



**HUMAN RESOURCES POLICIES,  
PROCEDURES AND BENEFITS MANUAL**

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## **WELCOME**

Welcome to public service with the City of Biddeford. You have been selected to work with the City as a result of your knowledge, experience and training in your chosen field. You are joining hundreds of other dedicated employees who are providing consistently high levels of service to Biddeford residents and taxpayers. It is critical to remember that with our mission of service to the public, we must continually strive for the highest levels of effort, performance and conduct. The purpose of the Personnel Policy Manual is to help establish and create a productive and harmonious work environment by clearly defining what is expected of each member of the City team.

City employees form the core of the organization and are its most important resource. The ultimate purpose of all work in the City can be summed up in the words “Quality Service to Others.” Accordingly, these Personnel Rules and Regulations have been prepared and provided to guide you and your fellow employees in your daily activities, including your responsibilities, rights and benefits as a City of Biddeford employee. Your careful attention to this document will help to provide you with a rewarding and satisfying career in City service.

It is recognized that no personnel policy can answer all questions that might arise in the normal course of municipal government. Employees of the City are expected to exercise the utmost judgment and discretion in the performance of their duties.

## **HISTORY**

Biddeford with a population of 22,000 persons is Maine’s 6<sup>th</sup> largest City. Located along the I-95 corridor, the City is conveniently situated some 15 miles south of Portland and 90 miles north of Boston.

Settled in the early 1600’s, Biddeford and its sister City of Saco, have a long and rich history as the commercial center of York County. Once a textile center of world prominence, Biddeford’s economy today is a diverse mix of manufacturing, technology, and serviced-based companies and institutions, many of whom conduct business in the City’s business and industrial parks. Anchoring the City’s economic base is two of Maine’s truly dynamic institutions: the award-winning Southern Maine Medical Center and the University of New England – both of whom are experiencing impressive growth.

In terms of natural features, Biddeford’s 30 square miles of land area is as astoundingly beautiful as it is richly diverse!

The downtown area is urban in its density and fabric with numerous historic commercial buildings, churches, textile mills and homes.

Just a few miles to the east of the City center lays a magnificent coastline with long stretches of sandy beaches framed by rocky promontories. Along the coast are such gems as historic Wood Island Lighthouse and the Rachel Carson U.S. Wildlife Preserve.

To the west of the Maine Turnpike are rolling hills and pastures with traditional New England farmhouses and horse farms which capture life from a by-gone era.

And, let’s not forget the beautiful Saco River which has its origins in the New Hampshire Mountains as it meanders along a largely unspoiled Biddeford shorefront for a distance of 14 miles where it meets the sea at Hills Beach-Camp Ellis.

The quality of life for Biddeford residents is further enhanced by the availability of an outstanding array of community facilities including a modern regional hospital, schools and colleges, library and cultural facilities which appeal to all interests.

## **PURPOSE**

The purpose of these rules and regulations is to establish and set forth a uniform and equitable system of Human Resources administration governing employment with the City of Biddeford. These rules and regulations apply to all non-contract positions not covered by collective bargaining agreements. This policy will guide the City Manager and Department Heads in the administration of Human Resources activity except as it conflicts with a collective bargaining agreement, or is otherwise stated in the City Charter. Copies of State and Federal regulations referred to in these Rules and Regulations can be obtained through the Human Resources Office or Office of the City Solicitor.

Disclaimers: Although these policies and procedures outline the rights, responsibilities and benefits of the City of Biddeford employees, this document does not create legally enforceable rights. The following disclaimers are included to provide notice to that effect:

- ✓ This document is not a contract and nothing in the manual affords employees any contractual rights. Unless otherwise expressed by terms of a written contract, your employment with the City is on an “at will” basis.
- ✓ Where this manual contains descriptions or references to insurance or other benefit plans, the specific provisions of the benefit plan will take precedence and govern should a conflict arise concerning interpretation, application or benefit level.
- ✓ Human resource policies, procedures and benefits are affected by changes in applicable laws regulations, economic conditions and the way that the City of Biddeford runs its operations. The City may change, amend, repeal or modify any of these policies or procedures at any time for any reason.
- ✓ This City of Biddeford Human Resources Policy & Procedure Manual shall supersede any policy and rule previously written. This Manual applies to all full-time, part-time and temporary employees, as defined herein, except for the City Manager, school department employees, and those employees whose employment relationship with the City is governed by a collective bargaining agreement insofar as those provisions of the collective bargaining agreement are in specific conflict with this manual.
- ✓ The pronouns used in this manual are in the masculine form. This was done for the sake of clarity and to avoid redundancy of using “he/she”, and “his.”

## **CITY GOVERNMENT ORGANIZATION**

### **Citizenry**

Biddeford citizens are the ultimate recipients of the services provided by City employees. However, many citizens have little knowledge of the workings of City Government. Typically, most citizens have only limited contact with one or two City employees on a regular basis. For these reasons, all employees must give the best possible impression at all times. Individual employees must be aware that their job performance and how they conduct themselves may be associated with City Government by the general public. Because of this association and perception, it is imperative that all employees conduct themselves professionally, courteously and honestly when providing a city service.

## **Mayor**

The Chief Executive magistrate of the City of Biddeford shall be the Mayor, who, with the exceptions of the administration of the departments of police, fire and education, shall:

- A. See that all laws and ordinances are enforced;
- B. Exercise oversight over all departments, divisions, agencies, offices and boards created herein or that may be hereafter created;
- C. Sign all warrants to be paid from the treasury after appropriations by the City Council;
- D. Make nominations to all Boards, Committees and Commissions, as provided in the City Charter;
- E. Preside at all meetings of the Council and school committee, and shall vote only in case of a tie;
- F. Keep the City Council advised as to the business and financial condition and future needs of the City;
- G. Call special meetings of the City Council by giving public notice to a newspaper of general circulation and by giving each councilor notice of the time, place and subject to be discussed;
- H. Issue warrants for calling meetings and elections for any purpose in the several wards;
- I. Perform all other duties conferred by state law or City ordinances.

## **City Council**

The Biddeford City Council is composed of nine members who shall hold offices for a term of two years and until their successors are elected and qualified. Councilors are elected by the registered voters of the City; two (2) shall be elected at large, and one (1) shall be elected from each of the seven (7) wards in which they reside and which they seek to represent. All candidates must be residents of the City.

Under the City Charter and the Laws of the State of Maine, the City Council, by majority vote, exercises the powers and duties assigned to municipalities by the State Legislature. Such functions are considered to be the legislative and administrative functions of the City Council, and are usually implemented by order, ordinance or resolve. Under the council-manager form of Government, most administrative responsibilities are assigned to the City Manager. However, as elected officials, the City Council retains the ultimate responsibility for the functioning of City Government.

## **City Manager**

The City Manager is the chief administrative officer of the City. He is appointed by the City Council to carry out its policies and serves at its pleasure. In the performance of his duties, the City Manager is responsible for the oversight of the day-to-day activities of all City Departments and the successful completion of projects and implementation of all policies adopted by the City Council. The City Manager is responsible for appointing Department Heads, with the confirmation of the City Council.

## **Departments**

The day-to-day activities of the City's government are performed by employees assigned to a series of administrative departments established by the City Council. Exceptions to this rule are the positions of

City Clerk, City Solicitor and City Assessor who are nominated by the Mayor and appointed by the City Council; as well as the Police and Fire Chiefs who are recommended by their respective Commissions, and then nominated by the Mayor and appointed by the City Council.

### **AUTHORITY**

The City Manager shall administer the personnel policy, and shall:

- A. Encourage and exercise leadership in the development of sound personnel practices among the departments of the City.
- B. Foster and develop programs for the improvement of employee effectiveness, including safety, health, counseling, proper courtesy when dealing with the public, and respect for municipal property.
- C. Establish and maintain records of all employees in the public service, setting forth as to each employee the class title, pay or status, sick leave, vacation time and other relevant dates.
- D. Apply and carry out this policy and perform any act which may be necessary or desirable to carry out the purpose and provisions of this policy.
- E. Has the authority to alter or revoke any part of the work rule and regulations or to make additional work rules and regulations from time to time as circumstances or the good of the employees covered by this policy may require.

### **AMENDING HUMAN RESOURCES RULES AND REGULATIONS**

The City Manager is responsible for the maintenance and preparation of a Human Resources Policy and Procedure Manual, which will govern the administration of the City's human resources program. This policy will guide the City Manager and Department Heads in the administration of personnel activity except as it conflicts with a collective bargaining agreement. All employees will be informed about their rights as well as their responsibilities while in the employment of the City of Biddeford. The City Manager or his designee shall endeavor to keep these Rules and Regulations current with respect to accepted personnel practices and state and federal personnel and employment law.

This Human Resource Policy and Procedures Manual applies to all full time, part time and temporary employees, as defined herein, except for the City Manager, school department employees, and those employees whose employment relationship with the City is governed by a collective bargaining agreement insofar as those provisions of the collective bargaining agreement are in specific conflict with this manual. Elected city officials and appointed members of the City of Biddeford Boards and Commissions are not considered as employees of the City of Biddeford and are not subject to the terms and agreements of the Human Resources Policy and Procedure Manual.

### **EMPLOYEE EXPECTATIONS**

Working for Biddeford is an opportunity to make this special place better. Citizens love their home town and you are given the awesome responsibility to protect and enhance those positive feelings. As an employee of the City, you will be competitively compensated for your contributions. While you will not become rich financially, you will be richly rewarded with the intrinsic feeling of making our community a better place. You are expected to make a difference in the lives of each and every citizen.

To make that difference, each employee is expected to maintain the highest ethical and moral standards. You are expected to take ownership and personal responsibility for all commitments to our citizens and to fellow employees. Residents and businesses pay for your services directly through property taxes and other fees. Servicing them honestly, effectively and professionally is required. Embracing the rules and regulations set forth for the organization, not simply complying, is the key to your future with the City.

To be successful in our organization, you shall:

### **ATTITUDE**

- Always have the best interest of the City and your fellow employees in mind
- Demonstrate poise, maturity, positive attitude & self confidence in the accomplishment of tasks and communication with others
- Value the unity of our organization, take care of one another
- Maintain a positive, well balanced work environment
- Be willing to learn new functions of your job and be enthusiastic about being part of a great organization!

### **PROFESSIONAL CONDUCT**

- Treat customers, clients, coworkers and vendors with patience, respect, and consideration
- Communicate openly with supervisors, managers, and coworkers
- Constructive criticism is given to improve job performance. Listen and learn from the input shared with you
- Be discrete with personal information

### **TEAMWORK**

- Apply problem solving techniques and brainstorm possibilities - be creative!
- Each individual is expected to contribute team spirit to the workplace and improve moral
- City employees are expected to be individual performers as well as team players. While individuals perform, it is a highly functioning team that works together
- Great ideas and contributions are produced from all levels of the organization

### **INITIATIVE**

- Anticipate and complete projects in a comprehensive manner to provide a high quality service
- Aggressively promote and enhance the image of Biddeford
- Be dependable and punctual, if you will be late or absent let your supervisor know
- Employees of the City are hired to meet the needs of our customers, not just to perform specific job tasks. Employees need to understand that every job that is performed must be dedicated to providing a quality product and service to the City's customers.

### **EMPLOYMENT PERFORMANCE AND CONDUCT**

Employees are expected to maintain the highest standards in the performance of their jobs. They are prohibited from engaging in any conduct that would affect the employee's ability to perform their job, reflect unfavorably upon the City or disrupt the efficient operation of the City.

Employees of the City are expected to conduct themselves in a professional and courteous manner when dealing the public or outside agencies. In addition, each employee shall strive to maintain courtesy, respect and understanding for each other at all levels of the organization. Employment with the City is a privilege. Acceptance of that privilege means that all employees become representatives of the City which is a great responsibility and should not be taken lightly. Employees must conduct themselves with the highest ethical standards at all times, both at work and in their personal lives. Expression of derogatory statements regarding City officials and policies of the City is considered unbecoming conduct and is prohibited.

- Being rude is never appropriate. We must treat one another with courtesy and respect.
- Treat every co-worker as a professional. Recognize that we each have an area of expertise.
- Show consideration. Treat others as you wish to be treated.
- Be tolerant of fellow employees. Recognize that conflicts may exist among co-workers, but courtesy is expected. Set aside differences when working together.
- Be supportive of fellow employees by offering help when possible. Cooperation is expected in the workplace.
- Be loyal to your co-workers and the City of Biddeford. Do not undermine other people's work. Always manage up.
- Be discreet about what you say. Respect out co-workers privacy and confidentiality. Gossip about fellow co-workers is destructive and will not be found acceptable.
- Welcome new employees. Be supportive by offering help and setting an example of the cooperation expected in the workplace.
- Address problems by going to the appropriate person.

### **DUTY CONDUCT AND EMPLOYMENT**

Full time employment with the City of Biddeford is considered an individual's primary employment. Generally, the City regards the off duty activities of employees to be their own personal matter. However, certain types of off duty activities by employees represents concern to the City and for that reason the following is established with the intent to specify conditions and guide employees.

1. Employees who engage in, or are associated with illegal or inappropriate conduct, the nature of which adversely affects the City or their own ability or credibility to carry out their employment responsibilities may be subject to disciplinary action including termination.
2. Employees may engage in off duty employment provided that such employment does not conflict with the employee's work schedule or job performance.
3. Officials shall not disclose confidential information acquired in the course of official duties or use such information to further personal interests.
4. Demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees. Engage in no activity, either directly or indirectly, which is inconsistent with the conscientious performance of city duties.
5. Not engage in off-duty personal conduct which affects your job performance or adversely affects the public trust and confidence placed in you. Such conduct includes, but is not limited to, criminal conduct, such as acts of domestic violence, child abuse or neglect, consensual sexual relationships between City employees with a supervisor/subordinate relationship, operating motor vehicles under the influence and other inappropriate off-duty personal conduct.
6. City employees are in a position of trust that implies a duty to act in the best interest of the public and is taken seriously by the City. All employees must conduct their duties with integrity.

### **PUBLIC AND EMPLOYEE RELATIONS**

- A. All employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City or disrupt the efficient operation of the administration of the City. All City employees must avoid any action which might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or losing complete impartiality in conducting City business.

- B. Cooperation by all employees is essential to efficiency. Our taxpayers are entitled to the best service we can give them. Cooperation, courtesy and responsibility are the key elements of good service.
- C. These policies and regulations are provided to assist Department Heads and all employees in functioning at peak efficiency with minimal cost to the taxpayers.
1. **Receipts of gifts:** All City employees are prohibited from soliciting or accepting any gift, gratuity, favor entertainment, loans, or any other item of monetary value from any person, within or outside City employment, whose interests may be affected by the employee's performance or nonperformance of his official duties. This does not include fund-raising efforts for the benefit of charitable causes or other departmental programs.
  2. **Business Activities or Solicitations:** No employee shall engage in any business other than his regular duties during work hours.
  3. **Confidentiality:** Many City employees have access to confidential information pertaining to persons or property in the City. Employees must not use this privileged information to their private advantage or to provide friends or acquaintances with private advantages. Each employee is charged with the responsibility of releasing only information which is required under the "right to know" law, 1MRSA Sections 401-410.

### **PERSONAL APPEARANCE STANDARDS**

Employees shall dress appropriately for their position and maintain reasonable standards of neatness and cleanliness. Employees are expected to dress in a manner consistent with the nature of work performed. If there are questions as to what constitutes proper attire, employees should consult with their supervisor or department head. Employees, who are inappropriately dressed, in the opinion of supervisory personnel, may be sent home and required to return to work in acceptable attire. Under this circumstance, employees will not be paid for the time away from work.

### **CONFIDENTIALITY AND SECURITY**

It is the City's policy to maintain strict control over the unauthorized entrance or use of City property, cash or other items of monetary value, personnel or general assistance records, certain computer information or other records or information considered being confidential. Employees who are assigned keys, given special access or assigned job responsibilities in connection with safety, security or confidentiality of such records, material, equipment or items of monetary value will be required to use sound judgment and discretion in carrying out their duties and will be held accountable for any wrong doing or acts of indiscretion.

Information about employees or any matters considered being confidential or delicate shall not be divulged to anyone other than persons who have a right to know or are authorized to receive such information.

Confidential information obtained as a result of employment with the City is not to be used by an employee for the purpose of furthering any private interest or a means of making personal gains.

### **CONFLICT OF INTEREST**

No employee authorized to make purchases or contract services shall have any direct or indirect financial interest or personal gain in any purchase or contract.

Employees shall act in the best interest of the City and shall avoid making any decisions or directing influence to the parties making decisions when it would be determined to be a conflict of interest. Employees shall inform their supervisor, department head or the City Manager as soon as they recognize a possible conflict of interest.

### **POLITICAL ACTIVITY AND CONTRIBUTIONS**

Any City employee may seek election for any political office, except as otherwise restricted by federal or state law, the City Charter, City ordinances or adopted policies, and further restricted by this policy. All employees seeking elected office must first notify the City Manager in writing of their intent, including the position being considered. The City Manager will notify the employee in writing if seeking such office will be considered a conflict and if so what remedy(s) would be necessary for the employee to seek office. Such remedies may include:

1. Incompatible offices: if the office is deemed incompatible with the employees position and responsibilities with the City, said employee shall be placed on an unpaid leave of absence status from the date of candidacy for such position is announced or nomination papers filed and until completion of the election process. During his/her leave of absence, the employee shall not use any official City title in his/her political campaign, nor shall such employee's official authority or influence be used to affect the results of the election. If elected to any political office and such office is deemed incompatible with his/her duties as a City employee, such employee shall terminate his/her employment with the City prior to assumption of the elective office.
  - a. In all cases, seeking elected office within City government, such as City Council, School Board, or being appointed to the Police or Fire Commissions shall be considered incompatible.
  - b. Certain elected positions are essentially administrative, non-political offices, i.e. Election Wardens. In those cases, the City Manager, with permission of the City Council may allow city employees to serve in those capacities.
  - c. The ability of said employee to return to their old position should their election bid fail will be subject to the availability of that position and the legitimate business needs of the City.
2. Acceptable or compatible offices: the City Manager will notify the employee of the ability to seek such office and any restrictions that may be applicable.
3. No members of the management team, department heads, those in leadership roles or otherwise high profile positions, as deemed by the City Manager shall be allowed to seek any elected office without first resigning from their position.

### **Solicitation and Handbills**

No employee may use his/her official authority or position for the purpose of influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from City employees for political purposes. No employee may distribute pamphlets or handbills, wear buttons or other indication of support for any particular candidate, political party or political cause during such times while he/she is performing his/her official functions and duties with the City. Nothing herein shall be construed to prohibit any City employee from participating in the political process during off-duty hours and in his/her capacity as a private citizen.

## **Political Office**

Any City employee may seek election for political office as a member of the City Council or any other elective office. However, such employee shall be placed on an unpaid leave of absence status from the date of candidacy for such position is announced or nomination papers filed and until completion of the election process. During his/her leave of absence, the employee shall not use any official City title in his/her political campaign, nor shall such employee's official authority or influence be used to affect the results of the election. If elected to any political office and such office is deemed incompatible with his/her duties as a City employee, such employee shall terminate his/her employment with the City prior to assumption of the elective office.

## **Federal Hatch Act**

All employees covered by restrictions of the Federal Hatch Act, so called, shall be subject to its provisions. Where such provisions are more restrictive than the provisions contained herein, such additional restrictions shall apply.

