-provided systems are intended to be used primarily for business purposes.

All information and communications in any format, stored by any means on or received or transmitted via the city's electronic equipment or services are the sole property of the city.

The City of Newport's information must be protected in a manner commensurate with its sensitivity, value, and criticality. Security measures must be employed regardless of the media on which information is stored (paper, electronic, etc.), the systems that process it (pc, smart phones, tablets, networks, voice-mail systems, etc.), or the methods by which



it is moved (electronic mail, face-to-face conversation, etc.). Such protection includes restricting access to information based on a “need-to-know” basis.

### **Responsibilities**

Individuals accessing the city’s technology resources must comply with information security policies, standards, guidelines, and procedures. While at work, employees are expected to exercise discretion in using telephones and technology.

All electronic equipment is provided and intended for business purposes. Access to the Internet, websites and other electronic services paid for by are to be used primarily for business. This means, for example, that employees may not use provided Internet, or City of Newport electronic equipment, facilities and services to:

1. Display or store any sexually explicit images or documents, or any images or documents that would violate The City of Newport no-harassment, no-discrimination or bullying policies;
2. Play games (including social media games) or to use a city unauthorized app.
3. Engage in any activity that violates the rights of any person or City of Newport, and that is protected by copyright, trade secrets, patent or other intellectual property (or similar laws or regulations);
4. Engage in any activity that violates the rights to privacy of protected healthcare information or other city -specific confidential information;
5. Engage in any activity that would introduce malicious software purposefully into a workstation or network (e.g., viruses, worms, Trojan horses).
6. Download or view streaming video for personal use. This includes, without limitation, YouTube, Tik Tok or similar videos, movies, and TV shows. Streaming audio is allowed, provided it does not contain explicit material, adversely affect network speed, or interfere with others’ ability to work.
7. Further, employees may not use city-provided e-mail addresses to create or manage personal accounts (e.g., shopping websites, personal bank accounts, and social media accounts). City e-mail addresses for professional-based social media accounts such as LinkedIn may be allowed with the approval of the employee’s supervisor.
8. Employees who use personal or city-provided computers or mobile devices may not violate city’s policies against harassment and discrimination. Thus, employees who use a personal or city provided Computer or mobile device to send a text or instant message to another employee (or to a citizen or someone not employed by the city) that is harassing or otherwise in violation of city’s policies prohibiting discrimination, harassment, bullying and retaliation will be subject to discipline up to and including termination.

The only exception is in the performance of duty, i.e. Police work.

### **Access Control Mechanisms and Individual Accountability**

Individuals at all levels are responsible for the secure operation of their activities. All users must take reasonable actions to guarantee this security, maintained primarily through access control mechanisms (user IDs and passwords, with 2FA (Two-Factor Authentication) where required). Individually assigned user IDs, passwords, and 2FA pins or secrets must not be shared. Automated sign-on scripts should not be used.

Requests for access to technology resources require documented management (or designee) approval as well as any other required approval and user agreements (depending upon the information classification and owner/approver’s requirements).



Documents and/or data created by a user are not to be stored on the local drive of the computer they are using, but on the appropriate network drive to allow for greater security and regular backup. Information stored on a computer's local drive is not backed up. If you are unsure what constitutes the "local drive," please contact the IT Department. If you will be away from your computer for an extended period of time (meetings, lunch, etc.) you are required to log off, lock, or otherwise secure your computer.

### **Software Installation**

In an effort to protect the integrity of the city's systems, all software used on city-owned computers must be registered with the IT department. All software installed on the City of Newport computer systems must be licensed. Personal or downloaded software may only be installed after written authorization from the IT Director has been received. A complete virus check of all such software must be made immediately before it is installed on any city computer. A virus check must be made on any disk or files originating from outside the city prior to its use on city-owned computers. Copying or transferring of city-owned software may be done only with written authorization of the IT Director.

### **Unauthorized Access**

Human Resources or department management staff are the only authorized staff to access electronic communications of their department direct reports. No employee can examine, change or use another person's files, output or user name unless they have explicit authorization from the employee or supervisor.

### **Security**

Many forms of electronic communication are not secure. Employees who use cell phones, fax communications or e-mail sent over the Internet should be aware that such forms of communication are subject to interception and these methods of communicating should not be used for privileged, confidential, or sensitive information unless appropriate encryption measures are implemented.

Individuals accessing the city's technology resources must comply with information security policies, standards, guidelines, and procedures.

### **Cyber Security**

The city provides protection to defend internet-connected devices from attacks by hackers, spammers and cyber criminals. All Employees must follow cyber security policies and protocols when using city owned devices as required by the IT Department.

Firewalls (hardware/software security interfaces between the internal network and the outside internet) and other methods may be used to control, filter, and monitor internet access.

Subscriptions to services designed to block access to inappropriate websites also may be used. Internet use will be actively monitored and reports may be provided to HR.

### **Virus Prevention**

Anti-virus software with up-to-date virus definitions must be actively in use on all workstations connected to the city's technology resources. Software, utilities, and files from outside sources, including the internet, must be scanned using virus detection

software prior to use or installation on city technology resources if not certified virus-free by the vendor.

### **Copyrights**

No software or other materials may be downloaded into the city's computers or Mobile Devices without the approval of the IT Director, and may be used only in ways consistent with the licenses and copyrights of the vendors, authors, or owners of the material. The City of Newport honors all licenses, copyrights, patents, restrictions and terms and conditions associated with commercial proprietary computer software. Systems users are not authorized to use, copy, modify, or transfer purchased computer software, in whole or in part, except as expressly provided in the applicable software license, contract or purchase agreement. "Pirating" (making unauthorized copies of software or music) is a violation of federal copyright law. Any approved material that is posted to the city Website or Social Media should obtain all proper copyright and trademark notices if applicable.

Applications developed while employed by or under contract with the city are the properties of the City of Newport, not the developer.

### **Communications and the Internet**

Firewalls (hardware/software security interfaces between the internal network and the outside internet) and other methods may be used to control, filter, and monitor internet access. Subscriptions to services designed to block access to inappropriate web sites also may be used. Internet use will be actively monitored and reports may be provided to management.

Further, employees may not use provided e-mail addresses to create or manage personal accounts (e.g., shopping websites, personal bank accounts, and social media accounts). E-mail addresses for professional-based social media accounts such as LinkedIn may be allowed with the approval of the employee's supervisor.

### **Remote and External Access Controls**

Any and all remote or external access to city technology resources will be provided only through IT staff.

### **Archiving Electronic Communications**

Employees must follow Federal and Oregon law regarding the storage of electronic communications. Employees should follow the same archiving time frames for electronic records, as for paper records.

Please refer to the City Recorder's retention schedule as developed by the Oregon Secretary of State, for specific information or questions on records retention should be directed to the City Recorder.

### **Policy Exceptions**

Exceptions or waivers to these policies require the approval of the IT Department. Appropriate documentation providing business justification for non-compliance is required, as well as full documentation of the business and technical reasons for granting the waiver.

Any improper use or violation of this policy may result in disciplinary action up to and including discharge. Any violation of this policy should be brought to the attention of the IT Director, HR, and the City Manager.

### **Contact Information**

Questions about this policy or related information security concerns should be directed to the IT Department.

## **15-12.20      MONITORING USE OF COMMUNICATION AND TECHNOLOGY SYSTEMS AND PRIVACY**

The city reserves the right to monitor employee use of its systems at any time. Employees should not consider their usage of the city's systems to be private. Within the bounds of current and future laws, the City of Newport reserves and intends to exercise the right to review, audit, intercept, access, and search any of these systems at will, monitor data and messages within them at any time for any reason, and disclose selected contents without notice or other restrictions. Messages sent through these systems remain the property of the city. All data and messages maintained on the city's systems are subject to public records law and disclosed to the public upon lawful request.

Employees should have no reasonable expectation of privacy in any city-provided or -paid-for mobile device.

The City of Newport may audit and monitor phone calls, messages, internet usage, and other communications on city-provided or paid-for mobile devices.

City-related business conducted on city-provided or personal cell phones/cellular devices may be subject to disclosure and production under Oregon's Public Records laws or in connection with litigation filed against the city or individual employees.

### **Surveillance Systems**

The city utilizes security cameras in work areas for specific business reasons, such as security, theft protection, or protection of proprietary information.

The city may find it necessary to monitor work areas with security cameras when there is a specific job- or business-related reason to do so.

Employees should not have any expectation of privacy in work-related areas. Employee privacy in non-work areas will be respected to the extent possible. The city's reasonable suspicion of onsite drug or alcohol use, physical abuse, theft or similar circumstances would be possible exceptions.

### **Electronic Equipment**

Employee communications, both business and personal, made using City of Newport electronic equipment is not private. Any data created, received or transmitted using City of Newport equipment is the property of City of Newport and usually can be recovered even though deleted by the user.

All information and communications in any format, stored by any means on city electronic equipment are subject to inspection at any time without notice.

Personal passwords may be used for purposes of security, but the use of a personal password does not affect city ownership of the electronic information, electronic equipment, or the city's right to inspect such information. City of Newport reserves the right to access and review electronic files, documents, archived material, messages, e-mail, voice-mail and other such material to monitor the use of all of city's electronic equipment, including all communications and internet usage and resources visited. City of Newport will override all personal passwords if it becomes necessary to do so for any reason.

### **15-12.30 CITY ISSUED E-MAIL ACCOUNTS**

E-mail is a valuable tool that is required for doing business. The City of Newport has developed an e-mail policy to ensure consistency in its use. This includes:

- Identifying when communicating via e-mail is appropriate as opposed to other forms of communications.
- Standardizing of e-mail format.
- Developing consistent internal practices for e-mail etiquette and reducing the numbers of e-mail communications.
- E-mail processing and expectations guidelines.
- Standardizing the organization, retention and disposition of e-mail communications.

#### **Format**

- Use "Reply All" sparingly, and only when is it appropriate;
- Agree that a lack of response means that the recipient has no comment;
- Use "cc" only when appropriate and necessary, and do not expect a response from a party who has been "cc'd" on a message as this would be for information only;
- Avoid e-mailing when angry;
- Be succinct when drafting e-mails – get to the point quickly;
- Don't type in all caps as this may seem the equivalent of screaming;
- Keep it simple;
- Use the auto-responder sparingly;
- Use professional greetings;
- Use professional sign-offs;
- Use humor and sarcasm sparingly and cautiously;
- Avoid sending a barrage of follow-up messages (if you have to send more than two e-mail messages regarding one issue, a meeting may be in order);
- Exercise caution in forwarding an e-mail, and explain why you are forwarding it;
- Proofread your e-mails before hitting the send button, making sure grammar, spelling, and everything else is perfect;
- Reply in 48 hours or less;
- Don't use text lingo, short cuts for words, and emoticons/emojis;
- Use acronyms sparingly;
- Send only positive messages via e-mail;
- Know and respect cultural differences. Email usage and content are subject to the city's policies on harassment, discrimination and retaliation;

- Add the recipient address last to avoid accidentally sending the message to the wrong recipient or before it is completed;
- Talk about only one subject in an e-mail;
- No reply is necessary if you are on the “CC” line;
- Don’t forget the attachments referenced in the e-mail;
- Answer all questions when responding to an e-mail – even the difficult ones;
- If no reply is necessary, ensure that is clear in the message;
- Do not reply to a message that does not require a reply;
- Provide recipient a warning when sending large messages;
- Do not forward chain letters/messages;
- Avoid overuse of the “high priority” flag;
- Do not send or forward e-mails containing libelous, racist, sexist, defamatory, obscene, or other offensive remarks or information;

### **Signature Line**

Your signature line should reflect the following:

- Your name
- Your actual job title (no self-given job titles are to be used)
- Your work phone number and e-mail address
- City logo

Followed by the disclaimer: Public Records Law Disclosure. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. The e-mail is subject to the State Records Retention Schedule for Cities.

### **Storage/Prioritization**

- Leave only relevant e-mail messages in your inbox;
- Use the “organize” feature of Outlook;
- Use folders to reduce inbox clutter;
- Retain it as if it was a paper record by applying the appropriate retention period to it;
- Dispose of it when allowed by the Oregon State Archivist City Retention Schedule.