## **EMPLOYMENT DEFINITIONS**

**Full Time Employment:** Full-Time Employment is an appointment to a regularly budgeted position to work a standard workweek of more than thirty hours per week on a continuous and indefinite basis.

**Part Time Employment:** Part-Time Employment is an appointment to a regularly budgeted position to generally work less than the standard workweek, but on a continuing and indefinite basis, as above.

**Temporary Employment:** Temporary Full-Time Employment is an appointment to work a standard workweek or less, on a regular basis but for a definite limited time period. Extensions of temporary employment may be granted by the City Manager. Temporary employees are paid for hours worked and are fully covered by employment laws such as the Maine Human Rights Act, the Workers' Compensation Act and the labor laws in Title 26 of the Maine Revised Statutes.

If an employee is hired as a temporary employee, and is then maintained as a regular employee, the hire date shall be the date the employee is hired as a permanent regular employee, and not the date the employee began in a temporary capacity.

**Seasonal Employment:** Seasonal Employment is an appointment to a position that generally has a duration coinciding with one or more of the four seasons and the position terminates with the end of one of the applicable seasons. Such employees are paid for hours actually worked and receive no other benefits except those mandated, including Worker's Compensation and Unemployment Compensation.

**Project Employment:** Project Employment is an appointment to work on a particular or special project of limited time duration. Project employees may work a standard workweek or less, shall be paid for hours actually worked and receive no other benefits except those mandated, including Worker's Compensation and Unemployment Compensation. Project employees are hired with the understanding that their employment with the City of Biddeford will be terminated upon completion of the project for which they were hired.

**Student/Intern Employment:** Students participate in internships in order to fulfill requirements in their program of study. Each study program determines the rules under which the student can complete the internship. From time to time, the City of Biddeford has worked with local schools to assist students with completing internships.

**Contract Employment:** An independent contractor is a “person who performs services for another under contract, but who is not under the essential control or superintendence of the other person while performing those services.” An independent contractor may not assert a workers’ compensation claim against the person for whom the contractor was working at the time of injury. The Workers’ Compensation Act provides that only employees may assert claims under the Act against employers.

**Volunteers:** Volunteer work occurs when non-employees choose to donate or volunteer their time free of charge to the City. Normally, volunteers are not entitled to receive any pay or other benefits. Volunteers, however, are eligible for legal defense and indemnification by the City for most claims arising out of their volunteer work for the City.

**Workfare:** Workfare personnel includes individuals required to perform work for the City of Biddeford under Title 22 MRSA section 4316-A and the City’s General Assistance Ordinance and are not deemed to be City employees for any purpose and are not entitled to pay or other conditions contained within this policy.

Volunteers, seasonal, project, workfare, student/intern, contract and temporary employees, while performing their assigned duties for the City, shall follow the same guidelines of conduct as regular City employees, as outlined in this City of Biddeford Policy and Procedure Manual.

## **EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION**

The City of Biddeford shall employ, without discrimination as to age, religion, sex, sexual orientation, marital status, race, color, ancestry, national origin, political affiliation, and physical or mental handicap except as a bona fide occupational qualification the best-qualified persons who are available at the salary levels established for City employment. Within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practical. It shall be the duty of the Department Head to seek out the most desirable employees for the City and he shall determine the means of recruitment with the advice of the City Manager.

The City will avoid favoritism, prejudices, and discrimination during the recruitment process. All employment opportunities with the City of Biddeford shall be based on merit and upon a person’s ability to perform the job duties and responsibilities of the particular position

## **EMPLOYMENT OPPORTUNITIES**

- A. All employment opportunities with the City of Biddeford will be posted on the following websites: [www.biddefordmaine.org](http://www.biddefordmaine.org), [www.Jobsinme.com](http://www.Jobsinme.com), and the Maine Municipal Job Bank. Copies shall be forwarded to external departments for posting.
- B. The Mayor and City Council desire that employee vacancies be filled by the most qualified applicant. Employees shall be given maximum opportunity for advancement in the service. Present employees shall be given first consideration in filling a vacancy, but it is recognized that, from time to time, the good of the service will require that a vacancy be filled from outside the service. The Department Head shall file with the City Manager an appropriate statement of the reasons for going outside the City service to fill any promotional vacancy.
- C. All applicants for City employment must submit a written application and/or resume for employment to the Human Resource Department.

- D. The employment of all Department Heads of the City shall be made by the City Manager and confirmed by the Council; these officials shall be subject to provisions of the Charter of the City as adopted and as amended.
- E. The employment of all City personnel shall be the responsibility of the Department Head, after review with City Manager.
- F. A former employee of the City, having forfeited all benefits by his termination, should he be rehired, shall be considered a new employee.

### **IMMIGRATION LAW COMPLIANCE**

Federal immigration law requires the City of Biddeford to verify the work eligibility of a new employee and prohibits the City of Biddeford from hiring an illegal alien or an alien who is not authorized to work in the country. Each new employee, as a condition of employment, must complete the INS Form I-9 within three days after he actually starts work (unless the employee is hired for only three days or less, in which case the form must be completed the first day). The City of Biddeford will check the originals of the new employee's work authorization documents to confirm the employee's identity and work eligibility.

### **HOURS OF WORK**

The City Manager shall determine the work week with the approval of the City Council. When circumstances warrant, overtime work may be required. When required to work more than 40 hours, non exempt employees will be paid time and one-half for each additional hour worked, or fraction thereof (to the nearest quarter hours). Hours worked shall mean actual hours worked, vacation time, personal time, and paid holidays.

### **LUNCH / REST PERIODS**

Rest breaks may be granted at the department head's discretion as a principle of sound personnel management, not as a right of employment. The policy governing breaks for City employees who work full-time is one (1) fifteen (15) minute break in the first half of the work shift and one (1) fifteen (15) minute break in the second half of the work shift. Break time may not be taken at the beginning or end of a work shift, immediately before or after lunch, accumulated or be applied towards an alternative work schedule.

On a regular 8 hour assignment, a lunch period does not exceed one (1) hour and cannot be less than thirty (30) minutes. Lunch is unpaid.

Employees shall not consume alcoholic beverages and/or illegal drugs while on rest and/or lunch periods. Employees found in violation of this policy will be subject to disciplinary action up to and including termination of employment.

### **ATTENDANCE**

Consistent attendance and punctuality are considered imperative ingredients in the City's business operations and therefore an integral part of each employee's performance standards based on objective measurements. Poor, uncertain or irregular attendance produces disruptive results in City operations, lowers overall productivity and continuity of work and often is burdensome to other employees.

Employees are expected and required to report to their designated work location at the prescribed time and manner work activity is to commence. Tardiness, unexcused absences or failure to report as required may result in disciplinary action. In the event an employee cannot report to work as scheduled, the employee shall notify supervisory personnel as soon as practical of the absence. In all cases of an employee's absence or tardiness, the employee shall provide supervisory personnel with a legitimate reason for the absence and, if applicable, the probable duration of absence. If circumstances render the absence durations speculative or unknown, the absent employee will be required to call supervisory personnel daily to report the status of absence.

Excessive absenteeism, regardless of reason (s), which renders an employee insufficiently available for work will be evaluated on a case-by-case basis to determine the merits of correctional retention or termination.

Definition of absence: An employee is absent when he fails to report for and remain at work as scheduled. Lateness is a short absence at the beginning of the workday. Leaving early, even with permission, before the scheduled shift ends, is also an absence. Absence, then, includes all time lost from the work schedule, whether avoidable or unavoidable, voluntary or involuntary.

Employees must clear planned absences in advance with their supervisor, allowing as much notice as they can. When an absence is unplanned, due to illness, an emergency, or some similar cause, employees must report the absence to their supervisor before the start of their scheduled work shift on the first day of the absence. In case of a longer term absence of indefinite duration, they must report their status to their supervisor at least once every three working days.

Notification from another employee or relative is not acceptable, except under emergency conditions. The employee should make every effort to communicate directly with his supervisor when reporting an unplanned absence. An "excused" absence may include personal or family illness, jury duty, bereavement, or other reasons that would require an employee to miss all or part of a scheduled workday. Employees should be prepared to substantiate the reasons for their absences if asked. If an employee is absent frequently, he may be required to furnish documentation, including medical statements from his doctor. Employees may also be required to produce fitness for duty certificates to return from an absence.

A physician's statement or a fitness for duty certificate may be required where absence is continuous for a period of a number of working days and after surgery or accident, regardless of the length of absence.

Failing to report an absence properly may be grounds for disciplinary action, including dismissal. Excessive absences or lateness, even when reported, may also be grounds for discipline or dismissal. Unsatisfactory attendance will have an adverse effect on any promotion considerations.

### **TIME AND ATTENDANCE RECORDS**

In order to ensure accurate payment for hours worked and in accordance with applicable state and federal laws the following procedures have been established by the City of Biddeford for reporting and payment of hours worked. Any intentional misrepresentation of hours worked constitutes fraud and will usually result in disciplinary action or possible termination of employment. Time sheets are a legal document and must represent an accurate and true report of hours worked and hours taken in accordance to the City of Biddeford's leave policy. The accuracy of time sheets is the responsibility of both the employee and Department Head.

- A. Time sheets must be fully and accurately completed, including signature and submitted to the Department Head or his designee no later than 2:00 PM each Thursday for approval and Department Head signature.

- B. All time worked must be entered; no non-exempt employee will work for the department without compensation.
- C. Time sheets are to be completed in ink only. No pencils should be used.
- D. If the employee is on annual leave it is his responsibility to fill out the time sheet prior to the leave. If the employee is on sick leave, the Department Head will complete the sheet in the employee's absence.
- E. If corrections are needed, both the employee and Department Head will initial next to the change. Time sheets that have been marked up without proper initials will be returned to the Department Head for verification.
- F. If a mistake is made after reporting time and is not realized until after the payroll process has been completed the employee will write a memo to the Department Head stating the date of the error and the error itself. The Department Head will then notify the Finance Department of the error and a correction will be made in the following week's payroll.
- G. Without exception, Department Heads or his designee are responsible for getting time sheets to the Finance Department prior to 5:00 PM each Thursday for processing.

#### **NON-EXEMPT EMPLOYEE COMPENSATORY TIME/OVERTIME**

When non-union, employees, who are not exempt from the Fair Labor Standards Act, are required to work beyond, or in excess of, their established regular number of hours, they shall be paid time and one half for hours worked in excess of forty (40) hours per week. For the purpose of this section, "hours worked" shall mean only hours actually worked, and paid holidays.

As a general rule, occasional overtime work in excess of the established regular hours may be compensated for by compensatory time off if mutually convenient to the employee and the supervisor. No more than 40 hours of compensatory time off may be banked at any given time.

Non-exempt employee compensatory time will be paid at 100% at time of separation.

It is understood that salaried employees are paid on the basis of job responsibility and are expected to accomplish the work assigned to the position regardless of the hours required to do the work within reason.

#### **EXEMPT EMPLOYEE ADMINISTRATIVE LEAVE**

FLSA – exempt employees are generally expected to work a minimum forty (40) hour work week although many times the employee may work fifty (50+) plus hours per week as an example depending on workloads and the demands of the position. FLSA exempt job classifications and the resulting compensation classifications for these positions are adjusted accordingly to acknowledge the prescribed FLSA designation by the City and the exemption from receiving overtime compensation. It is expected that FLSA exempt employees will actively work to maintain a harmonious balance between their professional work life and their private/family life time. FLSA – exempt employees may be authorized administrative leave or time off with pay if unusual demands require excessive hours of work beyond the

normal workweek. Exempt employees are not paid overtime or given compensatory time off. Requests for a full workday of administrative leave will be submitted in writing and will describe the nature and extent of excessive hours worked. Requests for administrative leave must be approved by the City Manager.

The City employs a variety of regular, full time managerial/professional positions, which are salaried and exempt from overtime compensation. It is understood that the salaried positions are paid on the basis of job responsibility and it is the responsibility of the person filling the position to accomplish the work assigned to that position regardless of hours required to do the work, within reason. Employees in this classification are expected to be at their work locations during the normal work hours. Employees accepting these positions should have no expectation of working a forty (40) hour work week. Employees may be granted administrative leave time off during normal work hours at the sole discretion of the City Manager.

### **Specific Provisions**

- A. The purpose of exempt employee administrative leave time is not to prevent salaried employees from working more than the normally scheduled hours. Salaried employees are expected to work the time needed to perform their duties.
- B. Exempt employee administrative leave time will not be paid at the time of separation.
- C. Exempt employee administrative leave time is based on actual time worked. Any time taken off beyond will be taken from the employees leave accruals.
- D. Exempt employee administrative leave time does not include travel time to and from meetings, events or emergencies.
- E. The City Manager may make special arrangements/adjustments, beyond the approved provisions.

Any questions that have not been covered in this policy should be directed to the Human Resource's Department.

The City reserves the right to modify or discontinue this policy at any time for any reason.

### **HOLIDAYS**

Twelve and one half (12 1/2) paid holidays will be designated by the City Manager:

New Years Day	Columbus Day
Martin Luther King Birthday	Veterans Day
Presidents' Day	Thanksgiving Day
Patriot's Day	Day after Thanksgiving
Memorial Day	Christmas Eve ½ Day
Independence Day	Christmas Day
Labor Day	

- A. Because of the nature of the position, certain employees are required to work during a holiday. These employees will receive holiday pay in addition to regular wages for time worked.

- B. If a regular holiday falls on a Sunday, the following Monday is considered a holiday; if the regular holiday falls on a Saturday, the proceeding Friday is considered a holiday, unless otherwise regulated by law.
- C. All employees on leave of absence without pay shall not be entitled to holiday pay.
- D. For the purpose of overtime payment and compensatory time accruals, Holiday pay is to be considered a normal day's wages.
- E. To receive holiday pay, the employee must work the full scheduled day before and after the holiday or have approved/scheduled time off. An unplanned absence, such as calling in sick, unless accompanied by a physician's statement, forfeits the employees' right to holiday payment.

## **VACATION**

- A. Each non-union, regular full time and part time employee shall earn vacation pay on the following basis:
  - a. 2 weeks after one year of service but less than five years
  - b. 3 weeks after 5 years of service but less than 10 years of service
  - c. 4 weeks after 10 years of service but less than 15 years of service
  - d. 5 weeks after 15 years of service
- B. Vacation time shall accrue to coincide with the employee's anniversary date at the rate established in the table above.
- C. Vacations shall be granted at such time or times as shall be mutually agreeable to the City and the employee, at the discretion of the Department Head. Vacation time will be available for use by the employee as it is earned. In cases of conflict, vacations shall be granted according to seniority in that department.
- D. Unless requested by the City under an emergency situation, an employee shall not be allowed to work and be paid double his usual wage during a vacation period.
- E. An employee, who is entitled to four weeks or more vacation, is also entitled to compensation for the weeks in excess of the three weeks in lieu of vacation time off not to exceed two weeks in any calendar year. The employee may request this compensation option to their Department Head. Requests for compensation must be submitted two weeks in advance and only one request may be submitted per accruable year. This privilege is extended at the sole discretion of the City Manager and shall be based on job performance, the financial condition of the city at the time of the request and other factors deemed to be fundamental to the legitimate business needs of the City.
- F. Requests to carry forward unused vacation time must be approved by the City Manager.
- G. An employee, upon terminating employment, shall receive payment for his accumulated vacation leave. In the event of the employee's death, his designated beneficiary shall receive the same monetary value of any remaining accumulated vacation leave; if no such beneficiary is filed in writing with the City, it shall be paid to the employee's surviving spouse and if no surviving spouse to his estate.

## **SICK LEAVE**

Sick leave is available to all regular and part-time employees as follows:

### A. Hourly employees:

1. Sick leave shall accrue at the rate of one workday for each full calendar month of service, accumulative to a maximum of 120 working days. For the purposes of this section, the first month of an employee's service shall be counted as a full month of service if employment begins on or before the 15th day of the month. Sick leave will be accumulated during the probationary period of the new employee but not available should the employee fail the probationary period.
2. Sick leave may be used only in the following cases: personal illness; to care for the sickness or disability in the employees family, meaning spouse or children living in the same household, or; physical incapacity of such degree as to render the employee unable to perform the duties of his position, unless the employee is capable of other work in his division and assigned to such other work. If requested, the employee shall furnish the Department Head a certificate from his attending physician.
3. Sick leave usage shall be recorded regularly, on weekly time and attendance sheets and the record shall be maintained by the Human Resource Department.
4. Employees failing to submit a two weeks' notice shall receive no compensation for unused sick leave.

### B. Salaried employees:

1. Sick leave may be used only in the following cases: personal illness; to care for the sickness or disability in the employees family, meaning spouse or children living in the same household, or; physical incapacity of such degree as to render the employee unable to perform the duties of his position unless the employee is capable of other work in his division and assigned to such other work. If requested, the employee shall furnish the Department Head a certificate from his attending physician.
2. Salaried employees shall be paid their weekly salary in full even if the employee was unable to attend their normal work schedule because of sick leave. Salaried employees occupy leadership roles in the organization that does not allow extensive absence from work regardless of the reasons. In the event a salaried employee is absent or shall require to be absent for an extended period of time, they shall notify their immediate supervisor and Department of Human Resources. The City will make reasonable accommodations to the extent it can, taking into consideration seniority, job performance, critical nature of the job functions, and other factors. In all circumstances, the legitimate business needs of the City shall be the determining factor in dealing with such extend or continued pattern of absences.
3. Unused sick time is not compensable upon termination of employment.

## **PERSONAL DAYS**

Two and one-half (2 ½) personal days are granted per year to each regular and part-time employee; provided, however, that the employee shall make the request in writing to the Department Head at least seven days prior to the day requested. In the event of a request being made by two employees of the same

department for the same day, personal time shall be granted according to seniority in that department. Personal days shall commence from date of hire and shall not accumulate from year to year. Unused personal time is not compensable upon termination of employment.

### **SICK/VACATION TIME DONATION PROGRAM**

The purpose of the Sick/Vacation Time Donation Program is to permit an employee to donate accrued sick or vacation leave to another employee. This policy permits such a donation to occur when an employee has a need for additional paid leave because they have exhausted all paid leave and have a serious medical hardship or catastrophic illness or injury that poses a threat to life and/or requires inpatient, hospice or residential health care. The employee's need may arise from their own serious medical hardship or catastrophic illness or from their need to care for a family member, including a spouse or domestic partner, child, or parent, who has a serious medical hardship or catastrophic illness. This policy is not intended to cover an employee who is experiencing a normal pregnancy, has a common illness, has an illness or injury covered by an employer-administrated short or long term disability policy or worker's compensation, or has incurred injury during the course of committing a felony. Similarly, this policy is not intended to provide leave to any employee who has previously abused any paid leave.

To be eligible to participate, an employee:

- A. Must be a full or part-time regular employee;
- B. Must be eligible to accrue sick and/or vacation leave. Salaried employees do not accrue sick leave and can not donate sick leave to others;
- C. Must have exhausted all forms of paid leave; i.e. vacation, sick, compensatory time or personal leave time;
- D. Must have passed their initial probationary period; and
- E. Must suffer from a serious medical hardship or catastrophic illness or injury which requires inpatient, hospice or residential care.

Employees are ineligible to use this policy during any disciplinary suspensions or if they are receiving, or have applied to receive, worker's compensation.

**Administration:** The Human Resources Department is responsible for coordinating donations, reviewing eligibility requirements and authorizing eligibility. In making decisions, Human Resources will review all medical evidence submitted by the affected employee, verify that all paid leave has been exhausted, and prepare any necessary documentation. Final decisions on eligibility and distribution of donated leave time rest with and at the sole discretion of the City Manager and shall not be subject to grievance procedures. .

**Contributions:** Employees wishing to donate time to an affected employee should submit their request in writing to the Human Resources Department, specifically stating the amount of sick or vacation time that he wishes to donate and who he would like to donate to. Any unused donated time will be credited back to the donating employee.

### **EMERGENCY LEAVE OF ABSENCE**

**Definition and Purpose:** The intent of an emergency leave of absence is to provide employees with an opportunity to take care of uncontrollable emergency events, which do not qualify under Military Leave,

supplemental medical leave, Family Medical Leave or injury leave policies and that interfere with the employee's ability to meet their employment responsibilities. Employment elsewhere while on leave without the written approval of the City Manager is prohibited and is subject to immediate discharge.

The period of leave can not exceed 30 calendar days and must be properly authorized. At the end of the approved leave, the employee must either return to work or be terminated.

An employee may not apply for more than one emergency leave of absence within a 12 month period. Emergency leave may not be taken consecutively with other approved paid or unpaid leaves of absence.

**Eligibility:** To be eligible to apply for emergency leave under this policy, the employee must meet each of the following conditions:

- A. The employee must be classified as a "Regular Full Time" or "Regular Part Time" employee as defined under the Employment Definitions section of this manual;
- B. The reason for the leave must not fall under the provisions of Military Leave, Family Medical or injury leave policies.

**Conditions Considered When Approving Leave of Absence:** The City Manager has final approval authority for granting an emergency leave of absence. Final approval depends on consideration of the conditions listed below:

- A. Conditions surrounding the employee's request for leave, i.e. purpose, length of service, length of absence, and the expected or potential length of service once the employee returns.
- B. Department staffing needs and ability to adequately cover the vacancy during the absence of the employee
- C. Whether or not the leave causes undue hardship or liability for the department or City.
- D. Department Head's recommendation.

**Employee Status & Benefits During Leave:** For the duration of the authorized emergency leave of absence, the employee's health and other benefits will continue at the same level and under the same conditions as if the employee had continued to work. If the employee chooses not to return to work at the end of the emergency leave for reasons other than circumstances not within their control, the City will require the employee to reimburse the City the amount it paid for the employee's health and other insurance premiums during the leave period.

All existing benefits and accruals will continue for the duration of the approved emergency leave of absence. During the leave period, employees will be expected to continue making the employee share contributions to the City for all applicable benefits.

Any employee who is granted an emergency leave of absence pursuant to this policy shall not be considered to be an employee of the City when performing any services or engaging in any activities, whether paid or unpaid, while on said leave of absence. The City shall have no liability for any injuries incurred by or caused by the employee while on said leave of absence.

Employees with questions regarding their benefit eligibility and payments during emergency leave should contact the Human Resources Department.

**Use of Paid and Unpaid Leave:** If the employee has accrued/earned paid sick, vacation and/or compensatory time, the employee must use these accruals before going into unpaid leave status.

**Procedure for Requesting Leave:** An employee requesting an emergency leave must request the leave in writing at least 30 days prior to the start of the leave for foreseeable reasons or as early as practicable for unforeseeable situations. The written request for leave must include:

- A. Explanation of the reason(s) for the needed leave
- B. Anticipated start date and duration of requested leave.
- C. If the employee intends to be employed elsewhere at any time during the leave, they must provide the employer name, address, contact information and specifics of employment. The City reserves the right to contact the named employer to verify information given.

**Return to Work:** The employee shall be reinstated to the same or similar position provided that the employee returns to work immediately following the termination of the leave period. The employee must give immediate written notice if circumstances change and they no longer intend to return to work at the end of the approved leave.

Any questions that have not been covered in this policy should be directed to the Human Resources Department.

The City reserves the right to modify or discontinue this policy at any time for any reason.

### **ADMINISTRATIVE LEAVE**

The City Manager, on occasion, may excuse employees from duty for short periods of time with pay and without charge to leave time. Examples would be extreme weather conditions, disaster and days of national mourning or celebration. Employees who are on paid or unpaid leave will not be entitled to the administrative leave credit and will be charged with the appropriate leave time.

In the event of extreme weather conditions or for updates on workplace closings employees should call 207-571-1600.

### **BEREAVEMENT LEAVE**

In the event of death in the immediate family of a regular or part-time employee, the employee shall be granted three days' leave of absence to make arrangements or to attend funeral services.

- A. "immediate family" is defined as spouse, parents, children, brother, sister, parents-in-law, grandparents, grandchildren, stepparents, stepchildren and step grandchildren, or any other relative living in the same household of the employee.
- B. If an employee is on vacation, the vacation leave will not apply if the deceased is his mother, father, spouse, children or stepchildren. The employee will not receive any additional days off; and shall be credited for any vacation days used during the bereavement leave.
- C. One workday may be granted with pay to employees at the sole discretion of the City Manager and/or Department Head for attendance at funerals.

## **MILITARY LEAVE**

The City will grant military leave as necessary in compliance with all applicable state and federal regulations.

**Short Training Periods** (Eligibility: Regular full-time employees): Employees who are members of the organized military reserves and who are required to perform field duty will be granted military leave, in addition to vacation leave, but such military leave for reserve service shall not exceed two (2) weeks in any calendar year. For any such period of reserve service leave, the City will pay the employee the difference between total service pay for such field duty and the employee's regular pay, the sum of both payments are to equal the regular compensation of the employee had he been in the City service during the period of leave. The employee using Military Leave shall submit a written request for leave to their Department Head at least two weeks in advance of the training period and furnish the Human Resources Department with an official statement of reserve service pay received. All employee benefits will continue during short training periods.

**Long-Term Active Duty** (Eligibility: Regular full-time employees): Employees required to interrupt their active employment specifically for the purpose of entering active military service are entitled, upon return to active employment with the City, to reinstatement to their former position and certain other benefits in accordance with applicable federal and state law. The cumulative length of an employee's military leave of absence from employment with the City may not exceed five years, unless the employee, through no fault of his own, is unable to obtain release within the five year limit. The following will apply:

- A. At least two weeks before the start of active duty leave, the employee should submit a written request to their Department Head who forwards it to the Human Resources Department. A copy of the activation order, or other appropriate document, should accompany the request.
- B. For a period not to exceed one year from start of leave, the City will pay the employee the difference between total service pay for such active duty and the employee's regular pay, the sum of both payments to equal the regular compensation of the employees had he or she been in the City service during the period of leave. The employee using Military Leave shall furnish the Human Resources Department with an official statement of reserve service pay received.
- C. Length of service continues to accrue during active military leaves of absence. If active employment is not re-established, length of service is calculated with respect to the last day worked.
- D. Unless otherwise specifically provided for by union contract, the following benefits and accruals will continue for a period not to exceed one year: group life insurance, medical, dental, long-term disability, holiday pay, and vacation/sick accruals. During the one year period, employees will be expected to continue making the employee share of contributions to the City for any applicable benefits, unless coverage is voluntarily waived by the employee. If health and dental insurance is maintained until the end of the one year period, employees and their dependents will be provided an opportunity to elect the continuation health care coverage similar to that offered under COBRA for up to 18 months.

**Re-employment:** A leave of absence for long-term active duty guarantees re-employment. The following will apply:

- A. Employees must apply for re-employment within the applicable time as provided by statute.

- B. Employees who are released from active duty but remain hospitalized for up to one year subsequent to release from active duty, must apply for re-employment within 90 days of hospital release.
- C. Employees return to active employment at a pay level and status equal to that which they would have attained had they not entered military service.

The City reserves the right to modify or discontinue this policy at any time and for any reason it considers sufficient. Questions related to military leaves of absence, but not provided for in this policy should be referred to the Human Resources Department. To the extent that any individual has any greater rights under applicable federal or state law, those laws will be followed.

The City makes it a policy not to discriminate in any way against employees who are members of the military. The employee's job will not be in jeopardy if a military leave of absence is requested or taken.

### **MATERNITY LEAVE OF ABSENCE**

Maternity leave is leave granted an employee for the period of disability related to pregnancy and childbirth. The time taken as maternity leave is considered an off-the-job disability until the employee's physician releases her for work. Maternity leave is in addition to the provisions of leave as outlined in the Family and Medical Leave information.

**Paid Leave:** Maternity leave will be charged to the employee's accrued sick, vacation and compensatory leave time accruals. The City will continue its contributions toward the employee's health insurance premiums as long as the employee portion of the health insurance premiums remain paid. The City will pay its portion of the insurance premium for a maximum of 12 weeks (3 months).

### **LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE**

Leave may be granted to an employee who is a victim of domestic violence, assault, sexual assault, or stalking and who needs to prepare for and attend court proceedings, receive medical treatment or obtain necessary services to remedy a crisis, as per Maine law. Leave may also be granted to an employee to assist a daughter, son, parent or spouse who needs medical treatment as a result of being a victim of violence or assault. Documentation of the family relationship may be required.

**Paid Leave:** Leave for victims of domestic violence will be charged to the employee's accrued sick, vacation and compensatory leave time accruals. The City will continue its contributions toward the employee's health insurance premiums as long as the employee portion of the health insurance premiums remain paid. The City will pay its portion of the insurance premium for a maximum of 12 weeks (3 months).

### **FAMILY AND MEDICAL LEAVE**

It is the policy of the City to grant up to 12 weeks of family and medical leave time during a 12 month rolling calendar year to eligible employees, in accordance with the Family Medical Leave Act of 1993 (FMLA).

- A. **Eligibility:** In order to qualify to take family or medical leave under this policy, employees must meet each of the following conditions:
  - 1. The employee must be a regular full-time, part-time or per diem/part-time employee.

2. The employee must have worked for the City of Biddeford for at least 52 weeks (not necessarily consecutive) and have provided at least 1,250 hours of service during the prior twelve months. For eligibility purposes, an employee will be considered to have been employed for an entire week if the employee was on the payroll for only part of the week or if the employee was on leave during the week.
3. Employees requesting a FMLA leave must request the leave in writing at least 30 days prior to the start of the leave for foreseeable leave such as birth, placement for adoption or foster care or planned medical treatment, or as early as practicable in unforeseeable situations.

**B. Type of Leave Covered:** An eligible employee will be granted an FMLA leave of up to a total of 12 weeks in a rolling calendar year under the following circumstances:

1. For the birth of a child and to care for the newborn child, provided the leave is completed within 12 months of birth.
2. For the placement with the employee of a child for adoption or foster care, provided the leave is completed within 12 months of placement.
3. For the care of the employee's spouse, child or parent ("family member") with a serious health condition if supported by medical certification issued by the family member's health care provider.
4. For care of a sibling with a serious illness if a) the employee and sibling are jointly responsible for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements, or b) the sibling is a member of the Armed Forces, including the National Guard and Reserves, and incurs a serious health condition or dies while on active duty.
5. For the employee's own serious health condition that makes the employee unable to perform the functions of his job as supported by medical certification issued by the employee's health care provider.
6. For the birth of a child to a domestic partner, the placement for adoption with a domestic partner, the serious health condition of a domestic partner or the serious health condition of the domestic partner's child. (Requires completion of an Affidavit of Domestic Partnership.)
7. For a "qualifying exigency" arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty or has been called to active duty.
8. For the spouse, son, daughter, parent or next of kin of a covered military service member to care for the service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. The employee may take up to 26 workweeks of unpaid leave during a single 12-month period for this condition.

An eligible employee can take up to 12 weeks of leave under this policy during any 12 month rolling calendar year. The City will measure the 12 month period as a rolling 12 month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount of leave the employee is entitled to take at that time.

If a husband and wife both work for the City, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent “in-law”) with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave.

- C. **Employee Status & Benefits During Leave:** For the duration of the authorized FMLA leave of absence, the employee’s health benefits will continue at the same level and under the same conditions as if the employee had continued to work. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee’s family member or for circumstance beyond the employee’s control, the City will require the employee to reimburse the City the amount it paid for the employee’s health insurance premium during the leave period.

All existing benefits and accruals will continue for the duration of the approved leave of absence. During the leave period, employees will be expected to continue making employee share contributions to the City for any applicable benefits.

- D. **Employee Status After Leave:** An employee who takes leave under this policy will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits, and working conditions.

In the event that the employee’s position has been eliminated as part of a City reduction in force or consolidation process, the Human Resources Department will assist the employee with a 30 calendar day, unpaid, internal job search. The 30-day timeframe will commence upon the date that the employee is deemed fit to return to work. The 30-day internal job search allows the employee to apply as an internal applicant for other City positions that may become available during the 30-day timeframe and for which the employee is determined reasonably qualified. The City reserves the right to select the most qualified applicant for any vacant position. Should the employee not secure another City position within the 30- day timeframe, he will be eligible for benefits that he/she would normally be eligible for upon termination of employment. The termination date will be effective the last day of the 30- day timeframe, unless the employee voluntarily submits his resignation earlier.

- E. **Use of Paid and Unpaid Leave:** If the employee is on FMLA leave for their own serious health condition, and has accrued or earned paid sick leave, the employee must use all paid sick leave first before they can take unpaid leave. If the leave is covered by temporary disability insurance, use of accrued paid time will be required to cover the mandatory waiting period and is optional once disability pay becomes effective. The City will notify the employee within two business days in writing or orally (to be confirmed in writing by no later than the employee’s next regular payday), whether or not the leave will be designated as FMLA leave.

Disability leave for the birth of the child and for an employee’s serious health condition, including workers’ compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA leave.

An employee who is taking leave for the adoption or foster care of a child must use all paid vacation and accrued compensatory/credit time prior to being eligible for unpaid leave.

- F. **Intermittent Leave or a Reduced Work Schedule:** The employee may take FMLA leave in 12 consecutive weeks, or may use the leave intermittently (take a day periodically when needed over the 12 month period), or under certain circumstances may use the leave to reduce the work week or

work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks over a 12 month period.

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

For the birth, adoption or foster care of a child, the City and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced work schedule. Leave for birth, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach an agreement with the City before taking intermittent leave or working a reduced work schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary. The City may require certification of the medical necessity of the leave as discussed in Section G.

- G. **Certification of the Serious Health Condition:** The City may ask for certification of a serious health condition. The employee should try to respond to such a request within 15 days of the request, providing a reasonable explanation for the delay. Failure to provide certification may result in denial of continuation of leave.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a family member who is seriously ill, the certification must include a statement that the patient/ immediate family member, requires assistance and that the employee's presence would be beneficial or desirable.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment, as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.

The City has the right to contact the employee's health care provider, with the employee's permission, to clarify or authenticate the medical certificate, but not to request additional information. The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select.

- H. **Procedure for Requesting Leave:** All employees requesting leave under this policy must provide a verbal notice with an explanation of the reason(s) for the needed leave to their Department Head, who will advise the Human Resources Department. Human Resources will send an Employee Application for FMLA leave directly to the employee or through the reporting Department Head. The completed leave application must be returned to the Human Resources Department prior to the start of the leave or as soon as possible in emergency situations.

When an employee plans to take leave under this policy, the employee must give the City 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule treatment in order to minimize disruption to the City's operations.

Any questions that have not been covered in this policy should be directed to the Human Resources Department.

The City reserves the right to modify this policy at any time for any reason.

### **SUPPLEMENTAL MEDICAL LEAVE OF ABSENCE**

It is the policy of the City to grant up to 12 weeks of FMLA leave during any 12 month period to eligible employees, in accordance with the Family Medical Leave Act of 1993 (FMLA) and the City's Family and Medical Leave Policy.

If an employee is out of FMLA leave and the need for medical leave continues beyond the 12 workweeks provided by FMLA, an eligible employee may be granted supplemental medical leave by the City Manager for a period not to exceed one year. Such granted leave must be made in writing to the employee with a copy to the Human Resources Department for filing with the employee's record. The employee is to return to work upon the expiration of the granted leave or must arrange for an extension prior to the expiration. Failure on the part of the employee to return to work on the expiration of leave without having arranged for an extension shall be deemed to have voluntarily resigned employment with the City.

If granted leave the employee must remain on the payroll until any earned vacation, sick, personal or other leave time has been exhausted. If an employee is granted a leave of absence without pay, the employee will be responsible for reimbursing the City for 100 percent of the cost of all benefit premiums. Premium payments should be made payable to the City of Biddeford and directed to the Human Resources Department each week.

Any granted leave of absence without pay will be deducted when computing employees benefit accumulation such as sick/longevity/vacation.

### **DISABILITY DISCRIMINATION, ACCESSIBILITY AND REASONABLE ACCOMMODATION**

**Federal Requirements of Accessibility:** The Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive rights and protections to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. The goal of the ADA is to assure equality of opportunity, full participation, independent living and economic self-sufficiency. The ADA prohibits all state and local governments and most private businesses from discriminating on the basis of disability.

The ADA provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

The Act is a historic, significant and far-reaching piece of Federal legislation that will have a tremendous impact on local government programs, services and facilities.

The ADA covers individuals with physical or mental impairments that substantially limit a major life activity, persons with a record of such impairment, and persons regarded or perceived as having such impairment.

The City shall ensure that all public notices and publications contain information on how individuals with disabilities may contact the City, obtain information on City services, and request reasonable accommodation for accessing facilities, services, programs or employment opportunities.

**ADA Sections:** The Act contains five sections

**Title I** prohibits employment discrimination against otherwise qualified individuals with disabilities.

**Title II** prohibits discrimination in services (including employment to the extent not already covered by Title I) provided by the state and local government entities.

**Title III** prohibits discrimination in places of public accommodation, commercial facilities, and transportation.

**Title IV** mandates that telecommunication devices be in place for the hearing impaired.

**Title V** cites miscellaneous provisions.

The Americans with Disabilities Act (ADA) and, if the City receives Federal funding, the Rehabilitation Act of 1973, generally require that the local government provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. Local government must adhere to the provisions specified in Title II of the ADA that apply to all Services, Activities and Programs (SAPs), including employment. The City of Biddeford will periodically review their SAPs as required by law and make modifications as necessary. The City of Biddeford's policy statement on accessibility and disability discrimination shall be prominently displayed for employee and public awareness in all facilities.

There are three major activities covered by Title II:

- A. Those involving general public contact as part of the ongoing operations of the entity. Activities in this category include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the entities' facilities.
- B. Those directly administered by the entities for program beneficiaries and participants. Activities in the second category include programs that provide State or local government services or benefits.
- C. Employment.

Each public entity is required to complete a self evaluation of its current SAP as the first step toward ADA compliance, determining what services are accessible and those that require modifications to meet the needs of the disabled. This self-evaluation form will be kept on file with the City Human Resources office for at least three years and be made available on request for public inspection.

**Prohibition Against Disability Discrimination:** Discrimination on the basis of disability against any applicant or employee who is a qualified individual with a disability, by a management employee or coworker is not condoned and will not be tolerated. This policy applies to the job application process and all terms and conditions of employment including but not limited to recruitment, hiring, training,

assignment, promotion, compensation, transfer, layoff, reinstatement, benefits, education, termination, and also in the provision of City programs and services.