Employees should have no expectation of privacy regarding city issued e-mail accounts or software providing access to email.

E-mail messages are sometimes misdirected or forwarded and may be viewed by persons other than the intended recipient. You should write e-mail communications with no less care, judgment, and responsibility than you would use for letters or internal memoranda written on city letterhead.

E-mail messages are considered public records, just like a hardcopy message, pursuant to ORS 192.420, and like any public record, all non-exempt e-mail must be made available for inspection on request.

Please be aware that even when a message is erased through e-mail, it is still possible to retrieve and read that message. Even though the City of Newport reserves the right to retrieve and read any mail messages, those messages are to be treated as confidential by other employees and accessed only by the intended recipient. We expect that

employees will respect others' privacy, and unless authorized to do so, will not retrieve or read electronic messages not intended for them. The use of passwords for security *does not* guarantee confidentiality. Personal use of city e-mail may occur, unless otherwise directed, but is to be kept to a minimum (and will be subject to production during litigation or as part of a public records request).

## **15-12.40 MOBILE PHONES AND DEVICES**

### **Employee Use of City Provided Phones/Cellular Devices**

The City of Newport recognizes that employees must occasionally make and/or receive personal telephone calls or utilize the internet for personal use. Such use must be held to a minimum and should impact your work as little as possible. Employees are encouraged to conduct this activity during non-work time when possible and to ensure that friends and family members are aware of city policy. Excessive personal calls or personal use of technology during the workday can interfere with employee productivity and be distracting to others. Excessive time spent on personal calls or use of technology may result in corrective action, up to and including termination.

All employees are required to always be professional and conscientious when using city phones.

Cell phones, smart phones and other mobile devices are made available to City of Newport employees to conduct City of Newport's business. Determinations as to which employees receive City of Newport provided cell phones will be made on a case-by-case basis; employees are not guaranteed a cell phone or cellular device. In some cases, City of Newport may provide a monthly cellular telephone allowance to employees. (See Human Resources or the City Manager for more information).

Employees who receive a cell phone or cellular device from the city must agree the phone is to be used primarily for city business. Incidental personal use will be allowed. Employees must abide by all aspects of the Cellular Device Policy given to them at the time a mobile device is issued by the IT Department. Under no circumstances may an employee allow a friend or family member to use a City-provided cellular device except in the case of an emergency.

Employees issued city-owned phones shall have no expectation of privacy while using city-issued devices. The city may audit and monitor phone calls, messages, internet, and other usage.

### **Voice Mail System**

The voice mail system is the property of the City of Newport and has been provided for use in conducting city business. All communications and information transmitted by, received from, or stored in, this system are city records and the property of the City of Newport. Use of the system for personal purposes is discouraged. You have no personal privacy rights pertaining to any information stored in, created, received, or sent over, the voice mail system. The City of Newport reserves and may exercise the right at any time to monitor, access, and retrieve any message stored in, created, received, or sent over the system for any reason, and without the permission of any employee. Employees are not authorized to retrieve or listen to any voice mail messages that are not sent to their personal attention. Any exception to this policy must receive prior approval from the employee's supervisor.

Voice mail messages are considered public records, just like a hardcopy and e-mail messages, pursuant to ORS 192.420, and like any public record, all non-exempt voice mail messages must be made available for inspection on request.

### **Reporting Lost or Stolen Cell Phones**

If a personal cell phone used for city business or any city-issued phone is lost or stolen, report the loss to a supervisor immediately.

### **Personal Cell Phones**

An employee may use a personal cell phone for both personal and city business. Cell phone expenses over and above the amount of the allowance will not be covered by the city and will be considered the employee's responsibility. The city may annually determine the amount of the cellular telephone allowance.

Employees are allowed to bring personal mobile devices to work. During working hours, employees are to refrain from using them except in an emergency or during a meal or rest period.

The city reserves the right to disclose phone numbers of personal cell phones that are used for city business (including those that are partially paid for by the City via an allowance).

City-related business conducted on city-provided **or** personal cell phones/cellular devices may be subject to disclosure and production under Oregon's Public Records laws or in connection with litigation filed against the city or individual employees.

### **Cell Phone Allowance**

Employees required to use their personal cell phone on a regular basis for city business may be provided a cell phone allowance, subject to City Manager approval. This will be included in the monthly pay check and will be considered taxable income. Management will complete a Personnel Action Form and forward to Human Resources for processing.

### **Mobile Device Use While Driving**

The use of a mobile device while driving may present a hazard to the driver, other employees and the general public. Subject to a few narrow exceptions for emergency or public safety purposes, Oregon law also prohibits the use of handheld cell phones while driving, even if the driving is for work-related reasons. This policy is meant to ensure the safe operation of city vehicles and the operation of private vehicles while an employee is on work time. It applies equally to the usage of employee-owned cell phones and phones provided or subsidized by the city.

Employees are prohibited from using handheld cell phones for any purpose while driving on city-authorized or city-related business. This policy also prohibits employees from using a cell phone or other mobile device to send or receive text or "instant" messages while driving on city business (other than those employees engaged in law enforcement work). Should an employee need to make a business call while driving, the employee must locate a lawfully designated area to park and make the call, unless the employee uses a hands-free cell phone or cellular device for the call. In either situation, such calls should be kept short and should the circumstances warrant (for example, heavy traffic, bad weather), the employee should locate a lawfully designated area to park to continue



or make the call, even if the employee is using a hands-free device. Violation of this policy will subject the employee to discipline, up to and including termination.

Cell phones/mobile devices should be turned off or set to silent or vibrate mode during meetings, conferences and in any circumstance where incoming calls may be disruptive.

### **Cell Phones/Cellular and Public Records**

Employees are required to follow the same archiving timeframes for electronic records, as for paper records. Please refer to the City Records Retention Schedule, as developed by the Oregon Secretary of State, for specific information on records retention. Questions regarding records retention should be directed to the City Recorder.

### **Employee Use of Mobile Devices with Cameras**

Audio and video recording in restrooms and/or locker rooms is strictly prohibited.

### **Dash Cams**

The use of dash cams in city vehicles is not allowed unless authorized by the City Manager.

### **Violations of Policy**

Violations of these policies may result in disciplinary action up to and including termination of employment.

An employee who refuses to provide the city access to their personal cell phone/cellular device in connection with an investigation and after reasonable notice may be subject to discipline, up to and including termination. Employees who intentionally delete text messages after receiving a request from the city to see them will be subject to discipline, up to and including termination.

## **15-12.50 SOCIAL MEDIA – PERSONAL ACCOUNTS**

For purposes of this policy, “social media” includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else’s web log or blog, journal or diary, personal or commercial website, social networking web site, web bulletin board or a chat room, whether or not associated or affiliated with city, as well as any other form of electronic communication.

Only authorized employees may communicate on the internet on behalf of the city. Employees may not express opinions or personal views that may be misconstrued as being those of the City of Newport. Any information posted to the city’s internet or intranet sites must first be approved by the City Manager or the Communications Specialist for the city.

Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of co-workers, or otherwise adversely affects our community members or people who work on behalf of City of Newport or the city’s legitimate business interests may result in disciplinary action up to and including termination.

### **Prohibited Postings**

Employees will be subject to discipline, up to and including termination, if they create and post any text, images or other media that violate any policies, including the city's anti-harassment, anti-discrimination and workplace violence and security policies. Similarly, postings that include threats of violence, that are physically threatening or intimidating, bullying or harassing, will not be tolerated.

Do not create a link from your blog, website or other social networking site to any city - owned or maintained website without identifying yourself as employee.

Express only your personal opinions. Never represent yourself as a spokesperson for City of Newport, unless you are authorized by your manager/supervisor to do so. If the city is a subject of the content you are creating, be clear and open about the fact that you are City of Newport's employee and make it clear that your views do not represent those of City of Newport or its employees or elected officials.

### **Encouraged Conduct**

Always be fair and courteous to co-workers, the citizens we serve, City of Newport's employees and elected officials, and suppliers or other third parties who do business with City of Newport.

Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers, or by utilizing our Open-Door Policy, than by posting complaints to a social media outlet. If you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage citizens, co-workers, City of Newport employees or elected officials, that might constitute harassment or bullying, and/or that violate the city policies. Examples of such conduct might include offensive posts that a reasonable person would perceive as calculated to intentionally harm an individual's personal or professional reputation, or posts that could contribute to a hostile work environment on the basis of any status protected by law or the city policy (e.g., race, sex, religion).

Maintain the confidentiality of the city's confidential information. Do not post internal reports, policies, procedures or other internal, City of Newport -related confidential communications or information. (See "Confidential City of Newport Information" policy, below.)

Nothing in this policy is meant to prevent an employee from exercising his or her right to make a complaint of discrimination or other workplace misconduct, engage in lawful collective bargaining activity, or to express an opinion on a matter of public concern that does not unduly disrupt City of Newport operations. Employees are free to express themselves as private citizens on social media sites, but an employee's exercise of expression is balanced against the city's interest in the effective and efficient fulfillment of its responsibilities to the public.

### **Request for Employee Social Media Passwords**

The city's supervisors and managers are prohibited by law from requiring or requesting an employee or an applicant for employment to disclose or to provide access through the employee's or applicant's user name and password, password or other means of authentication that provides access to a personal social media account. This includes,

without limitation, a user name and password that would otherwise allow a supervisor/manager to access a private e-mail account not provided by City of Newport. Nothing in this policy prohibits the city from requiring an employee to produce content from his or her social media or internet account in connection with a City of Newport - sponsored investigation into potential misconduct, unlawful or unethical behavior, or policy or rule violations.

## **15-12.60 ELECTRONIC COMMUNICATION DEVICES –HOURS OF WORK / NON-EXEMPT EMPLOYEES**

As with other types of authorized work, all time spent by non-exempt employees using electronic communications for work purposes will be considered hours worked; the time is compensable and will count toward overtime eligibility as required by law. Therefore, employees must keep accurate records of their time worked on electronic communications.

For non-exempt employees, electronic communications should not be used outside regularly scheduled work hours unless required by management. This includes all types of work-related communication, and means that non-exempt employees should not check for, read, send or respond to work-related e-mails outside their normal work schedules unless specifically authorized based on job duties or direction by management to do so.

Non-exempt employees using electronic communications for work-related correspondence during unauthorized times may be subject to discipline for violating this policy. Supervisors requiring non-exempt employees to use electronic communications for work-related correspondence at unauthorized times are also subject to discipline up to and including termination.

## **15-12.70 PROHIBITION ON SECRET RECORDINGS**

Employees may not obtain or attempt to obtain the whole or any part of a city-related conversation by means of any device without first obtaining permission from all of the people in the conversation. This rule applies to the recording of conversations made during work hours, while at work-related functions, or in connection with work between or among employees, supervisors/managers, elected officials, or members of the public. It does not apply to conversations where there is no expectation of privacy, such as a City Council meeting, a Council work session, and the like.

This policy does not apply to law enforcement employees who record conversations in connection with their official public safety duties. Nothing in this policy prohibits or restricts an employee's right under the federal or Oregon constitutions to make recordings outside of working hours or while not representing or working on behalf of the city. If anything in this policy contradicts existing CBA provisions on the recordings of personnel meetings, or Oregon or federal law that provide for lawful secret recordings, the CBA provision or law will apply.

Employees who secretly record meetings with supervisors, coworkers, elected officials, members of the public or others while on duty will be subject to discipline, up to and including termination of employment.

## SECTION 15-13 EMPLOYEE-INCURRED EXPENSES AND REIMBURSEMENT

### 15-13.10 TRAVEL

The purpose of this policy is to provide guidelines to City of Newport employees for payment of travel expenses in an efficient, cost-effective manner, which results in the best value for the city and its taxpayers.

The City of Newport will pay for all reasonable and necessary travel expenses for representatives of the city. All city employees shall practice fiscal responsibility in the discharge of their duties.