All complaints of discrimination on the basis of disability will be promptly and objectively investigated. Corrective or disciplinary action up to and including termination will be instituted for behavior prohibited by this policy. Any retaliation against a person filing or participating in a discrimination charge or making a discrimination complaint is prohibited.

Discrimination on the basis of disability means:

- A. to limit, segregate, or classify a job applicant or employee in a way that may adversely affect opportunities or status because of the applicant's or employee's disability;
  - B. to participate in a contract which could subject an applicant or employee with a disability to discrimination;
  - C. to use any standards, criteria or method of administration which could have the effect of discriminating on the basis of disability;
  - D. to deny equal jobs or benefits because of a disability;
  - E. to fail to make reasonable accommodations for known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue hardship;
  - F. to use selection criteria which exclude disabled persons unless the criteria are job related and consistent with business necessity;
  - G. To fail to use employment tests in a manner that ensures that the test results accurately reflect the applicants or employee's skills or aptitude for a particular job.
1. **Policy Implementation:** Each Department Head is responsible for ensuring that there is no discrimination against individuals based on disability by:
    - a. ensuring that all employees under their direction are informed of this City policy;
    - b. ensuring that any instances or allegations of discrimination are immediately reported to the Human Resource Department or Department Head; and
    - c. Posting this policy in conspicuous locations within the workplace.
  2. **Complaint Resolution:** The Human Resource Department (or person designated by the City Manager) will investigate and attempt resolution of complaints filed in accordance with the City's Human Resource Policies, Procedures and Benefits Manual. Individuals are encouraged to immediately report any act of disability discrimination to the supervisor, Department Head, or the Human Resource Department. Persons receiving complaints should fully inform the individual of their rights, take appropriate steps to timely investigate, and when merited take prompt and effective remedial action.

**Commitment:** The City of Biddeford provides high quality municipal services to protect, preserve, and enhance the City for present and future generations. Our vision is to be a high-performing, inclusive government, which partners with our community to create and preserve a safe, clean, and vibrant City.

The City, as a recipient of federal assistance, has continually strived to eliminate barriers that may prevent persons with disabilities from enjoying employment, access to City facilities and services or other benefits. The success of our efforts will require innovation, creativity, and the dedication of additional resources to ensure access to all of our citizens.

**Reasonable Accommodation Policy:** It is the policy of the City of Biddeford to not discriminate on the basis of disability against any qualified person and expeditiously consider and provide, as appropriate, reasonable accommodation to assist a qualified disabled individual to perform the essential functions of their position classification. All decisions relating to employment including, but not limited to recruitment, selection, training, assignment, promotion, compensation, transfer, benefits, and education, will be determined by the employee's ability with consideration of any requested reasonable accommodation. This policy is applicable to all employment policies and practices. The City also provides reasonable accommodation in connection with the provision of City services, programs and activities to the public.

The Maine Law Against Discrimination (MLAD) and the Americans with Disabilities Act (ADA) require that the City as the employer must reasonably accommodate a known disability of a qualified individual with a disability (satisfies the requisite skill, experience, education, and other job-related requirements of the position, and can perform the essential functions with or without a reasonable accommodation) unless the accommodations would result in undue hardship to the City. The MLAD and the ADA differ on some elements of reasonable accommodation as noted below.

**A. Definition of Reasonable Accommodation:**

1. **MLAD** - Reasonable accommodation enables:

- a. equal opportunity in the application process,
- b. the proper performance of the particular job held or desired and
- c. The enjoyment of equal benefits, privileges, or terms and conditions of employment.

Examples of Reasonable Accommodations may include - Reasonable alterations, adjustments, or changes made by the appointing authority in the job, workplace and/or term or condition of employment which will enable an otherwise qualified person of disability or disabled veteran to perform a particular job successfully, as determined on a case-by-case basis. (WAC 162-22-065; WAC 356-05-333)

2. **ADA** - The term Reasonable Accommodation means:

- a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- b. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- c. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

**Reasonable Accommodation** may include but is not limited to:

- a. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- b. Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. (29 C.F.R. § 1630.2 (o))

## B. What is “reasonable?”

The MLAD and the ADA have somewhat different definitions of what constitutes ‘reasonable’ in terms of an accommodation.

**ADA** - A reasonable accommodation is one that “seems reasonable on its face, i.e. ordinarily or in the run of cases. The City has a duty to provide an accommodation that is effective (remove the work place barriers to allow the employee to perform the essential functions), not necessarily the accommodation the individual most wants or the “best” accommodation. (Appendix to 29 C.F.R. § 1630.9)

An employee may choose not to accept the accommodation, however if he or she cannot perform the job without it, he or she will not be considered qualified pursuant to the ADA. (29 CFR 1630.9(d))

**MLAD** - In order to be “reasonable”, an accommodation must be medically necessary. If an employee fails to provide a medical nexus between a disability and a need for accommodation, such accommodation is not medically necessary and unreasonable.

The Maine State Supreme Court has provided the following explanation of how “medically necessary” might be satisfied:

An employee needs competent evidence establishing a nexus between the disability and the need for an accommodation. Evidence of the disability will vary depending on how obvious or subtle the symptoms are.

For an obvious condition, such as a broken leg, medical necessity burden is met upon notice to the City, while in the case of depression or post-traumatic stress syndrome (PTSD), a doctor’s note may be necessary to show some accommodation is medically necessary. “Medical nexus does not mean “therapeutically necessary,” just that a connection exists between the condition and the need for accommodation.”

The court has further stated that a medical necessity requirement “prevents employees from requesting accommodations based upon their own perception of a need for accommodation where there is no medical confirmation that such need exists.”

The Maine State Supreme Court and Maine State Appeals courts have consistently held that a the City is not required to offer the precise accommodation the employee requests; the City has the ultimate discretion to choose between accommodations which would enable the employee to perform his or her job.

## C. Use of ‘Unpaid Leave’ as a Reasonable Accommodation

The ADA and the MLAD both provide that leave may be a possible accommodation. Whether or not the timing or length of the leave is reasonable depends on multiple factual issues such as job duties, the nature of the job, and the disability. Each situation must be assessed on a case-by-case basis by the City to determine the whether leave is reasonable and what amount is reasonable.

The City does not have to provide paid leave beyond that which is provided to similarly-situated employees. The City will allow an employee with a disability to exhaust accrued paid leave first and then provide unpaid leave. The EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship, October 2002 states that “leave” may be granted as a reasonable accommodation for reasons included but not limited to:

1. Obtaining medical treatment (e.g. surgery, psychotherapy, substance abuse treatment, or dialysis); rehabilitation services; or physical or occupational therapy;
2. Recuperating from an illness or an episodic manifestation of the disability;
3. Obtaining repairs on a wheelchair, accessible van, or prosthetic device;
4. Avoiding temporary or adverse conditions in the work environment (e.g. air conditioning break-down causing unusually warm temperatures that could seriously harm an employee with multiple sclerosis);
5. Training a service animal;
6. Receiving training in the use of Braille or to learn sign language.

Note: The City is **NOT** required to grant leave when an alternative, effective accommodation is available.

#### **D. Interaction with Family Medical Leave Act (FMLA)**

The FMLA requires the City to provide up to 12 weeks unpaid leave to eligible employees who need time off in certain circumstances, including dealing with their own serious medical condition (see Chapter 12, Family Medical Leave Policy). The ADA and the MLAD do not require the City as the employer to grant leave as a reasonable accommodation, rather as noted above; it’s decided on a case-by-case basis. However, if an employee has requested leave and is eligible under the FMLA, the City must grant the employee’s request even though other forms of effective reasonable accommodations may be available.

Providing leave to an employee who is unable to provide a fixed date of return is a form of reasonable accommodation. However, if the City is able to show that the lack of a fixed return date causes an undue hardship, then it may deny the leave (EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship, October 2002 at question 44). For example, disruption to the operations of the City that occurs because the City cannot plan for the employee’s return or permanently fill the position may cause undue hardship.

If the City determines that it can grant leave without a fixed date of return, the City has the right to require, as part of the interactive process, that the employee provide periodic updates on his condition and possible date of return. After receiving these updates, the City may reevaluate whether continued leave constitutes an undue hardship.

The City may be required to hold an employee's job open for the duration of his leave unless doing so would constitute an undue hardship. If holding the employee's position open for the duration of his leave would constitute an undue hardship, the City must determine whether it has an open position (that the individual is qualified for) that it can place the individual into for the duration of the leave. At the conclusion of the leave, the employee must be returned to the same or an equivalent position for which he is qualified absent undue hardship.

Undue hardship: The City cannot claim undue hardship solely because the employee can provide only an approximate date of return. In certain situations, an employee may be able to provide only an approximate date of return based on medical uncertainties. In these situations, or in situations in which a return date must be postponed because of unforeseen medical developments, employees must stay in regular communication with their supervisor to inform them of their progress and discuss, if necessary, the need for continued leave beyond what might have been granted originally.

Extended leave may be an undue hardship depending on the amount of leave sought, City business necessities and job duties.

#### **E. Job Restructuring as a Reasonable Accommodation**

Based on guidance from the ADA and MLAD, the City may consider job restructuring as a reasonable accommodation (42 U.S.C. § 12111(9) (B); 29 C.F.R. § 1630.2(o) (2) (ii)). This includes modifications such as:

1. Reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability.
2. Altering when and/or how a function, essential or marginal, is performed.

Although job restructuring may be an effective reasonable accommodation, the City is never required to hire or have another employee perform the essential functions of a disabled employee's job, however it is required to provide a qualified reader, interpreter, or other assistant so that the employee can perform his job. Accordingly, the City is not required to create a job for a disabled employee. The City's duty to accommodate an employee through job restructuring is limited to those steps medically necessary to enable the employee to perform the essential functions of his or her job.

The City is not required to provide a new supervisor as a reasonable accommodation however, a reassignment may constitute as an accommodation. Reassignment will be considered when the employee cannot be accommodated in his current job, or if both the City and the employee agree that reassignment is desired. (EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship, October 2002 at question 33)

The City has an obligation to affirmatively assist the employee to find a vacant position that is equivalent in terms of pay and status in which he is qualified (satisfies the requisite skill, experience, education, and other job-related requirements of the position, and can perform the essential functions with or without a reasonable accommodation). Also, the employee does not need to be the best qualified individual for the position in order to obtain it as reassignment. If reassignment to an equivalent position is unavailable, the City must consider reassigning the employee to a vacant position at a lower-paying level. If such a position does not exist or the employee is not qualified for the position, reassignment is not required.

Although the City is required to assist the qualified employee in finding a vacant position as a reasonable accommodation, the City does not need to assign the qualified employee to a position that is already occupied, create a new position, alter the fundamental nature of the job, or eliminate or reassign essential job functions. The duty to inform a qualified individual of other jobs is limited to existing, vacant positions that are not promotions and for which the employee is qualified.

**F. Modified or Part-Time Work Schedules as a Reasonable Accommodation**

The City must provide a modified or part-time schedule when required as a reasonable accommodation, absent undue hardship, even if it does not provide such schedules for other employees. ([WAC 162-22-065](#); [29 C.F.R. § 1630.2 \(o\)](#))

**G. Conduct Standards for Employees with Reasonable Accommodation Same as Other Employees**

A reasonable accommodation does not include rescinding discipline even if the conduct resulting in the discipline was the result of a disability. The City may discipline an employee with a disability for engaging in misconduct if it would impose the same discipline on an employee without a disability. ([EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship](#), October 2002 at question 35)

**JURY DUTY**

An employee shall notify the City as soon as possible of his intention to serve as a juror. The employee will continue to be paid his regular weekly wages during the term of service on the jury, and upon receipt of juror's pay will present an official statement of pay received. The employee shall submit to the City that portion of the juror's pay which represents the wages paid to him or her for the period served as juror. An employee excused by the court for any reason shall be required to report to work promptly thereafter, except when arrangements have been made for replacements for a given work period. Mileage tolls and parking reimbursements shall be retained by the employee.

**TOBACCO FREE ENVIRONMENT**

It is the policy of the City of Biddeford to comply with all applicable federal, state, and local regulations regarding smoking in the workplace and to provide a tobacco-free work environment that promotes productivity and the well being of its employees.

- A. The City recognizes that smoking in the workplace can adversely affect employees. Accordingly, smoking is prohibited in all City facilities, vehicles and equipment except for areas where it is specifically authorized. The Human Resources Department is responsible for implementing and monitoring smoking regulations; Department Heads and supervisors are expected to enforce the regulations. The smoking policy applies to employees during working hours and to customers and visitors while on City premises.
  
- B. Employees are expected to exercise common courtesy and to respect the needs and sensitivities of co-workers with regard to the smoking policy. Smokers have an obligation to keep designated smoking areas litter-free and not to abuse break and work rules. Complaints about smoking issues should be resolved at the lowest level possible but may be processed through the City's grievance procedure process. Employees who violate this policy may be subject to disciplinary action.

- C. The City prohibits smoking in all City buildings, vehicles and equipment, with the exception of designated Smoking Areas, which must be at least 20 feet from all entryways, vents and doorways.
- D. The City does not discriminate against individuals on the basis of their use of legal products, such as tobacco, if the use occurs during non-working time and off the City's premises, except in areas specifically authorized.
- E. Employees may contact the Human Resources Department for information regarding the effects of smoking and the availability of smoking cessation programs.

### **LACTATION ACCOMODATION POLICY**

The City of Biddeford believes that it is in the best interests of the employee, her workplace, and the potential health of her child that the City support lactation accommodation as part of our efforts to help employees experience work-life balance.

All women who breastfeed their child, and who need to express milk during the working day, will work with their supervisor and Human Resources to determine how best to accommodate the needs of the mother while still accomplishing the performance of her job.

- A. **Time for Lactation Accommodation:** Supervisors may consider flexible working arrangements. Women may use their break and lunch time to express milk. Breaks to express milk should not last longer than 30 minutes. If an employee needs to take more than two breaks during the work day to express milk, the employee will need to use unpaid or personal time.
- B. **Environment for Lactation Accommodation:** Human Resources will work with each nursing mother to determine a private area in which they may express milk. Milk should be placed in cooler-type containers and may be stored in nearby refrigerators.

### **SEXUAL AND OTHER HARASSMENT**

It is the policy of the City of Biddeford to maintain a work environment free from all forms of harassment, intimidation and discrimination. Harassment is prohibited in connection with any employee activity including, but not limited to, relations with other employees, prospective employees, vendors, City officials or members of the public. Any allegation of harassment will be promptly investigated.

Therefore, the City of Biddeford strictly prohibits and does not tolerate any type of harassment, sexual or otherwise, in the form of unwelcome or unwanted verbal, physical or visual conduct of its employees based on the protected characteristics of race, color, gender, marital status, pregnancy, national origin, age, religion, sexual orientation, disability, citizenship, veterans' status or any other characteristic protected by law. Finally, the City of Biddeford will not tolerate retaliation or discipline against any employee who files a complaint of harassment or who cooperates in any investigation of a complaint of harassment.

**Definition of Harassment:** Sexual Harassment is a form of employment discrimination and is illegal under both federal and state law. Sexual and other harassment may take many forms. It can include any unwanted speech or conduct of a sexual nature in the workplace, such as the display of sexually suggestive objects or pictures. Lewd or suggestive remarks, unwanted hugs, touches or kisses, or unwelcome joking or proposals of a sexual nature can also be sexual harassment. It is illegal for co-workers, vendors, clients, customers, supervisors or members of the public to sexually harass an employee.

**Sexual and other harassment may take many forms. These forms include, but are not limited to:**

- A. Offensive verbal conduct such as remarks, comments, jokes, slurs, lyrics or sexually explicit conversation;
- B. Offensive material, including sexually explicit pictures or objects, cartoon drawings, photographs or other communications, including videotape, e-mail, internet programs, blogs or websites;
- C. Offensive physical conduct, or sexual advances, including touching, regardless of the gender of the individuals involved; and
- D. Sexually degrading words used to describe an individual.

**Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, regardless of the gender of the individuals involved, when:**

- A. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; (quid pro quo)
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or
- C. Such conduct has the purpose or effect to substantially interfere with an individual's work performance or to create an intimidating, hostile, or offensive working environment. (hostile work environment)

Verbal conduct alone may constitute unlawful harassment. The effect of the harassing activity, not the harasser's intent, may make the conduct unlawful. Unwelcome sexual advances need not occur at work in order to be unlawful: if the harassing activity creates a hostile or offensive work environment, the activity is unlawful regardless of where it occurs.

Consistent with the above guidelines, this policy prohibits any overt or subtle pressure for sexual favors, including implying or threatening that an applicant's or employee's cooperation of a sexual nature (or lack thereof) will have any effect on the person's employment, retention, evaluation, wages, benefits, job assignment, promotion, or any other condition of employment or future job opportunities. As a result, quid pro quo harassment usually involves a supervisor or someone in a position of authority. An example of this kind of harassment would be a supervisor asking an administrator out on a date in return for a salary raise or promotion. If the administrator was denied a salary increase or promotion based on his denial of the supervisor's request, this would also demonstrate the existence of sexual harassment. Any employment action that is "tangible" could be evidence that sexual harassment occurred.

This policy also prohibits any conduct which could create an intimidating, hostile or offensive work environment in which the employer knew about the harassment and failed to take corrective measures. Sexual harassment is behavior which is not welcomed, which is personally offensive, which damages morale and which interferes with work effectiveness. Such conduct, whether committed by managers or non-managerial personnel, is prohibited.

**The City of Biddeford Does Not Tolerate Sexual Harassment:** Sexual harassment is costly to the municipality, to victims and to society. Managers and supervisors are responsible for monitoring conduct, which can be construed to be harassment and for initiating necessary action to eliminate such behavior. We take allegations of sexual and other harassment and retaliation very seriously. All such matters will be treated confidentially and with discretion, to the extent possible. Accordingly, The City of Biddeford has adopted this policy to prevent and correct any actions that may constitute harassment of

employees. The City of Biddeford will actively and promptly investigate all harassment and retaliation complaints, and if it is determined that harassment or retaliation has occurred, management will take corrective disciplinary action to stop the inappropriate conduct with the offending party, up to and including discharge. All employees are expected to cooperate with an investigation; refusing to do so may be grounds for the imposition of discipline. Any employee who knowingly makes a false complaint or retaliates against another employee who has reported workplace harassment or participated in an investigation may also be subject to disciplinary action up to and including discharge. Persons found guilty of harassment will be disciplined up to and potentially including termination.

**Complaint Procedure:** If you believe that you are being subjected to any type of harassment or if you have any concerns about harassment, you should do the following:

- A. If possible, document or otherwise record any incident of alleged harassment, including the date, time, place, details of what has been said or done, who was present and the surrounding circumstances.
- B. If you are comfortable doing so, clearly and directly communicate to the offending individual that his or her conduct is offensive and unwelcome, and request that the behavior stop. However, this step is not required.
- C. You should immediately bring the matter to the attention of your supervisor. However, if your supervisor is somehow involved in the harassment, unavailable, or if you are uncomfortable talking to him or her, you should report this matter to the **Human Resources Department at (207) 286-0593; the City Manager at (207) 284-9313 or to another Supervisor with whom you feel comfortable.**

We will work with you to resolve your complaint promptly and fairly. We will make every effort to keep the information as confidential as possible, but we cannot guarantee complete confidentiality.

If you believe you are being sexually harassed, you also have the right to file a complaint with the Human Rights Commission (MHRC) within six months of the unlawful act or unlawful discrimination. To file a charge or obtain more information on the procedure, you may contact the Commission by mail at: 51 State House Station, Augusta, ME 04333-0051, or by telephone at (207)624-6050.

## **VIOLENCE IN THE WORKPLACE**

Violence or the threat of violence will not be tolerated in any City of Biddeford work location. It is the goal of this organization to have a workplace free from acts or threats of violence. It is the shared obligation of all employees, customers, and citizens, individually and together, to prevent and/or defuse actual or implied violent behavior (verbal or physical) at work.

All City of Biddeford employees are expected to treat one another, our customers, and our citizens, with mutual respect and to value one another on the job. The City has a responsibility to provide a safe workplace for its employees and customers.

Any person who engages in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits. At the City's discretion, employees and/or the public may be barred from City premises pending the outcome of an investigation. Any employee who engages in such behavior may be suspended and/or terminated.

Workplace violence is any behavior which is sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his personal safety and/or property; such behavior creates a hostile, abusive

or intimidating work environment for one or more City employees. Any behavior that is personally offensive, threatening or intimidating will not be tolerated.

Violent behavior on the job includes, but is not limited to:

- A. threatening physical or aggressive contact directed toward another person;
- B. intentional destruction or threat of destruction of City or another person's personal property;
- C. expressing intent to cause physical harm or emotional duress;
- D. creating a hostile work environment through un-welcomed words, actions, or physical contact not resulting in physical harm to another person;
- E. surveillance;
- F. stalking;
- G. veiled threats of physical harm or similar intimidation;
- H. expression of suicidal or homicidal intent or thoughts;
- I. Unusual agitation or excitement which may be accompanied by incoherent and/or irrational behavior or harassment upon their report.

**Response to Imminent Threats and/or Acts of Violence:**

- A. Take personal safety precautions
- B. Contact Police, if necessary
- C. Report to supervisor
- D. Supervisor report to Department Head or designee
- E. Report to Human Resources Department

**Response to Non-Imminent Threats:**

- A. Employee report to supervisor
- B. Supervisor report to the Department Head or designee
- C. Department Head or designee report to the Human Resources Department

**EMPLOYEE ASSISTANCE PROGRAM**

The City of Biddeford cares about you and your family's total health management – both physical and emotional. For that reason, the City of Biddeford provides, at no cost to you, an Employee Assistance Program (EAP). This service connects you with the best mental health and counseling services to fit your individual needs. Whether you are interested in work/life resources, mental health assistance, or legal and financial advice the Stevens Wellspring Group can connect you with a variety of professionals.

With just one phone call, at any hour of the day or night, you can reach a compassionate ear and connect to helpful resources. All services provided are confidential and will not be shared with the City of Biddeford.

You may also access information, benefits, educational materials, and more by phone at 1-877-878-6485 or online at [www.stevenswellspringgroup.com](http://www.stevenswellspringgroup.com)

## ANTI-NEPOTISM

The purpose of this policy is to deal with any actual, potential or reasonably perceived conflict of interest that may arise out of the current employment or potential employment of any person(s) for the City of Biddeford as it relates to individuals with who he or she has a personal relationship or a financial involvement.

Personal relationship exists where an informed and reasonable person reviewing the matter and having thought the matter through could conclude that a Conflict of Interest exists. The intent is to include persons within the third degree of consanguinity (blood), within the second degree of affinity (marriage), and sole domestic partners (unmarried). Relatives within the third degree parents, children, grandparents, siblings, grandchildren, great-grandparents, uncles, aunts, nephews, nieces, and great- grandchildren. Relatives within the second degree include spouses or sole domestic partners and their parents, grandparents, and siblings, and an employee's son, daughter-in-law, and grandchild's spouse. This policy also includes relatives of the employee residing in the employee's household. It also includes any romantic relationship that exists between the parties involved.

1. A municipal employee shall not hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or financial involvement, except when the conditions in Section 4 are met.
2. No new municipal employee may be hired where such hiring would create a situation as described in Section 1 would exist, except when the conditions are met in Section 4.
3. No existing municipal employee may be promoted, transfer, demoted or otherwise reassigned into a new position where that change would create a situation as described in Section 1 would exist, except when that conditions are met in Section 4.
4. A municipal employee may hold a supervisory position, or be senior in the chain-of-command, to an individual with who he or she has a personal relationship or financial involvement when, and only when the following conditions are met:
  - a. The relationship must be disclosed to the City Manager's Office; and
  - b. The City Manager's Office must approve a written management plan that is designed to prevent favoritism or any other improper influences in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to either of the individuals who have the personal relationship or financial involvement; and
  - c. The City Manager shall report to the City Council the existence of the potential incompatibility or employment positions and the establishment of a management plan to address the same, and
  - d. The written management plan must be on file and available for public inspection within the Office of Human Resources.
5. For all existing employment conflicts that might exist at the time of adoption of this policy, must be brought into compliance with the policy within one hundred eighty (180) days of the passage, by;
  - a. Resolving the conflict by transferring one or more of the employees; or
  - b. Restructuring the position(s) or the city department(s), or
  - c. Complying with Section 4 above.
6. If the conflict that is proposed to be created or may already exists, is a direct report to the City Manager, then the City Council shall serve in all roles outlined in Section 4 above that has been designated as the City Manager's role.

7. No municipal employee that is a supervisor or that may be in any part of the chain-of-command, may become personally or financially involved with another municipal employee that would henceforth, and because of such relationship be subject to this policy.

## **PERSONNEL RECORDS**

The Human Resources Department is responsible for creating and maintaining centralized personnel files for all employees. Human Resources will also retain files concerning applicants for City positions and personnel files of terminated employees for a period of time as specified by federal and state laws. Personnel files should include such records and information to document the employee's personnel actions during his employment with the City. Departments or Divisions may create and maintain supplemental working personnel files for their convenience but any records of a permanent nature should be included in the centralized Human Resources Office files.

Personnel records are maintained for all employees of the City. Employee personnel files are considered confidential documents. Only those persons with the right to know or the need to know may have access to the personnel files. An employee may review his files, in the presence of the staff member with responsibility for the files, during normal business hours, Monday through Friday, 8:30am to 5:00pm. Any employee requesting to view his personnel records must submit a written request to review files and set up an appointment for such a review in advance.

## **NOTICE OF EMPLOYEE CHANGE OF STATUS**

Every appointment, transfer, promotion, demotion, change in compensation, resignation, suspension, vacancy, leave of absence, official reprimand, commendation, address change, name change, reclassification, and all other temporary or permanent changes in status of employment is reported to the Human Resources Office on the proper form (Master Payroll Data Form) with original documents attached. The effective date and a record of the change will be maintained and kept by the Human Resources Department.

**Change of Personal Information:** Employees are responsible for keeping their personnel records up to date by notifying the Human Resources Department or their department/division Administrative Assistant, in writing of any personal information changes to the following information: name, address, telephone number, marital status (for benefits and tax withholding purposes only), addresses and telephone numbers of dependents and spouse or former spouse (for insurance purposes only), beneficiary designations for any of the City's insurance, disability, retirement, and deferred compensation plans, and persons to be notified in case of emergency. Failure to do so may delay or have an adverse effect on the timely receipt of correspondence being mailed, insurance coverage, and/or accurate assessment of premium rates for the City. The City will not be responsible for an employee's error or omission in this regard.

## **RECORDS OPEN TO THE PUBLIC**

Neither The Human Resources office nor any employee can release the address, telephone number, Social Security number, or date of birth of any employee, officer, or appointed official as shown in the personnel records (except upon request from law enforcement agencies) without the prior consent of that employee, officer, or appointed official. The exemption of personnel records from public disclosure is governed by applicable statutes. However, case law has concluded that some personnel records are not private, particularly, records of employee misconduct.

## **DESTRUCTION OF RECORDS**

Personnel files and payroll records are retained in accordance with City policy as well as State and Federal laws and guidelines.

## **REFERENCES**

It is the City's policy to verify only dates of employment, title, and salary for general verifications of employment. All requests for information will be handled responsibly, and only qualified personnel will be involved.

Information will be given to duly authorized requests from law enforcement agencies, including investigators, summonses, subpoenas, and judicial orders. The City need not inform an employee that personal information has been disclosed to law enforcement agencies if it concerns an investigation into the employee's on-the-job conduct, especially when an employee's actions endanger other employees or City security or property.

All requests for reference about current, retired, or terminated employees must be referred to the Human Resources Department. No supervisor is authorized to give any information about current or former employees without the prior approval of Human Resources.

## **PROBATIONARY PERIOD**

Any employee appointed to a regular position shall be considered on probationary status for the first 6 months of employment, unless otherwise specified. After 6 months, the employee shall receive a formal written evaluation by his supervisor. A successful evaluation will result in being transferred to regular employee status and the initial date of employment is considered the anniversary date of the individual.

## **EMPLOYEE OF THE YEAR**

All Municipal employees, with the exception of the City Manager, will be eligible. Deadline for nominations will be July 31, of the given year. Nominations will be made in writing, stating the name of the person nominated and the reasons for the nominations. It is desired that all nominations be done anonymously through the City Manager's Office.

Selection will be based on, but not limited to, such items as years of service, attitude, knowledge of the job, the ability to perform other tasks, appearance, promotion of positive attitudes, versatility, job performance, and economic enhancement. They will also take into consideration such areas as major programs that the individual has developed or been responsible for. The final consideration will be that the employee has given much more to the community than their "typical" job description would classify responsibility for. Also, in the event that job performance reviews are used, they will also have an influence on the decision making process.

The employee will be announced during the Annual Employee's Appreciation Night. The employee will receive one (1) week's paid vacation for the next calendar year.

The general concept of the award is to try to build a positive work environment for the employees. It is also to encourage creativity and inspire each of the municipal employees with a sense of worth and purpose.

Finally, it is the Mayor and City Council's desire to encourage all employees to make suggestions in ways to run the government more efficiently.

## **DISCIPLINE POLICY AND PROCEDURES**

The intent of this policy is to openly communicate the City's standards of conduct, particularly conduct considered undesirable, to all employees as a means of avoiding their occurrence. The City also believes that such policies and procedures are necessary for the orderly operation of City services and for the protection and fair treatment of all employees. Employees are therefore urged to use reasonable judgment at all times and to seek supervisory advice in any doubtful situation.

As a matter of policy, City administration shall seek to resolve conduct and performance problems in the most informal and positive manner possible. This may be achieved through counseling, additional training or supervisions and verbal cautions. However, under those circumstances when disciplinary action, including termination, becomes a necessary means of modifying undesirable situations, the City has established the conditions and procedures that follow.

To insure the equitable processing of disciplinary actions, the Director of Human Resources will be responsible for the proper handling of such matters, including the assurance that employee rights are protected, and that appropriate action is taken when circumstances warrant. Supervisory personnel shall consult with the Director of Human Resources prior to the implementation of discipline when practical. No employee shall be terminated without the consent of the City Manager.

### **Disciplinary Illustrations**

The illustrations of unacceptable conduct cited below are to provide specific and exemplary reasons for initiating disciplinary action and to alert employees to the more commonplace types of human conduct are unpredictable; no attempt has been made here to establish a complete list. Should there arise instances of unacceptable conduct not included in the following list, the City may likewise find it necessary and appropriate to initiate disciplinary action in accordance with these policies and procedures.

#### **Attendance**

1. Improper or unauthorized use or abuse of paid leave.
2. Excessive absenteeism, regardless of reason, the effect of which disrupts or diminishes operational effectiveness.
3. Being absent without authorized leave or repeated unauthorized late arrival or early departure from work.
4. Abuse of break and lunch periods.

#### **Behavior**

1. Willful or negligent violation of the policies as stated here in the Employee Handbook, department operating rules or procedures or related directives.
2. Failure to carry out a direct order from a supervisor, except where the employee's safety may reasonably be jeopardized by the order or the order is illegal or in conflict with any law.
3. Engaging in a conflict of interest.
4. Conduct that discredits the employee or the City or willful misrepresentation of the City.
5. Conviction of a crime, including convictions based on a plea of not guilty or of a misdemeanor involving conduct that is regarded as immoral, the nature of which reflects the possibility of serious consequences related to the continued assignment or employment of the employee.
6. Knowingly falsifying, removal or destruction of information related to employment, payroll or work related records or reports.

7. Soliciting outside work for personal gain during business hours; participating in any off-duty employment that adversely affects the employee's performance of work for the City.
8. Discourteous treatment of the public or other employees, including harassing, coercing, threatening or intimidating others.
9. Conduct that interferes with the management of City operations.
10. Violation or neglect of safety rules or contributing to hazardous conditions. See safety handbook for examples of safety violations.
11. Unauthorized use of City property.
12. Physical altercations.
13. Any act or conduct that is discriminatory in nature toward another person's race, creed, color, national origin, sex (including sexual harassment), age, religious beliefs or political affiliations.
14. Accepting gratuities intended to influence the employee's job performance.
15. Misuse of City telephones.
16. Possession, display or use of explosives, firearms or other dangerous weapons while on duty or on City property. (Except for police officers and other authorized employees in the performance of their duties.)
17. Possession of alcohol, narcotics or drugs while on City property (except in the official discharge of police duties).
18. Failure to notify the supervisor as soon as practical if an employee's job description requires that they operate City equipment or vehicle and the employee does not have a valid driver's license or does not have a valid driver's license in the class required of the job description to operate City equipment or vehicle.
19. Smoking anywhere except in designated areas.

### **Performance**

1. Inefficiency, incompetence or negligence in the performance of duties, including failure to perform assigned tasks or training or failure to discharge duties in a prompt competent and reasonable manner.
2. Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable trial period.
3. Refusal to accept reasonable and proper assignments from an authorized supervisor.
4. Intoxication or incapacity on duty due to the use of alcohol or drugs.
5. Driving under the influence of alcohol or drugs while on duty; suspension of driver's license where job duties require driving.
6. Careless, negligent or improper use of City property equipment or funds, including unauthorized removal or use for private purpose or use involving damage or unreasonable risk of damage to property.
7. Unauthorized release of confidential information or official records.

### **Types and Progression of Discipline**

Depending on the nature and circumstances of an incident, discipline will normally be progressive and bare reasonable relationship to the violation. A serious or major performance or behavior deficiency may result in more severe disciplinary action and may not necessarily be preceded by less severe forms of disciplinary action. The types of discipline that may occur are as follows in general order of increasing formality and seriousness.

## **Counseling**

Counseling is a discussion to explain an actual performance deficiency and emphasizing expected standards. Supervisors shall make every attempt not to ignore minor deficiencies, but rather to correct them. Sometimes the employee may need further training or they may not know the proper procedure. Find out corrective measures can be taken to improve employee performance. Counseling shall be documented by the supervisor and placed in the employee's personnel file.

## **Verbal Warning**

A verbal warning is a verbal statement by the supervisor to an employee, usually pointing out an unsatisfactory element of job performance, is intended to be corrective or cautionary. A verbal reprimand informally defines the area needed improvement and informs the employee that failure to improve may result in more serious actions. Verbal warnings shall be documented by the supervisor and placed in the employees personnel file.

## **Written Reprimand**

A written reprimand is the first level of formal discipline. The written reprimand shall be issued by the supervisor with approval of the department head. The written reprimand shall contain a statement of the cause for the action, improvement or corrective action required of the employee, time frames for such action and possible results of the employees failure to comply. An employee receiving a written reprimand may respond to that action and a copy of the response shall be attached to the reprimand. A copy which shall be signed by both the employee and supervisor shall be given to the employee and the Director of Human Resources for placement in the employee's personnel file.

## **Temporary Relief from Duty**

Under certain circumstances, it may be necessary to restrict an employee immediately from performing duties at the worksite. The circumstances usually involve potential danger to the employee, co-workers or the public, or the employee's inability to discharge assigned duties satisfactorily. Because of the need for immediate action, the decision to relieve an employee from duty is typically the responsibility of the supervisor. In these situations, the following procedure is to be followed:

1. The supervisor taking the action to relieve from duty an employee will, as soon as practical, notify the department head, and as soon as possible, prepare a written statement of the action taken and the reasons for such action.
2. The department head will prepare, together with the supervisor, the statement of charges and document any supporting evidence.
3. The department head and personnel officer will review all evidence to determine disciplinary direction.

## **Suspension**

A suspension is the temporary removal of an employee from duty, generally without pay. Suspension shall be used when all other means have been tried without success and it is believed that suspension will bring about the required improvement in the employee's behavior or performance, or when the cause is sufficiently serious to warrant such action. A department head may recommend the

suspension of an employee after carefully reviewing all fact and reviewing same with the Director of Human Resources.

Employees will be provided a letter of suspension, which will state the effective date; length of duration; reasons for action, including a statement of the particular facts which evidence each performance deficiency and identification of each performance deficiency; a list of exhibits and witnesses supporting the statement of facts; a notice to the employee of his/her rights to appeal the action.

In no event will the use of paid time be allowed during a period of suspension without pay. Should a paid holiday occur during a period of suspension without pay, the suspension period will be extended by the number of holidays occurring during the suspension period.

### **Disciplinary Demotions**

Under circumstances of demotion for disciplinary reasons, an employee may be reallocated from a present job to one having lower responsibilities, skill requirements, performance standards and rate of pay upon recommendation of supervisory personnel and/or the department head. The decision to demote an employee shall be the City Managers. A copy of such a written notice will be given to the affected employee and the Director of Human Resources for placement in the employee's personnel file.

### **Removal/Discharge from Employment**

An employee may be removed or discharged from employment with the City when the employee's work or misconduct warrants, after the employee receives cause, notice and hearing.

Employees will be provided a letter of discharge, which will state the effective date; reasons for action, including a statement of the particular facts which evidence the reason(s) for discharge; a list of exhibits and witnesses supporting the statement of facts; a notice to the employee of his/her rights to appeal the action.

### **Initiating Discipline: Consideration and Notice**

Supervisory and management personnel shall be guided in their consideration of disciplinary matters by the following illustrative, but not exclusive, conditions:

1. The degree of severity of the offense
2. The number, nature and circumstances of similar past offenses
3. Employee's length of service and service record
4. Provocation, if any, contributing to the offense
5. Previous warnings related to the offense
6. Consistency of penalty application
7. Equity and relationship of penalty offense

Disciplinary notice to employees should, as a general rule, contain the following information:

1. A statement of the disciplinary action to be taken and its effective date
2. A statement of the reason(s) for imposing the discipline and the nature of the violation
3. Attachment of any supporting material or evidence where appropriate

Service of disciplinary notice will be deemed to have been made upon personal presentation or by certified mail addressed to the employee's last known address on file.

Upon receipt of disciplinary notices for placement in an employee's personnel file, the Director of Human Resources may assign a recall date to the document at which time it may be reviewed for a determination of continued retention, assigned a new recall date or mailed to the employee as evidence of removal from the employee's file.

### **Appeal of Suspension or Discharge**

The employee may appeal a suspension/discharge to the City Manager within ten (10) working days of notice of suspension/discharge. After reviewing all facts and evidence, the City Manager will put in writing his/her final decision. Should the City Manager find in favor of the suspended/discharged employee, he/she may reinstate a suspended/discharged employee at any time and may authorize back pay. The City Manager's decision shall be final.