Reimbursement for personal expenses shall not be authorized for payment at any time. For example, employees will not be reimbursed for parking tickets, moving violations, or commuting mileage. Employees will not be reimbursed for alcoholic beverages or for any expenses incurred by the employee's spouse when that spouse is with the employee on a business trip.

Employees are considered to be on travel status from the time they start from, and return to, their primary workstation, or to/from their residence. The primary workstation may be a physical location (a building) for some employees and it may be a geographic location for others.

In the event that an employee is required to travel outside of the local area (normally outside Lincoln County) to attend a conference or meeting, and when multiple modes of travel are available, the city will reimburse for the least expensive mode of travel.

Requests for advance payments or reimbursement of travel expenses should be made to the Finance Department at least two weeks in advance of travel using the City of Newport Travel Expense and Reimbursement Request Form available from department heads. Conference registration materials must accompany the request. *Detailed* (not summary) receipts must support all expenses.

#### Registration and Course Fees

The city will pay conference, seminar, meeting, training, and related course fees in advance to the company or providing the service through billing by purchase order and invoice, advance payment by check request or by city Purchasing Card (P-card). Department heads should make every reasonable effort to avoid requiring an employee to "front" registration fees.

If an employee has been issued a city P-card, it is required to be used for registration, course fees, hotel, airfare, and other related costs.

Employees are eligible for the per-diem for meals regardless of whether or not they have a city issued p-card.

#### Meals and Other Expenses

Employees traveling on city business are reimbursed up to the per diem rate for travel related meal expenses for their destination of travel. No receipts will be required for per diem reimbursement. However, any excess payments or advances must be returned within 10 workdays.

Employees will **not** be reimbursed for the following:

- Meal expenses exceeding the maximum rate for their destination city (based on location).
- Any portion of the per diem reimbursed as part of a hospitality meal related to the conference or class (i.e. meal(s) provided as part of hotel cost, at the conference, etc.)
- Any portion of the per diem that covers meals which are also provided as part of the conference fees, unless there is a business or health reason for an alternative meal, or

NOTE: The city does **not** reimburse meals included with a conference or a hotel stay. If a conference or hotel stay includes meals, the city reimburses only the meals where the traveler incurred an expense. The supervisor and/or department head is responsible to ensure these expenses are not included in the P-card or the advance request. The conference agenda and/or hotel confirmation showing what meals, if any, are provided are required to be submitted along with the Travel Expense and Reimbursement Request Form. Requests that do not have the complete documentation attached will delay the processing of the request.

Hors-d'oeuvres, appetizers, and continental breakfasts are not considered a meal under this policy.

#### First and Last Day of Travel

##### Departure Time

Before 8:00 AM	Between 8:00 AM and 12:00 PM	Between 12:01 PM and 7:00 PM	After 7:00 PM
Breakfast	-----	-----	-----
Lunch	Lunch	-----	-----
Dinner	Dinner	Dinner	-----

##### Return Time

Before 8:00 AM	Between 8:00 AM and 12:00 PM	Between 12:01 PM and 7:00 PM	After 7:00 PM
-----	Breakfast	Breakfast	Breakfast
-----	-----	Lunch	Lunch
-----	-----	-----	Dinner

#### Meals – Conferences

Reimbursement for meals will be as follows:

Breakfast      \$16  
Lunch            \$17  
Dinner          \$31

The city will pay alternate rates for cities that exceed these amounts when the employee is traveling in a higher GSA rate location. Requests for a higher per diem can be made via the Finance Department with GSA rate documentation for the location. Requests will be reviewed in accordance with published GSA rates.

<https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>

#### Other Expenses

Other expenses include transportation between places of lodging or business and places where meals are taken. Receipts are required for these reimbursements.

#### Lodging

The city will pay lodging expenses to the hotel in advance; allow payment through billing by city P- card, or by reimbursement, if paid for by the employee. Every effort should be made to secure reasonably priced accommodations close to the training location. Employees are encouraged to request the “government rate” when securing lodging accommodations. A *detailed* receipt is required in all cases. A cash advance for such expenses will be provided to employees only in an emergency.

#### Travel

Employees should determine the most cost-efficient means of travel. Travel by air is to be accomplished at the lowest available rates, through travel agents, on-line, or by direct means. Mileage “points,” discounts, or rebates earned for travel on city business may only be redeemed on future travel for city business, and in no case are they to be used for personal travel. A *detailed* receipt is required in all cases.

When traveling outside of the city limits, employees who travel by car may use an available city vehicle, assigned to their department. If an employee opts to use a personal vehicle, the employee must obtain the permission of their supervisor, prior to traveling, in order to be eligible for mileage reimbursement. Reimbursement will be determined as follows:

- When an appropriate city car is not available, the reimbursement rate for all employees will be the current IRS mileage reimbursement rate.
- Mileage reimbursement requests must be accompanied by a Google or MapQuest map that includes an address to address route calculation. When using a personal vehicle for city business, the city will reimburse only for the most direct route.

Expense reports must be supported by evidence of proof of purchase, e.g., receipts, and are to be submitted within two weeks of the expense being incurred or the employee may forfeit their payment or reimbursement.

#### Attendance

If the City of Newport is paying registration, travel, meals, and accommodation costs for attendance at the workshop, seminar, conference etc., employees are expected to attend scheduled work sessions and related activities and take advantage of the opportunity to learn in both formal and informal settings.

Employees are encouraged to report back on their learning experience for the benefit and development of other staff.

#### Personal Expenses

The city will not pay for personal travel expenses that may be incurred during business travel. When personal travel is scheduled in connection with a business trip, the city pays only those expenses directly related to official city business. Any expenses related to personal travel must be clearly distinguishable and paid directly by the employee.

#### Policy Administration and Exceptions

The Finance Director is responsible for administering this policy and ensuring compliance with the policy, IRS regulations, and state law.

Department heads may request exceptions to this policy with the City Manager when it is necessary and reasonable to meet city needs and requirements. The City Manager is the only person authorized to grant exceptions to this policy.

## **SECTION 15-14 HEALTH, SAFETY, AND SECURITY**

### **15-43.10 SAFETY**

The City of Newport is committed to providing our employees with a safe and healthy work environment. To accomplish this goal, all employees must diligently undertake efforts to promote safety. Safety is everybody's responsibility! The City of Newport, through its Safety Committee, develops and implements safety rules and regulations contained in the Safety Manual. A copy of the manual is available in each department and is accessible to all city employees on request. This process is ongoing and requires periodic safety audits. Safety audits are undertaken to determine the necessity and feasibility of providing devices or safeguards to make the workplace safe.

The city will educate employees as to hazards of the workplace and train employees as to such hazards and the proper and safe method to perform job tasks. Employees are expected to give your full-time skill and attention to the performance of your job responsibilities utilizing the highest standard of care and good judgment. Employees are also expected to follow all safety rules and regulations at all times including the use of protective clothing and equipment, attendance at all training sessions related to your job, and follow the directions of warning signs or signals and/or directions of supervisory personnel. Safety rules and regulations may be issued or modified from time to time; notice of these changes typically is communicated via e-mail.

Employees requiring a CDL license must meet and maintain all requirements for a CDL license.

### **15-14.20 DRUGS AND ALCOHOL**

The City of Newport is committed to maintaining a safe, efficient, and drug-free workplace. All employees have a responsibility to the public and co-workers to ensure safe and efficient operating and working conditions. The City of Newport is a federal contractor, and is required to comply with federal law. To satisfy these responsibilities, the city must establish a work environment where employees are free from the effects of drugs, alcohol, or other impairing substances. Additionally, this policy ensures the city's



compliance with Department of Transportation regulations, the Drug-Free Workplace Act, and other federal and state laws.

Employees who misuse controlled substances, prescription or illegal drugs, or alcoholic beverages pose a risk both to themselves and to everyone who comes into contact with or depends upon them, and risks damage to the city's reputation.

The city expects employees to report to work in a condition that is conducive to performing their duties in a safe, effective and efficient manner. An employee's off-the-job as well as on-the-job involvement with drugs and alcohol can have a significant impact on the workplace and can present a substantial risk to the employee who is using alcohol and drugs, to coworkers and others.

This policy applies to all employees and volunteers. This policy revises and supersedes all previous drug and alcohol testing policies and practices except those agreed to as part of a collective bargaining agreement. To the extent this policy contradicts a related policy in a CBA, the CBA provision applies to those employees covered under that CBA.

Accordingly, the city has adopted the following zero-tolerance drug and alcohol policy:

- Possession, transfer, use or being under the influence of any alcohol while on city property, on city time, while driving city vehicles (or personal vehicles while on city business), or in other circumstances which adversely affect city operations or safety of city employees or others.
- The conduct prohibited by this rule includes consumption of any intoxicating liquor within four hours of reporting to work or during rest breaks or meal periods.
- If use of alcoholic liquor or an alcohol "hangover" adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee's blood alcohol content exceeds .02 percent, the employee will be deemed "under the influence" for purposes of this rule.
- Possession, distribution, dispensing, sale, attempted sale, use, manufacture or being under the influence of any narcotic, hallucinogen, stimulant, sedative, drug or other controlled substance while on city property, on city time, while driving city vehicles (or personal vehicles while on city business), or in other circumstances which adversely affect city operations or safety of city employees.
- Employees may not have any detectable amount of narcotic, hallucinogen, stimulant, sedative, drug or other controlled substance in their system while on city property or on city time.
- The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during rest breaks or meal periods. If use of such substances or withdrawal symptoms adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee tests "positive" for any such substances by screening and confirmation tests, the employee will be deemed "under the influence" for purposes of this rule.
- As used in this policy, "controlled substance" includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington or any other state's law.

- Any product, including “Cannabidiol” (CBD) products, with a concentration of more than 0.3% THC remains classified as marijuana, a Schedule I drug under the Controlled Substances Act, and is prohibited under this policy, even though it is otherwise lawful to use under Oregon, Washington or any other state’s law.
- Bringing to city property, or possessing, items or objects on city property that contain any “controlled substance,” including, for example, “pot brownies”, “edibles” and candy containing marijuana. No employee, regardless of position held, may knowingly serve items containing marijuana or any other “controlled substance” to co-workers, members of the public, or elected officials while on work time or on/in city property.
- Bringing equipment or any devices marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana (or controlled substances), such as pipes, bongs, “vape” pens, smoking masks, roach clips, and or other drug paraphernalia.
- Bringing equipment, products or materials that are marketed for use or designed for use in planting, propagating, cultivating, growing, or manufacturing marijuana, including live or dried marijuana plants to city property. This prohibition does not apply to employees who possess such items in connection with law enforcement work.

On occasions where alcoholic beverages are served in conjunction with certain business or social events related to city business and approved by the City Manager, employees may drink alcoholic beverages in moderate amounts. This includes attendance at approved conferences, seminars, and undercover police investigations. Employees must be fit to perform their duties and other responsibilities in a safe and efficient manner at all times, and employees must refrain from behavior that is disruptive, belligerent, argumentative, sloppy or unkempt in appearance, slurring of one’s speech, inappropriate in personal interactions and/or behavior, or render the employee unable to operate a motor vehicle as required by law. Employees driving on city business are prohibited from consuming alcoholic beverages within four (4) hours prior to driving.

Failing to report (within five calendar days) and fully disclose to Human Resources all criminal charges, indictments and convictions (including no contest pleas and other plea bargains) for controlled substance and alcohol related offenses may result in discipline, up to and including termination. Employees must immediately report any arrests for conduct relating to drugs or alcohol to Human Resources. (See “Drug/Alcohol Abuse Arrests” and “Drug Convictions” below.)

These standards of conduct apply to all employees during working hours, including lunch and rest periods or in an ‘on-call status’. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

The prohibited conduct does not apply to law enforcement employees who possess drugs, alcohol or other items identified in this policy in connection with law enforcement work.

#### Prescription or Over-the-Counter Medication:

An employee who lawfully uses controlled substances pursuant to a prescription or who uses over-the-counter medication is responsible for consulting with his or her healthcare

provider and pharmacist to determine whether there are any side effects that may affect the employee's ability to safely and competently perform the job duties. If the employee or their healthcare provider feels that he/she is experiencing any of these side effects, the employee must notify Human Resources of the side effects *prior to* performing or continuing to perform the job duties. Medical verification of the ability to safely perform job duties may be required before the employee is allowed to continue their work assignment. The employee need not disclose the medical condition for which the medication is being taken unless the city determines that this is necessary to comply with its legal obligations (e.g. properly designating FMLA/OFLA or sick leave, evaluating reasonable accommodations, etc.).

Although the lawful use of prescription or over-the-counter medications is not grounds for disciplinary action by itself, failure to follow the reporting procedure discussed above may subject an employee to disciplinary action. Employees may also be disciplined for using medication that is unlawfully obtained, or for use that is inconsistent with the prescription or label (including but not limited to using medication prescribed to another person). Please also note that if an employee tests positive for alcohol, it will not be an acceptable excuse that the employee used an over-the counter medication (e.g. Nyquil) containing alcohol.

#### Marijuana

Marijuana is a controlled substance under federal law even when authorized under state law or by a physician under a state medical marijuana program. Possession or use of medical marijuana, including having any detectible amount of marijuana in your system, will be treated the same as use or possession of any other controlled substance. Authorized use of medical marijuana is **not** a valid excuse for a positive drug test. An employee authorized to use medical marijuana due to a disability should contact Human Resources to discuss reasonable accommodations other than medical marijuana which would permit the employee to perform the essential functions of their job.

#### Testing

If there is reasonable cause to suspect that an employee is under the influence of controlled substances or alcohol during work hours or has used drugs or alcohol in violation of this policy, the city may require the employee to undergo testing for controlled substances or alcohol.

The city reserves the right to:

- a. Subject applicants who are given a condition offer of employment in a safety-sensitive position to a drug and alcohol test;
- b. Test employees reasonably suspected of using drugs or alcohol in violation of this policy;
- c. Discipline or discharge employee who test positive or otherwise violate this policy; and
- d. Test employees when they: (1) cause or contribute to accidents that damage a city vehicle, machinery, equipment or property; (2) result in an injury to themselves or another employee requiring offsite medical attention; or (3) when the city reasonably suspects that the accident or injury may have been caused by drug or alcohol use.

As used in this policy, unless the context indicates otherwise:

The terms "test" and "testing" shall be construed to mean job impairment field tests, laboratory tests, breathalyzer tests, psychoneurological examinations and other tests of saliva, blood, and urine. No testing shall be performed under this rule without the approval of the City Manager, Human Resources, or the City Manager's designee.

"Reasonable cause", as used in this policy means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is more likely than not under the influence of controlled substances or alcohol, or has used drugs or alcohol in violation of this policy. Circumstances which can constitute a basis for determining "reasonable cause" may include, but are not limited to:

- a pattern of abnormal or erratic behavior;
- information provided by a reliable and credible source;
- a work-related accident;
- direct observation of drug or alcohol use;
- presence of the physical symptoms of drug or alcohol use (*i.e.*, glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
- unexplained significant deterioration in individual job performance;
- unexplained or suspicious absenteeism or tardiness;
- employee admissions regarding drug or alcohol use; and
- unexplained absences from normal work areas where there is reason to suspect drug or alcohol related activity.

Supervisors should detail in writing the specific facts, symptoms or observations that form the basis for their determination that reasonable cause exists to warrant alcohol or controlled substance testing of an employee or a search. This documentation shall be immediately forwarded to Human Resources. Whenever possible, supervisors should locate a second employee or witness to corroborate their "reasonable cause" findings.

An employee whose initial laboratory screening test for controlled substances yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee for use in the initial screening test. If the second test confirms the initial positive test result, the employee shall be notified of the results in writing. The letter of notification shall state the particular substance identified by the laboratory tests. The employee may request a third test of the sample within 24 hours of receiving the letter of notification, but such testing will be paid for by the employee.

#### Pre-Employment

All potential employees who will be working in safety sensitive positions will be required to pass a drug test subsequent to a contingent employment offer as a condition of their employment.

A signed Authorization/Consent Form will be obtained from the job candidate prior to testing.

### Reasonable Cause Testing

Reasonable cause is where the city observes that the employee's behavior, conduct, or condition indicates that he or she may be under the influence of drugs or alcohol on the job. The city, in its sole discretion, reserves the right to determine if reasonable suspicion exists. Examples include, but are not limited to, strange or erratic behavior, non-typical work performance, or appearance including detectable odors or speech of the employee. The city may determine reasonable suspicion exists if an employee sustains or is involved in an on-the-job injury or accident requiring medical attention, beyond first aid, or which results in property damage.

CDL drivers who appear to be under the influence of drugs or alcohol can be immediately tested (§382.307).

Any provisions of this policy regarding testing are subject to applicable federal, state, and local laws or regulations. Information received through the city's drug and alcohol testing program will be treated as confidential, consistent with these laws and/or regulations. Individuals taking a drug and/or alcohol test must sign a consent form for the test that allows release of the test results to the city. Employees who refuse to sign a consent form will be subject to immediate suspension and/or termination of employment.

A signed Authorization/Consent Form will be obtained from the employee prior to testing.

Any member of management supervising a CDL employee must receive annual training to be able to detect the symptoms of driver impairment for both drugs and alcohol. (§382.603). This training will consist of a minimum of 60 minutes for alcohol training and 60 minutes for drug training.

### Post-Accident

An employee who is involved in a work-related accident or incident that results in bodily injury to themselves or others, or that results in significant property damage, or a motor vehicle citation, is subject to immediate testing for the detection of drugs or alcohol. The city will decide, in its sole discretion, whether the property damage is considered "significant."

The city may also elect not to require post-accident testing if it determines that the employee's action or inaction was clearly not a factor causing the accident or injury.

If an employee is injured due to the accident or incident, the city's first concern is appropriate medical treatment for the employee. However, the employee is required to authorize testing as part of their medical treatment and is also required to authorize the release of appropriate records to enable the city to determine whether drugs or alcohol were present in the employee's system, in violation of city policy.

A signed Authorization/Consent Form will be obtained from the employee prior to testing.

### Random

All employees working in safety sensitive positions and all employees holding job-related CDL licenses are subject to random drug and alcohol testing under state and federal regulations such as DOT/FMCS testing.

### DOT/Legally Required Testing

Employees are subject to drug and alcohol testing as required by federal or state regulations (such as DOT/FMCS testing). DOT/FMCS tests are conducted separately from testing under this policy. However, employees are considered to have violated this policy if a DOT/FMCS or other legally required test is positive.

Drug and alcohol tests may be required after accidents according to the following chart for CDL drivers (§382.303):

Type of Accident Involved	Citation Issued to the CDL Driver	Test Must Be Performed by Employer
Human Fatality	Yes	Yes
Human Fatality	No	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	Yes	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	No	No
Disabling Damage to Any Motor Vehicle Requiring Tow Away	Yes	Yes
Disabling Damage to Any Motor Vehicle Requiring Tow Away	No	No

Follow-up testing is required for CDL drivers who tested positive, refused, or otherwise violated the prohibitions of 49 CFR Part 382 Subpart B; and who have completed the return-to-duty process with a DOT-qualified substance abuse professional, and have tested negative for a return-to-duty test. This testing is prescribed by the substance abuse professional for a minimum of six (6) directly observed tests in 12 months, but can be extended an additional four years (§382.311 and §40.307).

Return-to-duty testing is required for CDL drivers who tested positive, refused, or otherwise violated the prohibitions of 49 CFR Part 382 Subpart B; and who have completed the return-to-duty process with a DOT-qualified substance abuse professional. This test is directly observed, and a negative result is required before resuming driving duties (§382.309 and §40.305).

#### Pre-Employment Testing – FMCSA Clearinghouse

An applicant who tested positive for this or any other city mandated pre-employment drug test after August 1, 2001, must provide documentation of their successful completion of DOT return-to-duty requirements (i.e. an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT pre-employment test all of which meet the requirements of 49 CFR Part 40). The driver/applicant will be responsible to pay for the pre-treatment evaluation, education and/or treatment, and the subsequent pre-employment test.

Effective January 6, 2020, the city will be querying the Commercial Driver's License Drug and Alcohol Clearinghouse to determine any records exist for the driver. As a condition of employment, an applicant must submit an electronic consent through the Clearinghouse granting the city access to the following information:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required under Part 382;
- An employer's report of actual knowledge:
  - On duty alcohol use;
  - Pre-duty alcohol use;
  - Alcohol use following an accident;
  - Controlled substance use;
- A substance abuse professional (SAP) report of the successful complete of the return-to-duty process;
- Negative return-to-duty test(s); and
- An employer's report of completion of follow-up testing.

Results of the query may result in the withdrawal of the job offer.

#### Confidentiality

In addition, the following personal information collected and maintained shall be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse by the MRO or the city beginning January 6, 2020. As a condition of continuous employment, a driver must provide a written consent. The consent may be for multiple years or for duration of employment, granting the city access to conduct limited queries of the following information on an annual basis:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required under Part 382;
- An employer's report of actual knowledge:
  - On duty alcohol use;
  - Pre-duty alcohol use;
  - Alcohol use following an accident;
  - Controlled substance use;
- A substance abuse professional (SAP) report of the successful complete of the return-to-duty process;
- Negative return-to-duty test(s); and
- An employer's report of completion of follow-up testing.



If any of the above information is found in the Clearinghouse, the driver, within 24 hours, must submit a specific electronic consent through the Clearinghouse granting the city access this information.

#### Individualized Last Chance/Return to Work Agreement and Follow-Up Testing

Individual employees subject to a last chance agreement under this policy are required to submit to return-to-duty and individualized, random follow-up testing consistent with the terms of the last-chance agreement for each employee.

The city pays for the cost of all testing required and compensates employees for actual time required for testing.

#### Safeguards

Testing is done by city designated laboratories licensed by the State of Oregon (or otherwise meeting Oregon's testing standards), in accordance with standards disseminated by the National Institute of Drug Abuse, and Department of Transportation. When applicable, medication use is screened by a Medical Review Officer (MRO) and lawful medication used consistently with a prescription is reported as a negative test. All positive test results are confirmed using a confirmatory testing method approved by law.

Test results and other information concerning drug and alcohol investigations are treated confidentially and released only when there is a legitimate business reason, or as otherwise required by law.

#### Inspections and/or Searches of City Premises and Property

The city reserves the right to inspect and/or search all city property (including, equipment and furniture, such as lockers, desks, and cabinets), and city owned vehicles.

When reasonable cause exists to believe an employee possesses alcohol or a controlled substance (under state or federal law) on city property, fails to take reasonable steps to ensure their privacy, or has otherwise violated provisions of this rule regarding possession, sale, or use of controlled substances or alcohol, the city may search the employee's possessions located on city property, including, but not limited to, lockers, lunchbox, backpacks, and purses, for alcohol, controlled substances or illegal drugs (under state or federal law), or as deemed necessary by the city for safety reasons. Employees should have no expectation of privacy in any items placed in city owned property, equipment, or vehicles.

Refusal to consent to such inspection or other refusal to cooperate in any investigation is in violation of this policy and may result in disciplinary action up to and including immediate discharge.

#### Employee Refusal to Test/Search

An employee who refuses to consent to a test or a search when there is reasonable cause to suspect that the employee has violated this policy is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

An employee who refuses to cooperate with any and all tests required by this policy is also subject to discipline, up to and including termination. This includes, but is not limited to, tampering with, or attempting to tamper with, a specimen sample, using chemicals or other ingredients to mask or otherwise cover up the presence of

metabolites, drugs or alcohol in a specimen, or providing a blood or urine specimen that was produced by anyone or anything other than the employee being tested.

#### Consequences

Any employee who engages in prohibited conduct, who tests positive for or is found to have any detectable amounts of alcohol or any illegal drug, is in violation of this policy. Any employee found to be in violation of this policy, or who refuses to submit to testing as required, or who refuses to cooperate, or attempts to subvert the testing process (including tampering with or adulterating a sample) will be subject to disciplinary action, up to and including immediate termination of employment.