## **DISPUTE RESOLUTION**

In consideration that a dispute, complaint or problem may arise periodically concerning working conditions policies and practices or decisions made by City representatives that effect an employee's job, the City has established the following dispute resolution procedure. It is the intent of this policy and procedure to afford employees a voice in those matters that have a potential adverse, unjust, or inequitable effect on their employment conditions. The City is desirous of solving problems as promptly, justly, objectively and confidentially as possible.

### **Dispute Resolution Procedures**

The three (3) steps involved in the dispute resolution procedure are:

1. Discuss the dispute with the immediate supervisor including the nature of the concern and possible appropriate remedies. If a satisfactory solution cannot be reached within ten (10) working days or if the nature of the problem is not within the supervisor's authority, the employee should proceed to step 1.
2. Present the issue in writing to the department head, who will investigate, examine and evaluate the factual basis of the situation in an attempt to reach a satisfactory solution. Every effort will be made to provide the employee with a written decision and the reasons thereof within ten (10) working days. If the department head's decision is not satisfactory to the employee, proceed to step three.
3. Within five (5) working days following the receipt of the department head's decision, the employee should arrange an appointment to present and discuss the issue with the City Manager. On the basis of information provided in this meeting, or related written documents, the City Manager may conduct further inquiries to fully consider all relevant facts and circumstances, followed by a final decision to the employee and other's concerned generally within fifteen (15) working days. The City Manager's decision shall be final.

## **WHISTLEBLOWER POLICY**

**Purpose of Policy:** It is the policy of the City of Biddeford to encourage its employees to report improper governmental action taken by City officers or employees. It is also the policy to protect City employees, who in accordance with City policies and procedures have reported improper governmental actions, from retaliatory action.

## Definitions:

**Improper Governmental Action:** Any action by a City officer or employee that is undertaken during the performance of the officer's or employees official duties, whether or not the action is within the scope of the employee's employment, and does the following:

- A. Violates any Federal, State, or local law or rule;
- B. Abuses authority;
- C. Is of substantial and specific danger to public health or safety;
- D. Is a gross waste of public funds.

This does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements, or reprimands.

**Retaliatory Action:** An adverse change in the terms and conditions of an employee's employment.

**Emergency:** A circumstance that, if not immediately changed, may cause damage to persons or properties.

**Reporting Procedures:** An employee who becomes aware of an improper governmental action raises the issue first with the employee's immediate supervisor. If the supervisor requests it, the employee will submit a written report to the Supervisor or to a person designated by the Supervisor. The written report will state in detail the basis for the employee's belief that an improper governmental action has occurred. When an employee believes that the action involves the immediate Supervisor, the employee may raise the issue with the Department Head, City Manager, or any such person whom the City Manager designates to receive reports of improper governmental action.

The employee may report the improper action directly to the governmental agency responsible for investigating improper governmental actions when an employee believes that damage to persons or properties may result if immediate action is not taken.

The immediate Supervisor, Department Head, City Manager, or City Manager's designated representative takes prompt action in assisting the City to properly investigate the report of improper action. Employees involved in the investigation (to the extent possible under law), must keep the identity of the reporting employee confidential, unless an employee authorizes, in writing, the disclosure of their identity.

After an investigation has been completed, the employee reporting the improper governmental action is given a summary of the results of the investigation. However, personnel actions taken as a result of the investigation should be kept confidential.

If an employee believes the City's investigation of the improper action is inadequate, the employee may report the action directly to the government agency responsible for investigating improper actions. An employee may also turn to the government agency if they believe the City's action against the improper action is insufficient or believes that the improper action is likely to recur.

If an employee **fails to make a sincere attempt to follow the City procedures** in reporting an improper governmental action, the employee will not receive the protection provided by the City in these procedures.

**Protection from Retaliatory Actions:** Employees are prohibited from taking retaliatory action against an employee who, in good faith and accordance with the proper procedures, has reported an improper governmental action.

An employee who believes that they have been retaliated against shall advise the employee's immediate Supervisor, Department Head, the City Manager, or the City Manager's designated representative. Supervisors and Department Heads shall take appropriate action to investigate and address complaints of retaliation.

If the employee's immediate Supervisor, Department Head, the City Manager, or the City Manager's designated representative does not satisfactorily resolve an employee's complaint concerning retaliation, the employee may obtain protection under this Policy and in accordance with State law by providing a written notice to the City Council. The notice must specify the alleged retaliatory action and the relief requested.

An employee shall provide a copy of their written charge to the City Council, with a copy to the City Manager, no later than thirty (30) calendar days after the occurrence of the alleged retaliatory action. After receiving the charge of retaliatory action, the City Council shall respond within thirty (30) calendar days.

**Hearing:** After receiving the response from the City Council or thirty (30) calendar days after the delivery of the charge to the Council, the employee may request a hearing before a State administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing delivers the request for a hearing to the City Manager within the earlier of these dates: either fifteen (15) calendar days after the delivery of the City Council's response to the charge or forty-five (45) calendar days after the charge was given to the City Council for response.

**Hearing Procedure:** Upon receiving a request for a hearing, the City Manager, within five (5) working days, applies to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge.

The City shall consider any recommendation that the retaliator be suspended, with or without pay. As provided by the administrative law judge, the City shall also consider that the retaliator be discharged.

**Whistleblower Responsibilities:** The City Manager is responsible for implementing the City's policies and procedures for reporting improper governmental action and for protecting employees against retaliatory actions. The City Manager's responsibilities include ensuring that this policy and these procedures are permanently posted where all employees shall have reasonable access to them; ensuring that this policy and these procedures are made available to an employee upon request; and ensuring that this policy and these procedures are provided to all newly appointed employees.

Department Heads and Supervisors are responsible for ensuring that the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including discharge.

## **WORKPLACE SAFETY**

Safety and health protection is a quality of work life issue which has a high priority in all City business activities. The City's goal is to minimize human injury or illness and property loss or business interruption caused by accidents, fire, or other hazards. The City believes this will be achieved to the degree that all City employees accept and fulfill the safety and health responsibilities in each job. Individually, employees must recognize hazards, anticipate possible exposures and risks, and then act to eliminate or control them.

The City expects that all employees will give their best efforts to the prevention of industrial accidents and diseases. The City will provide the necessary direction and aid to accomplish this goal.

All employees must adhere to all Occupational Safety and Health Administration (OSHA), federal, and state regulations and comply with the following general rules.

- A. All accidents or injuries must be reported to a supervisor immediately.
- B. Horseplay and practical jokes in work areas will not be tolerated.
- C. Employees are to be careful with their hands when operating any machinery and must see to it that others do not harm themselves on their machines.
- D. Operating shortcuts that jeopardize employee safety will not be tolerated and will result in immediate discipline.
- E. State and Federal regulations require that mandatory safety training be done annually. Employees are expected to attend these trainings. If training is scheduled during a time that is not convenient for the employee the employee and/or Department Head must notify the Human Resources Department for an alternative training schedule.

Employees are responsible for work as they are instructed to safely produce a quality product or service. Employees are also responsible to themselves and to the City for reporting unsafe conditions or practices to management. It is then management's responsibility to act as conditions warrant.

No employee should ever perform a task or work with equipment that he considers to be unsafe.

Any questions regarding this policy should be directed to the Human Resources Department.

## **INJURIES IN THE LINE OF DUTY**

The City of Biddeford provides Worker's Compensation Insurance coverage for all employees.

A non-union employee who sustains a personal injury or compensable illness arising out of and in the course of his or her employment shall be paid during each week of total incapacity to work an amount sufficient, that when added to the weekly payment of Worker's Compensation paid within the laws of the State, is equal to 85% of his or her regular salary or normal wage. If a seven (7) day waiting period is imposed before Worker's Compensation payments begin, the City will pay the employee his or her available sick time for the working days lost during the waiting period. No additional payments shall be made, if the opinion of the Department Head, Human Resources Department or the City Manager, is that the accident occurred as a result of intoxication, willful intent, or violation of rules and regulations on the part of the employee.

## WORKER'S COMPENSATION PROTOCOL/PROCEDURES

The following protocol and procedures will be followed for all work-related injuries/illnesses.

### **Reporting:**

- A. 1. An employee shall report all work related illnesses/injuries to a supervisor on the day of the occurrence, or as soon as it becomes known to you.
  2. All non-emergency injuries/illnesses needing medical attention shall be reported to WORKWELL, at Southern Maine Medical Center, for evaluation. If an employee is injured during the hours that WORKWELL is not open, and it is not an emergency, the employee will wait and report to WORKWELL as soon as it opens. If an emergency illness/injury occurs during the hours that WORKWELL is closed, the employee shall report to the emergency room.
  3. If an employee is placed on restricted duty or light duty, it shall be the responsibility of the employee to report to duty with restrictions to the appropriate worker's compensation representative within their respective department, as soon as physically possible.
  4. Refer to the *Light Duty/Return to Work Policy*, for those employees who are to report for light duty.
- B. The supervisor shall be responsible for ensuring that the appropriate first report of injury is completed, either by completing it himself or referring it to the appropriate *department worker's compensation representative* (each department head shall decide on how this is to be handled within the individual department). This form shall only be submitted to City Hall, upon completion\*. An accident/illness form shall be completed by the employee, which may be used by the supervisor or representative to complete the first report. This form shall be attached to the first report, with a brief description of the injury on the report, as well as a note referring to the attached documentation. **All reports will state whether there was any lost work time.**
- C. The *department representative* shall be responsible for ensuring the following:
  1. The first report is filled out completely and forwarded to MMA within the allotted timeframe.
  2. Any need for light duty is reported to City Hall (weekly).
  3. Any lost time is noted, including highlighting this fact to the Benefits Coordinator to ensure that appropriate deductions are made (weekly)
  4. Informing employees of how they may choose to receive their worker's compensation payment (see below).
- D. The Human Resources Department will be responsible for ensuring that any benefits not charged to the employee through payroll, shall be deducted according to the *reimbursement procedures* noted below.
- E. It shall be the responsibility of the Human Resources Department to make necessary arrangements to notify OSHA, when applicable. Notification to OSHA must take place **within 8 hours** of a work related death, on the job heart attack (does not need to be work related) and if three (3) or more employees suffer a work related injury requiring an overnight hospital stay. If injury/illness occurs outside of normal business hours (8:30am – 5:00pm) supervisors must contact 207-571-8620 to report.

\*At this time all City departments should have representatives who are able to submit these forms directly to MMA, via the internet. At such time, a printed copy of the report as well as the back-up information will be submitted to CITY HALL

**Reimbursement:**

Per the Worker’s Compensation laws: Firefighters have no waiting period and shall receive reimbursement from day one. All other employees have a 7-day waiting period.

Due to the timing of the processing of worker’s compensation reimbursement, the city has agreed to allow different types of reimbursement for its employees (see below).

**A. For those employees who are receiving short-term worker’s compensation reimbursement (up to one month)**

Unless otherwise stipulated per contractual arrangements, the following shall apply:

1. Employees may choose to be paid through payroll using accumulated sick time. For those employees who have accumulated sick time, the employee may receive their regular paycheck, and shall have the appropriate amount of sick time deducted. Any reimbursement of compensation from MMA shall be submitted to the City, with that percentage of sick time re-allocated to the employee’s sick time total. This method will allow the continuation of weekly deductions for benefits.
2. Any employee, who has no available sick time, will receive no paycheck from the City and shall only receive compensation from the City’s workers compensation carrier.

**B. For those employees who are receiving long-term worker’s compensation reimbursement (more than one month)**

1. Any employee, who will be on long-term worker’s compensation leave, shall be allowed to be paid according to section (a) above, as long as there is available sick time. At that time where an employee has no more sick time available to utilize, the employee shall receive his payments strictly through worker’s compensation.
2. At any time when an employee has used all available sick time, benefit deductions (retirement, deferred compensation contributions, health insurance, etc.) shall be paid for by the employee to the Benefits Coordinator, on a pre-paid monthly basis. All union dues shall be made directly to the union representative.

**LIGHT DUTY AND RETURN TO WORK PROTOCOL**

**Purpose:** To establish a procedure that allows for an employee who suffers a work related injury to return to work and be assigned duties commensurate with their abilities and training, while meeting the requirements of their light duty stipulations.

**Policy:** Department Heads are encouraged to promote the assignment of an employee who has suffered a work related injury/illness to responsible work commensurate with ability and training. The City recognizes that employees performing light duty work may be, more encouraged to return to their duties sooner than employees who remain entirely away from work. Additionally, light duty assignments may reduce replacement costs for temporary labor or for wages paid at overtime rates.

## Types of Light duty:

**Short-term light duty** is light duty work that is performed by an employee for a period that includes any part or all of two (2) *payroll weeks*. An employee, who is on short-term light duty, will be paid from the employee's departmental budget. Light duty that continues beyond the two (2) *payrolls week* period will be paid from the long-term light-duty budget.

**Long-term light-duty** is light duty work performed by an employee beyond the time established for short-term light duty work but for a period not longer than one year from the initial date of injury. If at any time during the one-year period, it becomes known that the employee will remain unable to perform the essential functions of the job for which he was hired, or that the employee has reached maximum medical improvement, the City will determine whether permanent work exists within the City that could be performed by the employee. If a permanent light duty position becomes available at the conclusion of the one-year period, the employee will be offered a transfer to that department, provided that the job is within established work restrictions. At this point the employee will no longer be paid for through the long-term light-duty budget.

**Budget:** A line item will be established in the City's General Administration account that will include a budget for long-term light-duty work for all city departments.

## Procedures:

### A. General Provisions

1. Each department must adopt a light-duty protocol that will outline:
  - a. The duties that can be completed within the scope of the light-duty policy
  - b. The restrictions associated with each of these duties
  - c. The hours of day the employee is allowed to work, while still meeting the restrictions
  - d. The person who will be responsible for managing the employee
  - e. A Protocol statement that will adopt a philosophy that each department will work closely with the person

Each department will submit a copy of its light duty protocol to the City's Human Resource Department, along with any updates as changes to the policy are made.

2. Each department will submit a list of light duty assignments that could not be performed by employees from other departments. This list will be submitted to the City's Human Resource Department, and updated as changes are made. The light duty list will be kept with the City's General Light Duty Protocol.

### B. Light duty Assignment Practice

1. Each department will assign light duty work to employees within their respective span of control for up to, and including two (2) complete city payroll weeks. If light duty work is not available within the employee's own department, the employee shall be referred to the City's Human Resource Department for duty assignment. The Department Heads for the original assignment and light duty assignment will be consulted to determine the appropriateness of the light duty transfer.

**Note: The employee will be paid from the employee's own department, even though assigned to another department.**

2. At the end of two (2) payroll weeks, the employee is considered on long-term light duty, and shall be referred to the Human Resource Department for assignment. All wages from this point forward shall be paid from the City's administration account, said payments to be approved by the City Manager.
3. An employee who is expected to be on long-term light duty for more than one full year, commencing from the date of the on-duty injury, shall be evaluated for fitness for duty at least thirty (30) days prior to the end of the injury year. If the employee remains unable to perform the essential functions of the job for which he was hired, a consultation with the employee shall be held. The consultation will include the City Manager, Human Resource Director, and the employer's Department Head. If, after consultation, it is determined that the employee is not able to return to unrestricted duty, the employee shall be assigned to some other permanent duty, if available, that is within the ability of that employee. The reassigned employee shall be paid at the rate of pay established for the position being worked. If no permanent assignment is available, or does not otherwise exist, the employment relationship shall cease to exist.

### **C. Return to Work**

No employee may return to work, after suffering an occupational injury that resulted in lost time from work unless, or until, the employee has been cleared, in writing, for light duty by a licensed practitioner. The light duty authorization must include all work restrictions.

No employee may return to a formerly held position after suffering an occupational injury that resulted in lost time from work, unless or until a licensed practitioner has cleared the employee, in writing, for unrestricted duty. The Department Head or the Human Resource Director may require that the employee submit to a fitness for duty evaluation prior to being allowed to return to work. All fitness for duty evaluations that are required by the City shall be at the expense of the City.

### **SUBSTANCE ABUSE POLICY**

The City of Biddeford is committed to a drug and alcohol free workplace. In order to ensure the safety of its employees and the general public, as well as to comply with 49 CFR Part 382 and other pertinent federal laws, the City Council has adopted this policy. The City takes pride in its employees who perform critical duties in a truly effective manner with safety foremost in their minds. This policy strengthens our commitment to a safe workplace.

**Program Administrator:** The City Manager or his designee shall be the alcohol/drug testing program administrator. The program administrator is responsible for answering questions from drivers, employees or the public in general. The program administrator will maintain the confidentiality of all information relating to drug and alcohol testing. The program administrator may provide such information as necessary to enable the appropriate supervisor to take the appropriate action to ensure compliance with this policy. In addition, the program administrator is also responsible for compliance with the program administrator guidelines.

**Scope of Policy:** This policy applies to all regular full-time, part-time and temporary employees who are required to hold a Commercial Driver's License (CDL) for their position. All applicants for employment positions requiring a CDL are required to pass a drug test as a prerequisite of employment, prior to final hiring. Any applicant who fails a drug test shall not be hired, although he may re-apply for employment in

the future. All covered employees shall receive a copy of this policy, as well as a copy of the educational materials covered in the employee education session on alcohol and substance abuse.

**Compliance with Regulations:** All CDL employees subject to alcohol and drug testing must be in compliance with this policy at all times while working for the City. This includes all time spent operating commercial vehicles, as well as time spent maintaining or repairing those vehicles. Note regarding independent contractors: Independent contractors and their employees who must hold a CDL for the contracted activity are subject to the requirements of 49 CFR Part 382 and are responsible for compliance. The City will not provide or pay for tests or rehabilitation for independent contractors or their employees. The City shall make compliance with the law a condition of any contract which requires a CDL driver.

**Substances Tested:** When drug and alcohol screening is required by this policy, a breath test and/or urine test will be given to detect the following:

- A. Alcohol
- B. Marijuana
- C. Cocaine
- D. Amphetamines
- E. Phencyclidine (PCP)
- F. Opiates

**Prescription Drug Use:** Employees covered by this policy may use prescription drugs and "over the counter" medications provided that:

- A. The prescription drugs or their generic equivalent have been prescribed to the employee within the past 12 months by an authorized medical practitioner.
- B. The employee does not consume prescribed drugs more often than as prescribed by the employee's physician.
- C. Any employee who has been informed that the medication could cause adverse side effects while working shall inform his supervisor prior to using these substances. The City at all times reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse effect. If such a finding is made, the City may notify the employee's doctor (with employee's permission) to determine if other medications are available which would not seriously affect the employee's ability to work safely. If an appropriate substitute medicine is not available, the City may limit or suspend the employee's work activities to non-safety sensitive duties.

**Test Required:** All employees subject to this policy shall be tested for alcohol and/or controlled substances in the following circumstances:

- A. **Pre-employment.** Drug tests will be conducted when an offer is made to hire an employee for a CDL position. The offer for employment is contingent on the applicant passing these tests. This includes existing employees who are applying for CDL positions.
- B. **Random.** Drug and alcohol tests will be conducted on a random, unannounced basis. The number of annual drug tests shall equal 50 percent of the number of CDL required positions while the number of annual alcohol tests shall equal ten percent of the CDL required positions. The City has entered into an agreement with a third party administrator (TPA) to randomly select the CDL employees for testing and then notify the program administrator of the person or persons chosen.
- C. **Post accident.** As soon as is practicable after an accident, the Department Head and/or supervisor shall ensure that the employee shall be tested for alcohol and drugs if:

1. The accident involved the loss of human life
2. The employee received a citation for a moving traffic violation arising from the accident.