The city may, at its sole discretion, allow the employee a one-time opportunity to enter into a Last Chance/Return to Work Agreement in lieu of discharge. In such cases, the city's decision is based on all of the surrounding circumstances, including the nature of the violation, the employee's position and length of service, and overall disciplinary record. A Last Chance/Return to Work Agreement will generally provide, among other things that the employee is subject to unannounced suspicion-less testing for a period of time after returning to work, as recommended by the substance abuse provider and consistent with applicable law. Any subsequent violation of the city's Drug and Alcohol Policy or the terms of the Last Chance/ Return to Work Agreement is grounds for immediate discharge.

The city also reserves the right to involve law enforcement officials for any conduct that it believes might be in violation of state, federal or local law.

#### Drug/Alcohol Abuse Arrests

If you are arrested for illegal drug activity or alcohol abuse off-the-job, including driving under the influence, you must report such arrests to Human Resources within five days of the arrest.

In deciding what action might be taken, the city will consider the nature of the charges, your job, and length of service to determine whether the arrest could jeopardize the safety of other employees or the public. The city may also consider your record with the city, any ethics violation, and other factors relative to the impact that your arrest has upon the conduct of city business and/or its reputation or upon your ability to successfully perform your job duties.

Any member of management, who is aware of an employee's drug or alcohol related arrest, must immediately report it to Human Resources. Failure to report this information may result in disciplinary action, up to and including, termination of employment.

#### Drug Convictions

In compliance with this policy, if you are convicted of violating any criminal drug law on or off duty, you must report the conviction to Human Resources within five (5) calendar days of the conviction. A protective services employee (Fire or Police) must notify his or her supervisor before reporting for duty. Once notified of any conviction, the city will take appropriate disciplinary action against the employee up to and including termination; or require such employee to satisfactorily participate in a drug-abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Any member of management who is aware of an employee's drug or alcohol related conviction must immediately report it to Human Resources. Failure to report this information may result in disciplinary action, up to and including, termination of employment.

#### Professional Assistance

Employees are encouraged to seek professional help for a drug or alcohol problem. Generally, employees who voluntarily request assistance in dealing with a personal drug and/or alcohol problem may do so without jeopardizing employment as long as this assistance is sought **before** work performance has deteriorated or disciplinary problems have begun. Employees who delay seeking help will not be excused from the consequences of their performance deficiencies. Additionally, where, in the city's sole discretion, it appears that rehabilitation is likely; the city may require an employee to be evaluated by a professional alcohol and drug counselor and participate in any education or rehabilitation programs as recommended by the counselor as an alternative to termination of employment. Treatment programs may be available through the city's health insurance coverage or Employee Assistance Plan (EAP). Employees are responsible for any medical costs not covered through the city's health insurance.

When an employee voluntarily reports a drug or alcohol use problem and seeks assistance **before** violating city policies, that employee may be placed on a leave of absence or adjusted working hours to allow for in-patient or outpatient rehabilitation treatment. The employee is not permitted to work until such time as a qualified medical authority has verified the employee is able to safely perform their job assignment. The time an employee is off work undergoing rehabilitation may qualify as family leave under federal or Oregon law, and is unpaid. (However, employees are required to use their unused sick, vacation leave benefits and/or comp time before unpaid time off is granted consistent with those policies.) Also, employees who are receiving health insurance coverage are eligible for insurance benefits as outlined in the plan and consistent with applicable law.

The city reserves the right to deal with each case under this policy in its discretion in light of the specific circumstances involved, including but not limited to the conduct at issue and whether an employee should be given the opportunity to participate in a drug or alcohol program. Such a decision will be based partly on the circumstances of the employee; the manner the city obtained the information; and the seriousness and frequency of other city policy violations.

The city reserves the right to require all employees who seek treatment to sign and comply with a return to work agreement as a condition of continued employment. See "Consequences," above, for more information about the city's last chance agreement details.

Nothing in this policy is to be interpreted as a waiver of the city's right to impose disciplinary action or terminate employment in the case of poor performance, misconduct, or violations of this or another city policy.

#### Confidentiality

All information from an employee's drug and alcohol evaluation is confidential and only those with a need to know are to be informed of test results. Disclosure of such

information to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee.

#### Definitions

For purposes of this policy, the following definitions apply:

**Controlled substance** means all controlled substances, other than a legal prescription or nonprescription medication, that (1) may affect an employee's ability to work safely and effectively; (2) is defined as a "controlled substance" under the federal Controlled Substances Act and designer drugs not approved for use by the U.S. Food and Drug Administration; or (3) is otherwise prohibited or restricted by state or federal law. Controlled substances include but are not limited to: narcotics, hallucinogens, stimulants, sedatives, marijuana, and prescription drugs that are not medically authorized or that are used inconsistently with the prescription.

**Over-the counter drugs** are those which are generally available without a prescription from a medical doctor, approved for use by the U.S. Food and Drug Administration, and are limited to those drugs which are capable of impairing the judgment of an employee to safely perform his or her duties.

**Prescription drugs** are defined as those drugs which are used in the course of medical treatment, ingested during a period as prescribed by the doctor, and have been prescribed and authorized for use by a licensed practitioner/physician or dentist.

**City premises** include all city property (including rest rooms), facilities, parking lots, garages, workplaces, storage structures, and city-owned equipment and vehicles.

**Safety-Sensitive positions –Random Testing.** When deciding whether a specific position is "safety-sensitive," the city evaluates, among other factors, the likelihood of a threat to the employee or others posed by a potential drug-induced mistake or failure in the performance of the position's duties.

**Under the influence** is defined as having any detectable levels of alcohol or illegal drugs (under state or federal law) in an employee's body, or any noticeable or perceptible impairment of the employee's mental or physical faculties.

**Reasonable Cause** exists when sufficient facts and circumstances exist that would lead a reasonable person to believe that the policy has been violated. Reasonable cause includes, but is not limited to, employee admissions and/or comments about drug or alcohol use in violation of this policy.

### **15-14.30 CHILDREN IN THE WORKPLACE**

The presence of an employee's child in the workplace during the employee's workday is inappropriate and is to be avoided except in emergency situations.

If bringing a child to work with the employee is unavoidable, the employee must contact their supervisor as soon as possible to discuss the situation and obtain permission to have the child at the city while the employee is working. Factors the supervisors will consider are the age of the child, how long the child needs to be present, the work environment in the employee's area, and any possible disruption to the employee's and

co-workers' work. Consideration will not be given to allowing a child with an illness to come to work with the employee.

A child brought to the workplace in unavoidable situations will be the responsibility of the employee and must be accompanied and be under the direct supervision of the employee parent at all times. If an employee is unable to juggle their duties with watching over the child, or if the child's presence in the workplace becomes disruptive, the employee will be sent home and required to use accrued leave to cover the absence.

## **15-14.40 PHOTO ID BADGING**

As a vital part of our security, all employees will be issued and are required to wear, and visibly display, photo identification badges as provided by the city. Identification badges are requested to be worn in a manner that allows the identification of an employee by photo, first and last name, and department.

### Requirements

The policy and procedures described herein are intended to provide for the safety and security of city employees. As a result, all employees are expected to fully comply with all provisions of this policy. Any employee who is found to be in violation of this policy may be subject to disciplinary action.

All employees are required to wear a city-issued ID badge at city work areas, during work hours, and/or in any official capacity. ID badges are to be prominently worn so the photo is clearly visible to others. The ID badge is to be worn between the shoulders and waist on a clip or lanyard. Human Resources will provide a clip, chain, or lanyard for the ID to be attached to.

The requirement of displaying the badge may be temporarily waived at the department's discretion when wearing the ID presents a safety issue (e.g. Police Officer, Public Works). However, the employee must carry the ID at all times during work hours or when acting in an official capacity. In instances of safety concerns, the ID can be placed in a pocket or wallet.

The ID shall not be defaced or altered with pins, stickers, decals, etc.

Employees are responsible for safeguarding their own ID. Any lost or damaged ID should be reported immediately to the employee's supervisor, who is responsible for reporting the lost or damaged ID to Human Resources. After notifying their supervisor of the loss, the employee should print out and complete an ID Card Request Form from the city shared drive and bring the completed form to Human Resources for a replacement card to be issued.

New IDs will be issued at no cost to employees who receive a transfer, promotion, demotion, etc. to a different department.

A fee of \$5 will be assessed to replace all lost, stolen, or damaged badges. This will apply to all replacements for non-public safety employees. IDs that are replaced due to normal wear and tear will not be assessed a charge.

Any lost ID that is found should be turned in to Human Resources/City Manager's Office.

Upon termination or retirement, an employee must turn in their ID to Human Resources during their scheduled exit interview or at another time agreed to by the city.

Upon suspension, either paid or unpaid, an employee must turn in their ID to Human Resources pending return to work.

#### Identification Card Holder Responsibilities

- Do not lend your ID to anyone.
- Do not allow unauthorized individuals into any secure area.
- Do not leave ID on dash of vehicle or other locations where exposed to extreme temperatures. Do not fold, bend pry open or mutilate your ID.
- Do not use your ID improperly.
- Do not leave your ID unattended.
- Immediately notify your supervisor if your ID is no longer in your possession.
- Immediately notify your supervisor of any difficulties or problems with any ID.

### **15-14.50 SMOKE-FREE WORKPLACE**

The city is committed to providing a safe and healthy workplace and to promoting the health and well-being of its employees. As such, the following policy has been adopted and applies to all employees of the city.

The city provides a tobacco-free environment for all employees and visitors.

For purposes of this policy, “tobacco” includes the smoking of any tobacco-based product, smoking in any form (including, without limitation, cigars, vaping, and e-cigarettes), and the use of oral tobacco products or “chew/spit” tobacco.

This policy applies to employees, volunteers, and any visitors to City of Newport property, vehicles or facilities/buildings.

“Vaping” refers to the use of electronic nicotine delivery systems or electronic smoking devices such as e-cigarettes, e-pipes, e-hookahs and e-cigars.

The city buildings and vehicles are tobacco-free areas. Tobacco use is prohibited during working hours. Further, the city prohibits tobacco use in or around City of Newport vehicles and equipment or machinery.

If you wish to smoke, you must do so outside of City of Newport’s facilities/buildings, only in designated smoking areas, and out of visitor view. Smoking is not allowed near building entrances; Oregon law prohibits smoking within 10 feet of all building entrances, exits, and other openings, including second-story windows, and accessibility ramps that lead to and from an entrance or exit, windows and air-intake vents.

Smoking means any inhaling, exhaling, burning, vaporization, or carrying of any lighted pipe, cigar, cigarette, e-cigarettes, or similar product containing tobacco, nicotine, cannabis, illegal drug, or any similar substance. “Smoking” also includes discarding of any tobacco, nicotine, cannabis, or illegal drug product or residue, such as cigarette or cigar butts, ashes, spit containing tobacco or drug residue, or other similar discarded product or residue.



Prohibition on smoking and drug use in or near certain city buildings:

In addition to the prohibitions on smoking provided by state law, smoking, and drug use is also prohibited anywhere on the following properties:

- A. The Newport Public Library
- B. City Hall
- C. The Recreation Center, Aquatic Center, 60+ Center, and within the boundaries of **all** City of Newport parks, excluding parking areas per Municipal code chapter 9.20.005

### **Exceptions**

The prohibition on smoking does not apply to smoking within a personal vehicle in a driveway or parking lot, but does apply to discarding smoking materials such as cigarette butts onto the listed properties.

This policy is intended to comply with the requirements of Oregon's Smoke free Workplace Law ORS 433.835 through 433.850.

Employees who violate this policy will be subject to disciplinary action up to and including immediate discharge.

## **15-14.60      WORKPLACE VIOLENCE AND SECURITY**

It is the intent of the City of Newport to provide a safe workplace for employees and to provide a comfortable and secure atmosphere for citizens and others with whom we do business. A work environment that is safe and comfortable enhances employee satisfaction as well as productivity. The city has zero tolerance for violent acts or threats of violence. This policy applies to city employees, citizens, guests, customers, vendors, and any persons doing business with the city.