- D. **Reasonable suspicion.** All employees who exhibit to two trained supervisors signs and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work or just after work, will be required to submit to an alcohol and/or drug test. The supervisor shall document the specific facts, symptoms or observations by completing a "Reasonable Suspicion Record" form. **Note:** Do not allow an employee to drive him/herself to the testing facility for a reasonable suspicion test. Instead, the supervisor or another employee should provide transportation to the testing facility.
- E. **Return-to-duty.** An employee who engaged in prohibited conduct must submit to an alcohol test and drug test to return to duty which shall be conducted by the drug counselor. The results of a drug test must be negative to return to duty, and the results of an alcohol test must be less than 0.02 to return to duty.
- F. **Follow-up.** An employee who previously tested positive and has returned to duty must submit to a combination of at least six alcohol and drug tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to 60 months after returning to work, not to exceed 12 a year.

#### **Testing Procedures:**

- A. **Drug Testing:** Drug testing is accomplished by analyzing the employee's urine specimen (urinalysis). Specimens will be collected at an off-site facility selected by the City. Once the employee provides a urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee and the specimen is shipped to a SEMSA certified laboratory. All urinalysis procedures are required to include split-specimen techniques. Each urine sample is subdivided into two containers and labeled as primary and split specimens. Both specimens are forwarded to the laboratory. Only the primary specimen is used in the urinalysis. In the event of a confirmed positive test result, the split specimen may be used for a second confirmation test if requested by the employee. During testing an initial screening test is performed. If the test is positive for one or more drugs a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (GC/MS) analysis. This test ensures that over the counter medications are not reported as positive results. If the analysis of the primary specimen results in a confirmed positive test, the employee may within 72 hours request that the split specimen also be tested at the SEMSA laboratory of his choice. The second test is at the employee's expense unless the test result is negative, in which case the City would reimburse the employee. All test results are reviewed by a medical review officer (MRO) prior to results being reported to the City. In the event of a positive test result, the MRO will first attempt to contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive results (such as over-the-counter or prescription medications). If the MRO determines there is a legitimate medical explanation for the presence of drugs, the result will be reported as negative. If the MRO is unable to contact the employee, then the employer will be contacted and requested to advise the employee to contact the MRO. Urine samples shall be provided in a private test room, stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The

water in the commode, if any, shall be colored with dye to protect against dilution of test samples. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

- B. **Alcohol Testing:** Alcohol testing will be conducted using an evidential breath testing (EBT) device. The breath test must be performed by a certified Breath Alcohol Technician (BAT) trained in the use of EBT and alcohol testing procedures. Under certain circumstances, post-accident tests conducted by law enforcement personnel or medical personnel will be acceptable. Two breath tests are required to determine if an individual is over the alcohol concentration limit permitted. Any result of less than 0.02 concentrations is considered a negative result. Any result of 0.02 or greater requires a confirmation test. A confirmed test of 0.02 or greater is considered a positive result.

**Prohibited Conduct:** CDL employees shall not:

- A. Report to work and/or remain on duty with an alcohol concentration of 0.02 or greater;
- B. Possess any alcohol while on duty;
- C. Use any alcohol while on duty;
- D. Use any alcohol within four hours before going on duty;
- E. Use any alcohol within eight hours after an accident for which the CDL employee must be tested for alcohol concentration;
- F. Refuse to submit to the following alcohol and/or controlled substance tests; random test, reasonable suspicion test, post-accident test, or follow-up test;
- G. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the CDL employee in writing that the use will not affect the safe operations of a commercial vehicle. In the case of a written warning by the physician, the employee shall report this to his supervisor immediately;
- H. Report to or remain on duty if the employee tests positive for controlled substance.
- I. Failure to comply with these rules is a violation of this policy and may result in disciplinary action and shall result in referral to a substance abuse professional.

**Refusal to test:** An employee's failure to submit to testing may result in disciplinary action up to and including dismissal and is also grounds for referral to a substance abuse professional. Failure to submit to a test by an applicant will result in denial of employment. Specifically, the following circumstances will be considered a refusal to test:

- A. Failure to report to the designated testing area within three hours of being notified to submit to an alcohol or drug test.
- B. Failure to accurately provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined impossible to do so.

**Alcohol Concentration of 0.00 or greater but less than 0.02:** Provided that the employee has not violated the **Prohibited Conduct** rule, any employee whose alcohol test results in a concentration of 0.00 or greater but less than 0.02 shall not be permitted to perform any safety-sensitive function for at least 24 hours following the test. The employee will not be paid for work time lost as a result of this section unless he works in another capacity for the City during that time period. The employee will not be required to undergo evaluation by a substance abuse professional if the test result is 0.00 or greater but less than 0.02, nor will a return-to-duty test be required unless there is reasonable suspicion that the employee is still under the influence of alcohol or drugs. Note: This section applies only in limited situations. For example, if an employee last consumed alcohol more than four hours before work, but still has a blood/alcohol level of 0.01 when he shows up for work, he is not in violation of the Prohibitive Conduct rule, but is subject to this section.

**Notice and consent:** Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to those officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication.

All recruitment announcements for any position, including in-house recruitment and promotion, will disclose that a drug screening test will be required of the applicant.

**Consequences of Violation of this Policy:** Any employee, who violates the **Prohibitive Conduct** and **Refusal to Test** rules of this policy, shall be immediately removed from the safety-sensitive function and will be advised by the City of the resources available for evaluating and resolving drug and alcohol abuse problems. The employee is required to be evaluated by a substance abuse professional. All evaluation and rehabilitation shall be at the employee's cost unless otherwise agreed by the City. An employee shall not be allowed to return to the safety sensitive function until he has a return-to-duty alcohol test result of less than 0.02 or a return-to-duty drug test with a verified negative result.

- A. In addition, any employee who violates the **Prohibitive Conduct** and **Refusal to Test** rules of this policy may be subject to disciplinary action up to and including dismissal. Before discipline, reassignment or dismissal is imposed, the employee shall have the opportunity to participate for up to six months in a rehabilitation program. The employee is responsible for all costs associated with the rehabilitation program unless otherwise agreed by the City.
- B. Employees may be subject to discipline up to and including discharge as provided below if they test positive for drugs/alcohol as specified elsewhere in this policy:
  1. Reasonable suspicion testing:
    - a. A positive test is a dischargeable offense.
    - b. Refusal to submit to a reasonable suspicion drug test is a dischargeable offense.
  2. Post-accident testing:
    - a. A positive test is a dischargeable offense.
    - b. Refusal to submit to a post-accident drug test is a dischargeable offense
  3. Random testing:
    - a. 1st offense - A positive test shall result in a warning letter (subject to successful completion of rehabilitation)
    - b. 2nd offense - A positive test is a dischargeable offense.
    - c. Refusal to submit to a random drug test is a dischargeable offense.

4. Pre-employment:
  - a. 1st offense - A positive test shall result in disqualification.
  - b. 2nd offense - A positive test is a dischargeable offense.
5. Return to duty testing:
  - a. A positive test is a dischargeable offense.
  - b. Refusal to submit to a return to duty test is a dischargeable offense.
6. Follow-up testing:
  - a. A positive test is a dischargeable offense.
  - b. Refusal to submit to a follow-up test is a dischargeable offense.
7. Further grounds for discipline or dismissal under City policy include, but are not limited to:
  - a. Refusal to submit to a rehabilitation program after testing positive.
  - b. Failure within six months to successfully participate in a rehabilitation program after receiving a positive test, or failure to pass a return-to-duty drug or alcohol test.
  - c. Evidence that the employee has substituted, adulterated diluted or otherwise tampered with his urine sample.
  - d. Failure to contact a substance abuse professional within five regular working days after being notified of a confirmed (MRO certified) positive test for the improper use of alcohol or unauthorized substances.
8. During the period the City is awaiting an employee's test result for a post-accident test, reasonable suspicion test, or return-to-duty test, the City may transfer the employee to another position with or without a reduction in pay or benefits. The City also reserves the right to place an employee on paid or unpaid suspension. A determination as to whether an employee is placed in another position or placed on paid or unpaid suspension may be based on, but is not limited to: who is responsible for and/or the severity of the accident, if applicable; the observed condition of the employee, if applicable; the employee's work history; length of employment; current job performance and the existence of past disciplinary actions. Action taken by the City under this subsection is a matter of City policy, and is not imposed by federal law.
9. Employee/applicant rights and responsibilities.
  - a. In the event of a confirmed positive test result, employees and job applicants shall have the opportunity to present an alternative explanation for the test result by contacting the Medical Review Board (MRB). This shall be done within 72 hours after notification of the confirmed result. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.
  - b. Any employee with a positive test result may upon written request to the program administrator have the right to any information relating to the test result and procedures. A job applicant may request information concerning the test result within 60 days after the decision on his employment application.

- c. Upon successfully participating in a rehabilitation program (within six months after it commences) and upon passing a return-to-duty drug and/or alcohol test, the employee is entitled to return to his previous job with full pay (but not back pay) and benefits, unless conditions unrelated to the employee's previous test make the employee's return impossible. The rehabilitation or treatment provider in consultation with the City shall determine whether the employee has successfully participated in the rehabilitation program. The City is not required to hold the employee's job open for more than six months after the employee commences a rehabilitation program.
10. Confidentiality of information. Unless the employee or applicant consents, all information acquired by the City in connection with the testing processes is confidential and may not be released to any person other than to the employee or applicant who is tested, the program administrator, officials with a need to know, and the rehabilitation provider. The foregoing shall not prevent the release of information that is required or permitted by state or federal law, or the use of the information in any grievance procedure, administrative hearing or lawsuit relating to the imposition of the test or the use of the test results.
  11. Documents provided. The City will provide each person subject to this policy a copy of the policy. The City will also provide printed material which describes the effects of alcohol and/or controlled substances on the individual's health, work and personal life, as well as information on the signs and symptoms of alcohol or controlled substances and methods of treatment or intervention for drug or alcohol abuse.

## **ELECTRONIC MEDIA POLICY**

**A. Applicability:** This policy applies to all full-time, part-time, contracted or seasonal employees, elected officials, volunteers, and other individuals who are provided access to the City's computer and electronic information systems. Third parties, as defined in Section 3, Definitions, should only be provided access to the system as necessary for their business purpose with the City and only if they abide by all applicable rules.

**B. Purpose:** The purpose of this policy is to provide guidance on appropriate use of electronic media services to include but not be limited to e-mail, Internet, VoIP, blogs, social media sites, or other means of access to resources made available to City of Biddeford employees to communicate with each other, other governmental entities and companies and individuals for the benefit of the City of Biddeford.

### **C. Definitions:**

1. **Chat / Video Chat Service** means an informal online discussion in a chat room; a real-time online interactive discussion group.
2. **City's System** means the software, hardware and any other computer related equipment and/or programs that are obtained and license through the City of Biddeford
3. **E-mail** means a means or system for transmitting messages electronically; messages sent and received electronically through an email system.
4. **Executable File** means a file in a format that the computer can directly execute. Unlike source files, executable files cannot be read by humans.
5. **FTP Server** means file transfer protocol – a system for transferring computer files, especially via the Internet.

6. ***Incidental use*** means occasional or infrequent personal communication using City-owned computers and programs.
7. ***Intranet*** means a network operating like the World Wide Web but having access restricted to a limited group of authorized users (as employees of a company).
8. ***Internet*** means an electronic communications network that connects computer networks and organizational computer facilities around the world.
9. ***Personal Electronic Device*** means a piece of electronic equipment, such as a laptop computer or a mobile phone that is small and easy to carry. A PED is any electronic device that is capable of receiving, storing or transmitting information.
10. ***Public Domain E-mail Account*** means openly available to everyone. Non-copyrighted intellectual property that can be copied and freely distributed (but not sold) by anyone without a payment or permission.
11. ***Social Media*** means primarily Internet and mobile-based tools for sharing and discussing information. The term most often refers to activities that integrate technology, telecommunications and social interaction, alongside the construction of words, pictures, video and audio
12. ***Social Media Site*** means a website that leverages social media and communications tools for its visitors. Examples of social media sites include: YouTube, Flickr, Wikipedia, Twitter, Facebook, forum, message boards, etc.
13. ***Third party*** means individuals or groups who would not normally have access to the City's computer and information system but may from time to time require access to the systems. These could include, but are not limited to: hardware and software vendors, telephone system installers and contracted system troubleshooters, and auditors.
14. ***Vandalism*** is defined as any malicious attempt to harm or destroy data. This includes, but is not limited to, creating and/or knowingly uploading computer viruses.

**D. Policy:** The City of Biddeford's electronic media services are designed solely to facilitate City business communications among employees and other business associates. Since no computer system is completely secure, care should be taken when transferring or discussing sensitive materials or subject matter.

These systems are the City of Biddeford's property and intended for City business. Although some incidental use of electronic services for personal use is expected, it must be understood that such use is a privilege, which may be limited or removed if the privilege is abused at any time, for any reason. All data and electronic messages within this system are the property of the City of Biddeford. As such, no communications of any type can be considered private except as required by law. Electronic communications have been found to be public records and may be subject to the freedom of access laws, depending on their content.

In addition, consistent with any confidential relationships or obligations with clients or program participants that may exist; the City of Biddeford reserves the right to authorize its directors, managers, and/or supervisors to review the contents of employee's electronic media accounts when necessary for business or performance purposes.

## **E. Guidelines:**

**1. General Prohibitions:** The City's electronic media systems may be used only for lawful purposes. The transmission, distribution, or storage of any information, data, or material in violation of any applicable law or regulation, or provision of this policy is prohibited. Without limitation of the foregoing, it is prohibited to create, transmit, distribute or store any information, data, or material that:

- a. Is libelous, defamatory, hateful, or constitutes an illegal threat or abuse, or contains ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, age, disability, sexual orientation, religious beliefs or any other basis protected by law.
- b. Is obscene or constitutes child pornography, contains sexually explicit images or messages, or may be construed by a reasonable person as offensive, abusive or threatening.
- c. Knowingly infringes any copyright, trademark, trade secret, or other intellectual property right.
- d. Solicits for commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations.
- e. Is or encourages conduct that would constitute a criminal offense or give rise to a civil liability.
- f. Is indented for personal gain.
- g. Solicits fundraising for profit or non-profit except as outlined in section VI a.4.

**2. General Guidelines:** Employees are expected to abide by the generally accepted rules of computing and network etiquette. These include (but are not limited to) the following:

### **Etiquette & Ethical Conduct:**

- a. Be polite
- b. Use appropriate language. Do not swear, use vulgarities or any other inappropriate language.
- c. Do not reveal private addresses or phone numbers of others unless available in the public domain and for legitimate business purposes. Providing both internal and your own personal address or phone number is a personal choice but be aware that electronic media transmissions can be monitored by others.
- d. Do not use computers or networks in such a way that you would disrupt their use by others. This includes being aware that you can create significant network traffic and consume scarce computing resources by your use of the Internet.
- e. Use only services you have authorization to access.
- f. Always represent yourself as yourself and as a representative of the City of Biddeford.
- g. Use proper judgment when sending un-encrypted confidential or proprietary information over the Internet. If you are uncertain whether material is confidential or proprietary, consult your supervisor. If you need to utilize encryption, please contact the IT Department for directions.

- h. Employees may not intentionally intercept, eavesdrop, record, read, alter, or receive other persons' e-mail messages without proper authorization.

### **3. Security Responsibilities:**

- a. If you identify a security problem, notify the IT Department immediately.
- b. Do not show or identify a security problem to others.
- c. Do not reveal your account password or allow another person to use your account.
- d. Do not use another individual's account.
- e. Any user identified as a security risk may be subject to disciplinary action.
- f. Employees may not provide or use alternative software to access the systems. Employees may be held responsible for any damages caused by unauthorized software or viruses they knowingly or purposefully introduce.
- g. Employees should be aware that, due to retention policies or archiving, deletion of correspondence or posts may not result in deletion of the record from the City's centralized systems or servers controlled by other entities.
- h. Employees who leave employment with the City have no right to files, electronic communications, or access to City-related programs or sites except for each employee's personal employment records as may be managed by the HR Department.
- i. All computer related equipment must be brought to the IT department for service, repair, or disposal. City owned computer equipment must be maintained under the direction of the IT Department.
- j. All Computer related equipment must be purchased through or in coordination with the Computer Department
- k. Users may not store personal or non work related material on the computer system.

### **4. Vandalism/Harassment/Legal Issues:**

- a. Vandalism and/or harassment will result in disciplinary action.
- b. The misuse of electronic media services may be considered sufficient cause for disciplinary action in accordance with the Personnel Policies and Procedures Manual, and/or other applicable rules or laws.
- c. In the event of suspected, alleged or actual illegal activity, the City of Biddeford may notify or cooperate with applicable law enforcement authorities for potential civil or criminal investigation or prosecution.

## **F. Media Specific Policies**

**E-Mail/Internet/Intranet:** The City of Biddeford email and online system is intended to facilitate City business communication among employees and other business associates for messages and memoranda. For the purpose of this policy, an email or online program is any

computer application which facilitates the sending and/or receiving of correspondence over a computer system or network.

**Acceptable Uses:** The following are considered acceptable uses for email and the Internet:

1. Exchanging information directly related to work tasks
2. Education facilitating performance of any task or project related to assigned duties
3. Exchanging information for professional development, inquiry purposes, and research access for advisories, obtaining standards, finding statistics and analysis
4. The City understands that fellow employees would like to support the fundraising efforts of coworkers. To allow for this, the City has set up an email address: [fundraising@biddefordmaine.org](mailto:fundraising@biddefordmaine.org). You may subscribe to this email through the IT department if you would like to send or receive fundraising emails that coworkers are involved in.

**G. Specific Prohibitions:** Altering electronic communications to hide one's identity or to impersonate another individual is considered misrepresentation and is prohibited under this policy. All e-mail, news posts, chat sessions, or any other form of electronic communication must contain the sender's real name and/or e-mail address.

1. Initiating or forwarding "chain letters" or e-mail is prohibited on City e-mail systems and the Internet as a whole. Chain e-mail can be identified by phrases such as "please pass this on to your friends" or similar inducements that encourage the recipient to forward the message.
2. The practice of bombarding someone with a large volume of unsolicited mail in an attempt to disrupt them or their site is known as "mail bombing". Mail bombs have the effect of seriously degrading system performance and may have legal consequences. This practice is strictly prohibited on City systems.
3. The practice of sending unsolicited commercial advertisements or solicitations (SPAM) via e-mail is regulated by applicable laws, and is prohibited.
  - City users found in violation of these laws could be subject to criminal prosecution, civil prosecution, administrative action, and/or loss of some or all computing privileges
4. Use of electronic communications, including e-mail, with the intent to annoy, harass and/or physically threaten other individuals is prohibited.
5. Use of City resources, including e-mail, for anyone's personal or political gain is prohibited. This includes promoting non-City sales and services.
6. Operation of unofficial e-mail reflectors is prohibited. An e-mail reflector is the automated or otherwise forwarding of a mail message to multiple recipients triggered by the content or headers of the mail message being forwarded.
7. E-mail messages may not include any user's identification number (e.g., social security number), should include only unique identifying information that is pertinent to the message being conveyed, and should not reference any confidential employee information.