### Conduct and Responsibility

City employees share the responsibility in identification and alleviation of threatening or violent behaviors. The city expects all employees to conduct themselves in a non-threatening, non-abusive manner at all times. No direct, conditional or veiled threat of harm to any employee or city property will be considered acceptable behavior. Acts of violence or intimidation of others will not be tolerated. Any employee who commits, or threatens to commit, a violent act against any person while on city premises, will be subject to immediate discharge.

### Violations

It is a violation of this policy for any individual to engage in any conduct, verbal or physical, that intimidates, endangers or creates the perception of intent to harm persons or property. Examples include, but are not limited to:

- Physical assaults or threats of physical assault, whether made in person or by other means (i.e., in writing, by phone, fax or e-mail).
- Verbal conduct that is intimidating and has the purpose or effect of threatening the health or safety of a co-worker.



- Any other conduct or acts that the City Manager believes represent an imminent or potential danger to work place safety or security.

#### Reports and Investigation

Any employee who is subjected to or threatened with violence, or who is aware of another individual who has been subjected to or threatened with violence, should immediately report this information to their supervisor or any member of management. Employees should call 9-1-1 in emergency situations.

Any threat reported to a member of management should be immediately brought to the attention of Human Resources and/or the City Manager. All reports will be carefully investigated by the city, and employee confidentiality will be maintained to the fullest extent possible.

Where such actions involve non-employees, the city will take action appropriate for the circumstances. Where appropriate and/or necessary, the city will also take whatever legal actions are available and necessary to stop the conduct and protect city employees and property.

The City of Newport may investigate a current employee where the employee's behavior raises concerns about work performance, reliability, honesty, or potentially threatens the safety of co-workers or others. An employee investigation may include investigation of criminal records; it may also include a search of desks, work areas, file cabinets, voice mail systems, computer systems, or any other property provided by the city.

### **15-14.70 WEAPON-FREE WORKPLACE**

Employees, with the exception of sworn police officers, and personnel conducting authorized wildlife mitigation efforts at the airport, are prohibited from carrying or bringing any weapon to their work site or any other location the employee may be required to be during the workday. This prohibition also applies to any employee who is licensed to carry a firearm or weapon.

For purposes of this policy, "weapon means any firearm (whether loaded or unloaded, from which a shot may be discharged including but not limited to pistol, revolver, shotgun, rifle, bb gun), any knife (including switchblade knife, gravity knife, or any knife with a blade longer than three inches), or any device such as a billy, blackjack, bludgeon, metal knuckles, bow and arrow, or electronic stunning device. This is not a complete list.

Any employee who is uncertain whether an instrument or device is prohibited under this policy is obligated to request clarification from the Police Chief to ensure he or she is not in violation of this policy.

The city reserves the right to conduct workplace searches and investigations at its discretion and in a manner considered appropriate to the circumstances. A violation of this policy is a serious infraction of the work rules, and may result in discipline up to and including termination.

## **15-14.80      WORKERS' COMPENSATION**

You are protected by workers' compensation insurance under Oregon law. This insurance covers you in case of occupational injury or illness by providing, among other things, medical care and compensation and temporary or other disability benefits. Employees are expected to work safely and in a safe environment.

The city uses an external claims adjuster to process employee claims, and to determine the compensability of a claim.

If you are injured on the job, the city wants to know about it and expects to learn about it no later than 24 hours after your injury (report all work-related injuries to your supervisor).

If you seek treatment for your work-related injury and want to apply for workers' compensation benefits, you must do all of the following:

1. Report any work-related injury to your supervisor. You must report the injury no later than 24 hours after injury.
2. Seek medical treatment and follow-up care if required.
3. Promptly complete a written Employee's Claim Form (Form 801) and return it to human resources.

*Failure to timely follow these steps may negatively affect your ability to receive benefits.*

### Return to Work

If an employee requires workers' compensation leave, they will, under most circumstances, be reinstated to the same position that they held at the time of their leave, or to an equivalent position, if available. However, you must first submit documentation from a health care provider who is familiar with your condition certifying your ability to return to work and perform the essential functions of your position.

When returning from a workers' compensation leave the employee has no greater right to reinstatement than if they had been continuously employed rather than on leave. For example, if an employee would have been laid off, had they not been on leave, or if their position is eliminated, and no equivalent or comparable positions are available, then they may not be entitled to reinstatement. These are only examples and all reinstatement/reemployment decisions are subject to the terms of any applicable collective bargaining agreement and applicable law.

The city does not discriminate against employees who suffer a workplace injury or illness.

### Early Return-to-Work Program

Our Return-to-Work program provides guidelines for returning you to work at the earliest possible time after you have suffered an on-the-job injury or illness that results in time loss. This program is not intended as a substitute for reasonable accommodation when an injured employee also qualifies as an individual with a disability. The Return-to-Work Program is intended to be transitional work, to enable you to return to your regular job in a reasonable period.

The Return-to-Work program for job-related injuries consists of a team effort by the city, injured employees and their treating physicians, and our workers' compensation

insurance carrier claims staff. The goal is to return our employees to full employment at the earliest possible date that is consistent with their medical condition and the advice of the treating physician.

If your doctor determines that you are able to perform modified work, the city will attempt to provide you with a temporary job assignment for a reasonable period of time (usually 3 months or less) until you can resume your regular duties (except where provided as an accommodation for a disability). If, due to a work-related injury, you are offered a modified position that has been medically approved, failure to phone in or report at the designated time and place may affect your compensation and employment with the city. While you are on modified or transitional work, you are still subject to all other city rules and procedures.

#### Overlap with Other Laws

The city will account for other leave and disability laws that might also apply to your situation, such as the Americans with Disabilities Act (ADA) and FMLA. If, after returning from a workers' compensation leave, it is determined that you are unable to perform the essential functions of your position because of a qualifying disability, you may be entitled to a reasonable accommodation, as governed by the ADA and/or applicable Oregon laws covering disabilities in the workplace.

#### Workers Compensation Time Loss Injury and Sick Leave

If you are paid time loss benefits by the city's third-party administrator, you may supplement that payment with your personal time accruals (vacation, sick leave, comp time) in order to continue to receive the equivalent of your regular take-home pay, as well as cover your payroll deductions, including health insurance. Time loss benefits are two-thirds of your average weekly gross wage. Employees must first draw from their sick leave banks and continue to use sick leave until exhausted. Upon exhaustion of the employee's sick leave, the employee may choose to use their vacation or compensatory leave until exhaustion.

If the employee does not request leave use, then it will be assumed that the employee does not want to use their leave accruals, and no accruals will be paid.

The city will require supporting documentation to determine the amount of time loss being paid so appropriate accruals can be applied to the employees pay.

If the workers' compensation claim is denied, all future use of accrued leave for the time loss event will revert to the leave policies as written in the Employee Handbook.

## **15-14.90      FITNESS FOR DUTY**

The city is committed to maintaining a safe work place for employees. An employee's ability to safely perform the essential functions of a job contributes towards a safe work place.

As allowed by law, policy, and/or collective bargaining agreement (CBA), employees who refuse to undergo a fitness for duty evaluation may face disciplinary action, up to and including termination.

The purpose of a medical, psychological, and/or functional capacity fitness for duty evaluation is to:

- Assess an employee's ability to perform the essential functions of a job, with or without reasonable accommodation.
- Assess an employee's direct threat to self or others in the workplace.
- Evaluate an employee's capacity to perform and participate in work activities.

## **15-14.100 ACCIDENT AND INJURY REPORTING**

All job-related injuries or illnesses must be reported to your supervisor within 24 hours, regardless of severity using the Incident Report form. **If you are going to seek treatment, please remember to complete an 801 Form.** In the case of serious injury, your reporting obligation will be deferred until circumstances reasonably permit a report to be made. Failure to report an injury or illness may affect or delay the payment of any benefits to you and could subject the city to fines and penalties.

## **15-14.110 MANDATORY REPORTING**

All employees of the city are considered mandatory reporters of child and elder abuse under Oregon law.

### Child Abuse

A child is any unmarried person under 18 years of age.

According to Oregon Revised Statute 419B.010, "Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made."

It is important to understand that the child abuse reporting obligation is a personal obligation that goes beyond the workplace. This means that you are a mandatory child abuse reporter 24/7. You are required to report suspected child abuse anytime, anywhere. In other words, whether you learn of suspected abuse or a suspected abuser while at work, while coaching your child's soccer team, or when shopping for groceries on the weekend, your reporting obligation is the same.

DHS or law enforcement will keep your identity confidential unless ordered by a court to disclose the information. (ORS 419B.015)

You need only provide information you have available or that you believe is credible. You should not investigate to obtain missing information. If known, helpful information to provide includes:

- name and age of the child
- nature and extent of abuse, including evidence of previous abuse
- explanation given for the abuse
- names and addresses of the child's parents or others responsible for the child's care.
- other helpful information to establish the cause of the abuse or the identity of the perpetrator

Report suspected abuse of anyone who is a child at the time of the report.

If you reasonably believe that a person with whom you have come into contact abused a child in the past, you should still report if you believe there is a danger of future harm against another child.

You must report any time you have "reasonable cause" to believe a child was abused. You don't have to be sure, or have proof. Your report will allow a trained professional to make an assessment. If you have questions about whether to report, please contact your local DHS office; they will assist you in making that determination.

Report child abuse to a local office of the Department of Human Services (DHS) (Lincoln County DHS -1-800-303-4643) or a local police department (Newport Police Dispatch - 541-265-4231), county sheriff, county juvenile department, or Oregon State Police.

You may also call 1-855-503-SAFE (7233). This toll-free number allows you to report abuse or neglect of any child or adult to the Oregon Department of Human Services.

**If a child is in immediate danger of harm, call 911.**

#### Elder Abuse

Employees who come in contact with an elderly or developmentally disabled adult they suspect has been abused or neglected must report to DHS or law enforcement. This includes when an employee has suspicion that an elderly person (or an adult with disabilities) has been financially exploited.

If you suspect abuse, neglect, or financial exploitation of an elderly person or an adult with physical disabilities, report abuse or neglect to the Department of Human Services office in your area.

If you suspect abuse, neglect, or financial exploitation of an adult with developmental disabilities report abuse or neglect to your county developmental disability program.

If you suspect abuse, neglect, or financial exploitation of an adult with mental illness report abuse to your county mental health program.

You may also call 1-855-503-SAFE (7233). This toll-free number allows you to report abuse or neglect of any child or adult to the Oregon Department of Human Services.

#### Definition of Abuse

##### **Child Abuse**

Below is a summary of what is generally considered abuse. The complete legal definition (ORS 491B.005) may be viewed online.

- **Physical injury**, caused by other than accidental means, including an injury that appears to be at variance with the explanation given for the injury.
- **Mental injury**, which includes only observable and substantial mental impairment caused by cruelty, with due regard to the culture of the child.
- **Sexual abuse**, including rape, sodomy, unlawful sexual penetration, or incest.
- **Exploitation**, including prostitution, the sexual delinquency of a minor, or any conduct that allows or encourages a child to perform sexual acts for observation, photographing, filming, etc.

- **Neglect**, including failure to provide adequate food, clothing, shelter, or medical care that is likely to endanger the child's health or welfare.
- **Threatened harm**, meaning subjecting a child to a substantial risk of harm to the child's health or safety, including exposing a child to the manufacture of methamphetamines, or to any controlled substance that subjects a child to a substantial risk of harm.
- **Buying or selling a person under 18 years of age.**

"Abuse" does not include reasonable discipline, unless the discipline results in one of the conditions described above.

### **Elder and Vulnerable Adult Abuse**

Adult abuse is the abuse of any adult aged 65 and over and adults under the age of 65 with developmental or physical disabilities, or mental illness. Abuse can happen anywhere and is not limited to a person's own home or the home of family or friends. It can also occur in a professional care setting such as a nursing facility, a residential care facility, an assisted living facility, an adult foster home, a retirement home, or a room-and-board home.

Types of abuse can include:

- Physical harm or injury
- Failure to provide basic care
- Abandonment by the caregiver
- Verbal/emotional abuse
- Financial exploitation
- Unwanted sexual contact
- Involuntary seclusion
- Wrongful restraint
- Self-neglect

Employees must sign an acknowledgement of their mandated reporter obligations. The acknowledgement will be kept in the employee's personnel file.

Failure to make a mandatory report under this Policy may result in disciplinary action, up to and including, termination of employment.

## **15-14.120 MINIMUM DRIVING QUALIFICATIONS FOR EMPLOYMENT**

The City of Newport seeks to safeguard its employees and others when driving a motor vehicle which may be required in the course of conducting city business.

### Driving Permit Procedures

The city conducts motor vehicle record checks on job applicants, for whom driving a motor vehicle is an essential job function, following a conditional offer of employment and, thereafter, annually for these employees.

The city will review driving records and make a determination as to a drivers' status for applicants when driving is an essential job function according to the classification system listed below:

#### Qualified

The individual has a valid Oregon driver's license and is eligible to drive while conducting city business. Their driving record indicates none, or no more than two, moving violations with no other violations listed in the contingent unqualified section of this policy in the past 12 months.

#### Conditional

The individual has a valid Oregon driver's license and is eligible to drive while conducting city business with the stipulation that the individual's motor vehicle record may be checked periodically over the conditional period (12 months) from date of hire. His or her driving record reflects:

- two moving violations in the past 36 months or any other items stated under the unqualified section.
- Less than four moving violations within the last 36 months
- Less than two instances of DUI within 48 months

#### Unqualified

An applicant for employment will not be hired if his or her driving record reflects:

- Suspended or revoked license.
- Four or more moving violations in the past 36 months.
- More than one instance of driving under the influence (DUI) or driving while intoxicated (DWI) within the past 48 months or more than two instances within the last ten years.
- At fault in a fatal accident within the past five years.
- Leaving the scene of an accident within the past 36 months.
- Reckless driving within the past 48 months.

Employees must have a valid Oregon driver's license if driving is an essential function of the job. Any employee without a valid driver's license will not be allowed to operate a city vehicle or drive on city business. If driving is an essential job function, and the employee cannot be reasonably accommodated, the employee will be terminated.

### **15-14.130 DRIVING WHILE ON CITY BUSINESS**

Employees using a private vehicle to conduct city business must possess a valid driver's license and carry auto liability insurance. Employees who use their own vehicles for authorized business use should make any necessary arrangements with their insurance carriers.

The city may verify the validity of your driver's license and/or your driving record. Once you are employed by the City of Newport, driving records of employees who drive as an essential function of their position may be reviewed on an annual basis, in accordance with the city's motor vehicle driving record policy. The reports notify the city when there are transactions on your driving record.

While on city business, drivers are expected to make every reasonable effort to operate their vehicle safely, with due regard for potential hazards, weather, and road conditions. Drivers are to obey all traffic laws, posted signs and signals, and requirements applicable to the vehicle being operated. Seatbelts are to be used in all vehicles while on city business. Drivers are to ensure that the use of prescribed or over-the-counter drugs



does not interfere with their ability to drive while on business. Operating a vehicle under the influence of alcohol or controlled substances is prohibited. Employees are responsible for notifying their supervisor of any subsequent restrictions, limitations, or other change in their driving status as soon as possible. See also the city's cell phone policy above.

## **15-14.140 VEHICLE SAFETY**

The purpose of this policy is to ensure the safety of those individuals who drive city vehicles and to provide guidance on the proper use of city vehicles. Vehicle accidents are costly to the city, but more importantly, they may result in injury to you or others. It is the driver's responsibility to operate the vehicle in a safe manner and to drive defensively to prevent injuries and property damage. As such, employers endorse all applicable state motor vehicle regulations relating to driver responsibility. The employer expects each driver to drive in a safe and courteous manner pursuant to the following safety rules. The attitude you take when behind the wheel is the single most important factor in driving safely.

Employees who are in a position that requires driving as part of the essential functions, must have a valid and current Oregon Driver's license to operate a city vehicle, or a personal vehicle with current auto insurance while on city business.

### CDL

Employees who are required to obtain and maintain a CDL license as part of their job requirements are responsible to adhere to the city policy and FMCSA standard.

### Driver Guidelines and Reporting Requirements

- City vehicles are to be driven by authorized employees and volunteers only, except in case of repair testing by a mechanic.
- Any employee who has a driver's license revoked or suspended shall immediately notify the Human Resources Office by 9 a.m. the next business day, and **immediately discontinue operation of the city vehicle**. Failure to do so may result in disciplinary action, including termination of employment.
- All accidents in city vehicles, regardless of severity, must be reported to Human Resources and Assistant City Manager. Accidents are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). Accidents in personal vehicles while on city business\* **must** follow these same accident procedures. Accidents involving the employee's personal injury must be reported to Human Resources for Worker's Compensation purposes. Failing to stop after an accident and/or failure to report an accident may result in disciplinary action, up to and including termination of employment.
- Drivers must report all ticket violations received during the operation of a city vehicle on city business\*, within 72 hours to Human Resources.
- Motor Vehicle Records may be obtained on all drivers annually or more often if warranted. A driving record that fails to meet the criteria stated in this policy, or is

considered to be in violation of the intent of this policy will result in a loss of the privilege of driving a city vehicle.

- Employees driving city vehicles for city business may not have family members or friends accompany them in the vehicle. City vehicles may not be used for an employee's personal errands or other personal use.

Violation of this policy will subject the employee to discipline, up to and including termination.

*\* City business is defined as driving at the direction, or for the benefit, of employer. It does not include normal commuting to and from work.*

#### Driver Criteria & Administration

Employees for whom driving is an essential function are expected to drive in a safe and responsible manner and to maintain a good driving record. Human Resources is responsible for reviewing records, including accidents, moving violations, etc., to determine if an employee's driving record indicates a pattern of unsafe or irresponsible driving, and to make a recommendation to City Manager for suspension or revocation of driving privileges.

#### Current Employees:

The city will check the motor vehicle records annually for all current employees for whom driving is an essential function (discussed above). Any employee without a valid driver's license will not be allowed to operate a city vehicle or drive on city business. If driving is an essential job function, and the employee cannot be reasonably accommodated, the employee will be terminated.

If an existing employee has a valid driver's license, but the employee's driving record falls at or below Conditional Status criteria (defined below), the employee will be placed on Conditional Status and will be subjected to the requirements of that status until the end of the status period. If during a subsequent periodic motor vehicle record check, the employee's record indicates further violations, the city will review the specific circumstances surrounding the individual and determine appropriate action.

#### New Hires

For those employees hired under a conditional period (see Minimum Driving Qualifications policy) are subject to criteria under the Minimum Driving Qualifications.

The individual has a valid Oregon driver license and is eligible to drive while conducting city business with the stipulation that the individual's motor vehicle record may be checked periodically over the conditional period (12 months) from date of hire. His or her driving record reflects:

- two moving violations in the past 36 months or any other items stated under the unqualified section.
- Less than four moving violations within the last 36 months.
- Less than two instances of DUI within 48 months.

*\* Violations include any ticket, charge, or other law enforcement proceeding relating to these, as well as independent evidence of violations deemed relevant by the Security department.*

#### Driver Safety Rules

- Driving on city business and/or driving a city vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.
- The use of handheld cell phones is prohibited while driving (see cell phone policy section)
- No driver shall operate a city vehicle when their ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.
- All drivers and passengers operating or riding in a city vehicle **must** wear seat belts.
- No unauthorized personnel are allowed to ride in city vehicles unless authorized by supervisor. This includes fire and police vehicles.
- Drivers are responsible for the security of city vehicles assigned to them. The vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.
- All State and Local laws must be obeyed.

#### Defensive Driving Guidelines

- Drivers are required to maintain a safe following distance at all times. Drivers should keep a two second interval between their vehicle and the vehicle immediately ahead. During slippery road conditions, the following distance should be increased to at least four seconds.
- Drivers must yield the right of way at all traffic control signals and signs requiring them to do so. Drivers should also be prepared to yield for safety's sake at any time. Pedestrians and bicycles in the roadway always have the right of way.
- Drivers must honor posted speed limits. In adverse driving conditions, reduce speed to a safe operating speed that is consistent with the conditions of the road, weather, lighting, and volume of traffic. Tires can hydroplane on wet pavement at speeds as low as 40 mph.
- Dam Cam and Radar Detectors are strictly prohibited in city Vehicles. Drivers are to drive at the speed of traffic but never to exceed the posted speed limit.
- Turn signals must be used to show where you are heading; while going into traffic and before every turn or lane change.
- When passing or changing lanes, view the entire vehicle in your rear-view mirror before pulling back into that lane.
- Be alert of other vehicles, pedestrians, and bicyclists when approaching intersections. Never speed through an intersection on a caution light. When the traffic light turns green, look both ways for oncoming traffic before proceeding. When waiting to make left turns, keep your wheels facing straight ahead. If rear ended, you will not be pushed into the lane of oncoming traffic.

- When stopping behind another vehicle, leave enough space so you can see the rear wheels of the car in front. This allows room to go around the vehicle if necessary, and may prevent you from being pushed into the car in front of you if you are rear-ended.
- Avoid backing where possible, but when necessary, keep the distance traveled to a minimum and be particularly careful.
- \*Check behind your vehicle before backing.
- \*Back to the driver's side. Do not back around a corner or into an area of no visibility.

## **15-14.150 INCLEMENT WEATHER/EMERGENCY CLOSING**

Except for regularly scheduled holidays, the City of Newport will be open for business during established business hours. The city recognizes that there may be circumstances beyond its control, such as inclement weather, national crisis, or other emergencies, that may make one or more of our work locations inaccessible. On such occasions, one or more city facilities may be closed for all or part of a regularly scheduled workday. In such an event, the City Manager (or his designee) will decide and notify all personnel via city e-mail. Those part-time employees without city e-mail shall be notified by the Supervisor and/or Department Head.

In the event of extreme inclement weather conditions, it is recognized that each staff member's ability to safely reach their worksite may be different. Staff who cannot report to work in such circumstances should contact their supervisor. Safety and a trustworthy approach should be your guide. If the City Manager closes a facility, employees may be directed to report to another facility that is open, at which time, duties will be explained by your supervisor.

If the City Manager declares a city emergency, employees may be directed to report to a different facility and may be asked to perform duties outside their routine responsibilities. For example, employees may be asked to perform an Incident Command System (ICS) function at a city emergency operations center.

### **Compensation**

#### **Full Closure -All Employees**

Non-exempt full-time and part-time employees will be paid for actual hours worked if they arrived to work as scheduled.

Exempt and non-exempt employees who were scheduled, but unable to work, due to inclement weather conditions may apply available paid vacation or comp time to the absences, or the time will be unpaid. Employees will need to indicate the appropriate leave code on their time report.

#### **Early Closure -All Employees**

Non-exempt full-time and part-time employees who were scheduled to work will be paid for all hours they were scheduled to work.

Exempt full-time employees who were scheduled to work will be paid for a full day.

Exempt and non-exempt employees who were scheduled, but unable to work, due to inclement weather conditions may apply available paid vacation or comp time to the absences, or the time will be unpaid. Employees will need to indicate the appropriate leave code on their time report.

## **15-14.160 SERVICE ANIMALS IN THE WORKPLACE**

The City of Newport does not allow employees to bring pets into the workplace while the facility is open to the public. In certain circumstances, the City of Newport may be willing to accommodate service or working animals for employees with known disabilities. At a minimum, the employee must agree to the conditions below, and present documentation from a health care provider attesting that a service or working animal is necessary for the employee to perform the essential functions of the employee's position. The city will then assess with the employee what accommodations may exist to help the employee perform the essential functions of their position, and whether allowing the employee to bring a service or working animal to work, during open hours of operation, is the most effective accommodation available. Proof that the service animal can perform specific tasks or functions identified by the health care provider or employee may be required.

Further, nothing in this policy is intended to circumvent or contravene laws that allow members of the public to bring service animals into city facilities, or in connection with the receipt of city services, as provided under Title II of the Americans with Disabilities Act and Oregon law.

This policy applies to employees and contracted workers only, while the employee/volunteer/contracted worker is on duty and during hours the facility is open to the public, and the employee/volunteer/contractor is performing duties on behalf of the city.

If the city approves an employee's use of a service or working animal during working hours, and in city facilities, and when the facility is open to the public, the following conditions apply:

- The animal must be under the direct or indirect physical control of the employee at all times. ("Direct physical control" means control by means of a leash or other restraining device held by the employee and leading to the service animal. "Indirect physical control" is cage, crate, or tied to an inanimate object such as a tree, post, building, handrail, etc.).
- An employee may not leave a pet or service animal unattended outdoors.
- An employee may keep a pet or service animal in a city vehicle when weather conditions create a hazard or unsafe conditions for the animal (i.e. hot weather conditions).
- The employee will care for the service animal in a responsible way that ensures the safety of those in the city facility, as well as the safety of the service animal.
- The service animal must be housebroken. The employee will ensure the service animal relieves itself outside in a location or locations designated by the city; will clean up after the service animal and dispose of the service animal's waste properly; and ensure that the service animal is clean, groomed, and in a healthy condition without fleas.

- Where applicable, the service animal will be licensed, vaccinated, and have identification tags.
- If the service animal creates a disturbance, poses a health or safety risk to the employee or others, or interrupts the work of the employee or others, it must be immediately removed from the city facility.
- For the safety of both humans and animals, service animals are prohibited from kitchens, workshops, labs or other areas housing potentially hazardous materials and machinery. All requests for service animals as a “reasonable accommodation” will be evaluated on a case-by-case basis.
- The employee accepts sole financial and legal responsibility for any injury, damage, or other harm caused by the service animal and will indemnify the city should the employee or their service animal be found legally liable for any injury or other harm caused by or to the service animal.

Employees who do not maintain the direct or indirect physical control of the service or working animal as defined above, or who violate any provisions within this policy, will not be allowed to bring a service animal to work and will be subject to disciplinary action for violation of this policy.

Also, employees who intentionally injure, harm or otherwise prevent a service or working animal approved by the city from doing their work will be subject to discipline, up to and including termination. No employee may harass another employee for bringing a service or working animal to work, and all employees are expected to respect the personal space and privacy of an employee with a service or working animal (e.g., no unauthorized petting, feeding or playing with the service animal unless the employee has express permission from the owner to do so).

## **SECTION 15-15 SEPARATION OF EMPLOYMENT**

Separation from employment from the City of Newport occurs when an employee voluntarily resigns, retires, is laid off, or involuntarily terminated.

### **15-15.10 VOLUNTARY TERMINATIONS AND RETIREMENTS**

A voluntary termination of employment occurs when an employee submits a written or verbal notice of resignation, or notice of retirement to their supervisor or when an employee is absent from work for three consecutive workdays and fails to contact his or her supervisor (job abandonment).

Employees are requested to provide a minimum of two weeks' notice of their intention to separate from the city to allow a reasonable amount of time to transfer ongoing workloads. The employee should provide a written resignation notification to his or her manager.

Upon receipt of an employee's resignation, the manager will notify the human resource (HR) department by sending a copy of the resignation letter and any other pertinent information (e.g., employee's reason for leaving, last day of work).

The HR department will coordinate the employee's out-processing. This process will include the employee's returning all-city property (e.g., keys, ID cards, passes); a review

of the employee's post-termination benefits status; and the employee's completion of an exit interview form.

The employee's manager will complete a Personnel Action Form (PAF) for the separation, and deliver the completed form to HR.

## **15-15.20      JOB ABANDONMENT**

Employees who fail to report to work for three consecutive business days without notifying the city of the absence will be considered as having voluntarily resigned as a result of job abandonment.

If the employee is unable to contact the city for any absence, he or she should ask a representative (such as a family member or friend) to do so on the employee's behalf. If the employee or a representative is unable to contact the city due to extreme circumstances (such as incapacitated by a medical emergency or natural disaster that prohibits the employee or his or her representative from contacting the city within three days), the employee or his or her representative must contact the city as soon as practicable to explain the situation. In extreme circumstances, the city will consider the explanation and its timing before determining if the voluntary resignation will be upheld.

## **15-15.30      INVOLUNTARY TERMINATIONS**

All involuntary terminations of employment must be reviewed by Human Resources and approved by the City Manager.

The inability of an employee to perform the essential functions of his or her job may also result in an involuntary termination. An employee may also be discharged for any legal reason not prohibited by law, including but not limited to: misconduct, tardiness, absenteeism, unsatisfactory performance or inability to perform.

Before any action is taken to involuntarily discharge an employee, the employee's manager must request a review by the HR Director.

The HR Director will be responsible for reviewing the circumstances and determining if discharge is warranted. If HR recommends discharge, City Manager approval must be obtained.

Before reaching a final decision to discharge, dismiss, or terminate an employee, the city typically follows "due process," which means the affected employee will be told in writing why termination is being considered, and the employee will be offered an opportunity to respond to the written notice.

The employee's manager and an HR representative will notify the employee. The employee's manager should complete a Personnel Action Form and notify HR and payroll of the last day worked by the employee.

Employees who are involuntarily terminated from the city are not eligible for re-hire.



#### **15-15.40 DEATH OF AN EMPLOYEE**

A termination due to the death of an employee will be made effective as of the date of death.

Upon receiving notification of the death of an employee, the employee's manager should immediately notify HR.

HR will notify the benefits administrator to process all appropriate beneficiary payments from the various benefits plans.

The employee's manager should ensure that payroll receives the deceased employee's timecard.

#### **15-15.50 FINAL PAY**

An employee who resigns or is discharged will be paid through the last day of work, plus any earned, unused vacation time less any outstanding loans, advances or other agreements the employee may have with the city, in compliance with Oregon laws. In cases of an employee's death, the final pay due to that employee will be paid to the deceased employee's estate or as otherwise required under Oregon law.

The city requests that employees give us at least two weeks advance notice prior to departure when resigning or retiring from the city.

- If you provide us with at least 48 hours' notice (excluding holidays and weekends) you will receive your final paycheck on the last day worked.
- If less notice is given, the final paycheck will be provided within five business days or on the next regularly scheduled payday, whichever occurs first.
- If you are discharged, your final paycheck will be paid no later than the end of the next business day.

Final paychecks will include all wages earned through the last workday plus payment for any accrued and vested benefits (excluding retirement) that are due and payable at separation.

Unless otherwise instructed, final checks will be available for the employee to pick up at City Hall. If the check has not been picked up within 7 days after the termination date, the check will be mailed to the separated employee at the address on file with the city.

#### **15-15.60 JOB ELIMINATION, REDUCTION IN WORK HOURS OR STAFF**

It is the city's desire to avoid circumstances that require a reduction in hours or staff, but we also recognize that situations may arise where the city may need to make such reductions. Depending upon the circumstances, the city may respond in a variety of ways, including offering a voluntary reduction in hours or days of work, reducing the work hours or days of work, or by a reduction of the workforce.

After receiving an explanation of the layoff procedure, the employee(s) will be given a letter describing the conditions of the layoff, such as effects on benefits, the possibility of re-employment, and any outplacement services, etc.

### **15-15.70 RETIREMENT OR RESIGNATION**

If you choose to resign or retire, it is anticipated that you will give the city as much notice as possible. A minimum of two weeks is preferred. When giving your notice, vacation or personal days **should not be used in lieu of the two-week notice period**.

Employees who miss three or more consecutive workdays without contacting their immediate supervisor are typically considered to have resigned their employment.

If the employee's decision to resign is based on a situation that could be corrected, the employee is encouraged to discuss it with the department head or HR before making a final decision.

Employees must return all the city property, including phones, computers, identification cards, credit cards, keys, and manuals, to HR during the exit interview on their last day of work.

### **15-15.80 EXIT INTERVIEW**

An exit interview may be scheduled with HR, or designee, when an employee leaves the city. This gives the departing employee an opportunity to offer constructive feedback, positive comments, or address any unresolved issues prior to leaving. This also allows the city to solicit the employee's candid opinions, as well as suggestions, for improvement at the city. We encourage departing employees to participate in an exit interview when they separate from employment, and we value all opinions and suggestions received throughout this process.

Prior to the end of employment, the exiting employee will be provided with information to help ease the transition, such as, benefit continuation rights and responsibilities, and final paycheck information during the exit interview.

### **15-15.90 RETURN OF CITY PROPERTY**

The employee must return all city property as part of the exit interview on the last day of employment. City property includes credit cards, keys, ID cards, cellular phones, pagers, tools, software, computer disks, this Handbook, and any other items belonging to the City of Newport. Failure to return city property will result in a billing to the former employee.

### **15-15.100 EMPLOYEE REFERENCES**

All requests for references or recommendations for current or former employees must be directed to human resources. No department head, supervisor or employee is authorized to release references for current or former employees. Department Heads and supervisors are expressly prohibited from providing LinkedIn or other social media

site “recommendations” or using a website on the internet to discuss a current or former employee’s performance.

By policy, the city discloses only the dates of employment and position(s) held of former employees, and if the employee is eligible for rehire. Former employees who authorize additional disclosures must make a written request.

Personal references are allowed to be given, as long as they are not on city letterhead or signed in the capacity of the employee’s position within the organization.

## ACKNOWLEDGEMENT AND RECEIPT OF THE 2024 EMPLOYEE HANDBOOK

I acknowledge that I have received and will read a copy of the City of Newport Employee Handbook. I also understand that a copy of the Employee Handbook is available to me at any time to review on the city's website.

I understand that the City of Newport has adopted the Employee Handbook only as a general guide about policies, work rules and the work environment, and that they are subject to change at any time in the city's sole discretion. I also understand that the Employee Handbook control over any other contradictory statements. I acknowledge that the Employee Handbook is not an employment contract and are not intended to give me any express or implied right to continued employment or to any other term or condition of employment.

I understand that either the city or I may terminate my employment relationship at any time, for any lawful reason and with or without advance notice. I acknowledge that no promises have been made to me that are inconsistent with this "at will" statement.

I understand that the city complies with all applicable laws regarding equal employment opportunity and provides a workplace free of harassment, bullying, intimidation, and discrimination. I will bring any questions or concerns I have regarding equal employment opportunities, discrimination, intimidation, bullying, retaliation or harassment to my supervisor, the Human Resource Director, or any trusted manager or supervisor.

During my employment with the city, I understand that it is my responsibility to remain informed about the policies as revisions, updates and new policies as issued, and to ask questions about any interpretation of any of the policies.

I have read this acknowledgement carefully before signing.

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Employee Signature

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Date

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Print Name

The original of this document will be kept in the employee's personnel file. A copy will be provided to the employee upon request.

**FOR EMPLOYEES COVERED UNDER A COLLECTIVE BARGAINING  
AGREEMENT (CBA)  
ACKNOWLEDGMENT OF RECEIPT OF 2024 EMPLOYEE HANDBOOK**

I acknowledge that I have received and will read a copy of City of Newport Employee Handbook I also understand that a copy of the Employee Handbook is available to me at any time to review on the city website.

I understand that City of Newport has adopted the Employee Handbook only as a general guide about policies, work rules and the work environment. I acknowledge that the Employee Handbook is not an employment contract and are not intended to give me any express or implied right to continued employment or to any other term or condition of employment.

I will bring any questions or concerns I have regarding equal employment opportunities, discrimination, intimidation, bullying, retaliation or harassment to my supervisor, the Human Resources, or any trusted manager or supervisor. I understand that I may bring complaints about these issues to my shop steward or trusted union representative, but that City of Newport may not be able to address the issue unless notice is provided to City of Newport by you or the shop steward/union representative.

During my employment with City of Newport, I understand that it is my responsibility to remain informed about the policies as revisions, updates and new policies as issued, and to ask questions about any interpretation of any of the policies.

I have read this acknowledgement carefully before signing.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

The original of this document will be kept in the employee's personnel file. A copy will be provided to the Employee upon request.