**H. Social Media:** The City of Biddeford takes no position on your decision to start or maintain a blog or participate in other social networking activities. However, it is the right and duty of the City of Biddeford to protect itself from unauthorized disclosure of information.

1. **General Provisions:** Blogging or other forms of social media or technology include, but are not limited to video or wiki postings, sites such as Facebook and Twitter, chat rooms, personal blogs or other similar forms of online journals, diaries or personal newsletters not affiliated with the City of Biddeford.

Unless specifically instructed, employees are not authorized and therefore restricted to speak on behalf of the City of Biddeford. Employees may not publicly discuss vendors, projects, other employees or any work-related matters, whether confidential or not, outside company-authorized communications. Employees are expected to protect the privacy of the City of Biddeford and its employees and are prohibited from disclosing personal employee and nonemployee information and any other proprietary and nonpublic information to which employees have access. Such information includes but is not limited to customer information, employee information, protected citizen information, financial information and strategic business development.

City employees may not update, create or maintain personal blogs, twitter, Facebook, and other social media site while on duty.

2. **Acknowledgement:** Employees are required to sign a written acknowledgement that they have received, read, understood and agreed to comply with the City's Electronic Media Policy.
3. **Personal Blogs and Social Media:** The City of Biddeford respects the right of employees to write blogs and use social networking sites as a medium of self expression and public conversation and does not want to discourage employees from self-publishing and self-expression. Employees are expected to follow the guidelines and policies set forth to provide a clear line between you as the individual and you as the employee. The City of Biddeford does not discriminate against employees who use these media for personal interests and affiliations or other lawful purposes.

Bloggers and commenter's are personally responsible for their commentary on blogs and social networking sites. Bloggers and commenter's can be held personally liable for commentary that is considered defamatory, obscene, proprietary or libelous by any offended party, not just the City of Biddeford.

Employees cannot use blogs or social networking sites to harass, threaten, discriminate or disparage against employees or anyone associated with or doing business with the City of Biddeford. If you choose to identify yourself as a City of Biddeford employee, please understand that some readers may view you as a spokesperson for the City of Biddeford. Because of this possibility, we ask that you state your views expressed in your blog or social networking area are your own and not those of the City of Biddeford, nor of any person or organization affiliated or doing business with the City of Biddeford.

Employees cannot post on personal blogs or other sites the name or logo of the City of Biddeford or any business with a connection to the City of Biddeford. Employees cannot post City privileged information, including copyrighted information or City issued documents that are specifically protected and exempted from the Freedom of Information Act.

Employees cannot post on personal blogs or social networking sites photographs of other employees, clients, vendors, suppliers, or the general public, nor can employees post photographs of persons engaged in City business or at City of Biddeford sanctioned functions.

Employees cannot post on personal blogs and social networking sites any advertisements or photographs associated with the City of Biddeford involving its logo, nor sell products and services under the City of Biddeford name or website.

Employees cannot link from a personal blog or social networking site to the City of Biddeford's internal or external web site.

If contacted by the media or press about their post that relates to the City of Biddeford business, employees are required to speak with their manager before responding.

If you have any questions relating to this policy, your personal blog or social networking, ask your manager or supervisor.

4. **Employer Monitoring:** Employees of the City of Biddeford are cautioned that they should have no expectation of privacy while using the Internet. Your postings can be reviewed by anyone, including the City of Biddeford. The City of Biddeford reserves the right to monitor comments or discussions about the City, its employees, clients and vendors, posted on the Internet by anyone, including employees and non-employees. The City of Biddeford has the capability of using blog-search tools and software to monitor forums such as blogs and other types of personal journals, diaries, personal and business discussion forums, and social networking sites.

Employees are cautioned that they should have no expectation of privacy while using City of Biddeford equipment or facilities for any purpose.

The City of Biddeford reserves the right to use content management tools to monitor and block content.

5. **Reporting Violations:** The City of Biddeford requests and strongly urges employees to report any violations or possible or perceived violations to supervisors, managers or the HR Department. Violations include discussions of the City of Biddeford and its employees, any discussion of proprietary information and any unlawful activity related to blogging or social networking that violates any Federal privacy law or discloses protected information under State and Federal law of either City of Biddeford employees or the public they serve.

#### **I. Chat/Video Chat Services:**

1. Usage and Limitations  
Chat within a tech support program or webinar is allowed.
2. Specific Prohibitions
3. Chat service is limited to: chat services provided by the City. All other chat programs are not allowed

**J. Executable Files:** Downloading of executable files from the internet requires prior approval by the employee's Department Head and security evaluation by the Computer Department

#### **K. Website Development & Domain Policies:**

**Usage and Limitations:** Every attempt should be made to post documents in PDF format

1. All pages that represent the City will be hosted on the Biddefordmaine.org site.

2. Pages must be maintained to keep information relevant, accurate and up to date.
3. Incomplete pages must not be used. No "under construction"
4. Photo release forms must be on file in the IT Directors office for all none employee photos.
5. All domain names must be purchased by the IT department and registered with the City's registrar under the City account.

#### **Specific Prohibitions:**

1. No links, posts or transmissions of any unlawful, threatening, libelous, harassing, defamatory, vulgar, obscene, pornographic, profane, or otherwise objectionable content.
2. All forms of advertising are prohibited

#### **L. Enforcement:**

1. **Disciplinary Action:** The City of Biddeford investigates and responds to *all* reports of violations of this policy and other related policies. Violation of the City's social networking policy will result in disciplinary action in accordance with the employee's union contract or personnel policy up to and including immediate termination. Discipline or termination will be determined based on the nature of the infraction. The City of Biddeford reserves the right to take legal action where necessary against employees who engage in prohibited or unlawful conduct.
2. **Grievance Procedure:** Any grievance as it relates to this policy should be brought to an immediate supervisor and or the HR department.

#### **CELL PHONE POLICY**

**City-Issued Cell Phones:** The City may issue cell phones to employees whose jobs require them to make calls while away from work or require them to be accessible for work-related matters. Cell phones issued by the City are City property. Employees who leave the City for any reason must turn in their City-issued cell phones.

City-issued cell phones are to be used primarily for business purposes. Although occasional, brief personal phone calls using a City-issued phone are permitted, employees are expected to reimburse the City for any additional costs or charges relating to texting or personal use of their cell phones.

Employees are responsible for the security of City-issued cell phones and the information stored on them. If your City-issued cell phone is lost or stolen, notify the City's IT Director and your Department Head immediately.

We are concerned for your safety and for the safety of other drivers and pedestrians, and using a cell phone while driving can lead to accidents. Employees are prohibited from using cell phones for work-related matters while driving, with the exception of recognized public safety emergencies.

If you must make a work-related call while driving, you must wait until you can pull over safely and stop the car before placing your call. If you receive a work-related call while driving, you must ask the caller to wait while you pull over safely and stop the car. If you are unable to pull over safely, you must tell the caller that you will have to call back when it is safe to do so.

Employees may use hands-free equipment to make or answer calls while driving without violating this policy. However, safety must always be your first priority. We expect you to keep these calls brief. If, because of weather, traffic conditions, or any other reason, you are unable to concentrate fully on the road, you must either end the conversation or pull over and safely park your vehicle before resuming your call.

**Personal Cell Phones:** Although we allow employees to bring their personal cell phones to work, we expect employees to keep personal conversations or text messaging to a minimum. While occasional, brief personal phone calls are acceptable, frequent or lengthy personal calls can affect productivity and disturb others. For this reason, we generally expect employees to make and receive personal phone calls and text messages during breaks only.

Employees must turn off the ringers on their cell phones while away from their cell phones. If you share workspace with others, please turn off the ringer on your phone while at work. Remember, others can hear your cell phone conversations. Try to talk quietly, and save intimate discussions for another time.

Employees should turn off their cell phones or leave their phones elsewhere while in meetings, presentations, or trainings. Employees must also turn off their cell phones or leave their phones elsewhere while meeting with clients or serving customers. It is inappropriate to interrupt a face-to-face conversation with a customer in order to take a personal phone call.

Employees who violate this policy will be subject to discipline, up to and including termination.

## **MOBILE DEVICE SECURITY**

### **1. Introduction**

Mobile devices, such as smart phones and tablet computers, are important tools for the organization and their use is supported to achieve business goals.

However, mobile devices also represent a significant risk to information security and data security if the appropriate security applications and procedures are not applied. They can be a conduit for unauthorized access to the organization's data and IT infrastructure. This can subsequently lead to data leakage and system infection.

The City of Biddeford has a requirement to protect its information assets in order to safeguard its customers, intellectual property and reputation. This document outlines a set of practices and requirements for the safe use of mobile devices.

### **2. Scope**

1. All mobile devices, whether owned by the City of Biddeford or owned by employees, that have access to corporate networks, data and systems, not including city IT-managed laptops. This includes smart phones and tablet computers.
2. Exemptions: Where there is a business need to be exempted from this policy (too costly, too complex, adversely impacting other business requirements) a risk assessment must be conducted and authorized by security management.

### **3. Policy**

#### **Technical Requirements**

1. Devices must use stock operating systems.
2. Devices must be configured with a secure password that complies with Biddeford's password policy. This password must not be the same as any other credentials used within the organization.
3. With the exception of those devices managed by IT, devices are not allowed to be connected directly to the internal corporate network.

#### **User Requirements**

1. Users must report all lost or stolen devices to the City of Biddeford IT department immediately.
2. If a user suspects that unauthorized access to City data has taken place via a mobile device the user must report the incident to the IT department immediately
3. Devices must not be "jailbroken", "rooted" or have any software/firmware installed which is designed to gain access to functionality not intended to be exposed to the user.
4. Users must not load pirated software or illegal content onto their devices.
5. Applications must only be installed from official platform-owner approved sources. Installation of code from un-trusted sources is forbidden. If you are unsure if an application is from an approved source contact the City of Biddeford's IT department.
6. Devices must be kept up to date with manufacturer or network provided patches. At a minimum patches should be checked for weekly and applied at least once a month.
7. Devices must not be connected to a PC which does not have up-to-date and enabled anti-malware protection and which does not comply with corporate policy.
8. Users must be cautious about the merging of personal and work email accounts on their devices. They must take particular care to ensure that City data is only sent through the city email system. If a user suspects that city data has been sent from a personal email account, either in body text or as an attachment, they must notify the City of Biddeford IT department immediately.
9. Any device that connects to the city network, email system or VPN must have been added to the Mobile Device Management (MDM) system by the City's IT department. Removal of the MDM software will result in immediate denied access to city system(s)

\*To jailbreak a mobile device is to remove the limitations imposed by the manufacturer. This gives access to the operating system, thereby unlocking all its features and enabling the installation of unauthorized software.

### **4. Right to Privacy**

Adding your phone to the City MDM will allow the city the following rights.

1. Wipe phone - This is used in the event the phone is lost or stolen
2. Enforce the use of a passcode
3. Clear passcode- This is used in the event a user forgets his or her passcode
4. Lock device
5. View device location (only if GPS is enabled) - This is used to locate lost or stolen devices
6. Push notifications - This could be used later for employee specific alerts
7. Application list - A list of installed applications will be sent to the MDM

In an effort to alleviate concerns, let it be known that the MDM has no way to see camera views, listen to audio or phone calls.

## MUNICIPAL VEHICLE USE

when authorized by the City Manager, municipal employees, as dictated by the needs of their department and position, may be allowed to take a municipal vehicle assigned to them to their residence, with permission of their Department Head, to utilize the vehicle to the extent needed to conduct municipal business.

A municipal vehicle shall never be used for personal business or pleasure, or for transporting individuals not on City business, except on direct authority of the City Manager. No employee shall operate a department vehicle unless properly licensed, with the proper license classification issued by the State of Maine. A vehicle operator shall not allow unauthorized persons to ride in or upon the vehicle under his control. Employee shall not allow unauthorized persons to operate a municipal vehicle.

Employees shall not consume, purchase or transport alcoholic beverages while operating City vehicles. Employees found in violation of this policy shall be subject to disciplinary action up to and including termination of employment.

## WORK RELATED TRAVEL

**General:** Employees required to travel on business for the City are paid a sufficient amount to cover expenses accrued in a reasonable manner. The following guidelines result from FLSA legal interpretations:

### **Definitions:**

**“Routine” Travel Time To and From Work:** Travel time to and from work before and after the regular workday is not work time. This is true whether the employee works at a fixed location or at different job sites.

**“Extraordinary” Travel Time To and From Work:** In contrast, however, if an employee is given a special one-day work assignment in another city, this travel time is not regarded as ordinary home-to-work travel and would qualify as working time. For example, an employee who works in Biddeford, with regular working hours from 8:00 a.m. to 5:00 p.m., may be given a special assignment in Portland with instructions to leave Biddeford at 7:00 a.m. The employee arrives in Portland at 8:00 a.m., the special assignment is completed at 5:00 p.m. and the employee arrives back in Biddeford at 6:00 p.m. This travel is not regarded as ordinary home-to-work travel because it is performed for the employer’s benefit and at the employer’s special request to meet the needs of the particular and unusual assignment. However, not all the travel time involved must be counted as working time. Since, except for the special assignment, the employee would have had to report to their regular work site, the amount of time it would take the employee to travel between their home and the normal work site need not be counted as hours worked.

**“Extraordinary” Travel Involving Overnight Travel:** Required travel that keeps an employee away from home overnight is travel from home and is work time when it cuts across the employee’s workday. The time is not only hours worked if it occurs during the employee’s normal working day and working hours, but also if it occurs during the corresponding hours on non-working days. Thus, if an employee regularly works Monday through Friday, from 8:00 a.m. to 5:00 p.m., travel time between 8:00 a.m. – 5:00 p.m. is work time if it occurs on Saturday and Sunday as well as on weekdays.

In contrast, time spent in travel away from the home but outside of regular working hours need not be counted as hours worked if the employee is a passenger, e.g., traveling by airplane, bus, car, or train. If the employee is designated as FLSA non-exempt and a driver of a vehicle, all time spent driving in the vehicle to and from the assignment is regarded as working hours, except that if public transportation would have required less time, the City may count as hours worked the less time-consuming method of

transportation. The employee is expected to choose the most economical and expedient mode of transportation in terms of time and cost.

**Travel From Work Site to Work Site:** Time spent traveling from one work site to another must be counted as hours worked. If an employee is required to drive a vehicle to transport tools, equipment, or other employees from the employer's place of business to the job site, that is considered work time. It makes no difference whether the vehicle is the employee's, the City's, or rented by the City.

### **WORK RELATED TRAVEL PAY**

Employees will be paid by an approved appropriation in a departmental budget. The appropriation will be in the best interest of the City and will be approved by the Department Head.

**Expenses:** Travel will be accomplished at the least cost to the City. When authorized, private vehicle use shall be reimbursed at the rate established by the Internal Revenue service. The reimbursement rate will pay for all vehicle expenses including gasoline, operation and maintenance, depreciation, and automobile insurance coverage. The City's insurance program does not provide primary liability coverage for the use of personal vehicles for City business. Except in exceptional circumstances approved by the Department Head, an employee shall use the most economical mode of transportation available. The total reimbursement for the use of a private vehicle shall not exceed economy class airfare plus car rental, if required, to the same location. Mileage will be computed according to the point-to-point distance, plus local business-related travel. Additional pleasure travel shall not be reimbursed. When traveling by automobile on City business, a private vehicle shall be used when an employee is accompanied by a non-city person.

**Registration Fees, Overnight Accommodations and Meals:** The full cost of approved seminars, workshops, or conference registration shall be paid. Payment for lodging expense shall be the single-occupancy rate, unless shared with another City employee. When a spouse or other family member accompanies an employee requiring double occupancy, the employee shall pay any difference. Receipts are required for all travel expenditures and must be submitted upon the employees return and within five (5) work days.

Employees may elect, at their discretion, to receive the IRS per diem rate in lieu of reimbursement. Such request must be made prior to the event to the City Manager's office.

### **MILEAGE ALLOWANCE**

Eligible mileage reimbursement will be granted at the prevailing IRS rate.

### **HEALTH BENEFITS**

The City of Biddeford will offer group health insurance to its regular full time employees. If it is desirous to change insurance carriers, the City will provide equal or better coverage.

- A. Beginning September 6, 2001, regular employees will pay 15 percent of the cost of health insurance coverage. Beginning January 1, 2017, the employee contribution amount will increase to twenty (20%). Payment will be made through payroll deduction and will be based on the number of payroll deductions during the calendar year.
- B. The City shall provide employees with an insurance buyout program. If an employee can demonstrate that he has appropriate health insurance coverage elsewhere, the employee will be allowed to cash in coverage from the City for a family plan for \$1,500.00 per year, payable quarterly.

- C. For employees who retire after September 6, 2001, the City shall pay for the medical insurance only, at the same percentage of current employees, to employees who retire between the ages of 62 and 65, until said employee reaches the age of 65, providing said employee has a minimum of ten years of service with the City. Medical insurance coverage for the employee's dependents shall be at the expense of said employee. When the retiree reaches the age of 65, all insurance for said employee and dependents will terminate.
- D. For employees who retire before July 1, 1995, the City shall continue to pay the cost of medical insurance for a retired employee between the ages of 62 and 65. Beyond the age of 65, the retired employee may enroll in the City's Medicare companion plan at his own expense.
- E. As an exception to the above, if a retiring employee has a dependent (husband/wife only) who is younger and currently enrolled on the City's health plan, then the City will continue to pay the cost of the Medicare companion plan for the retiree until the dependent reaches age 65. The retiree will be responsible for the cost of dependent coverage. When both the retiree and the dependent have reached age 65, they may both continue in the City's Medicare companion plan at their own expense. At the time when the retired employee becomes responsible for the cost of medical coverage, payment will be made to the City on a monthly basis at the current rate.
- F. If an employee has to retire prior to age 62 because of medical reasons and is eligible for social security disability income, he may continue on the group medical coverage at his own expense. If the retired employee carried dependent coverage, that will also be continued at the retired employee's own expense.
- G. For employees who retire prior to July 1, 1995, and, if the retiree has continuous employment with the City for a period in excess of ten years, the City shall pay the insurance expense for the employee for a period not to exceed 24 months or whenever Medicare becomes applicable. Subsections (E) and (F) of this section shall also apply.
- H. Employees hired after January 1, 2002 are not eligible for Sections C through G above. Said employees shall contribute \$15 per week to retirement health savings (RHS) which will be matched by the City. The employer matched contribution amount shall have a ten year (10) vesting period, to coincide with the employees original date of hire, as follows:

0 to 2 years:	Zero percent (0%)
Over 2 years	Ten percent (10%)
Over 3 years	Fifteen percent (15%)
Over 4 years	Twenty percent (20%)
Over 5 years	Thirty five percent (35%)
Over 6 years	Fifty percent (50%)
Over 7 years	Sixty five percent (65%)
Over 8 years	Eighty percent (80%)
Over 9 years	Ninety percent (90%)
Over 10years	One hundred percent (100%)

### **EMPLOYEE HEALTH INFORMATION PRIVACY POLICY**

The City of Biddeford sponsors a group healthcare plan that is subject to the Health Insurance Portability and Accountability Act (HIPAA). On the basis of that law, privacy regulations now apply to certain protected health information. The City, as plan sponsor, has adopted the following policy to comply with

these regulations. The City's medical privacy policy will continue to apply to medical information, and the City will comply with all other federal and state laws concerning medical privacy.

The City generally only performs enrollment, changes in enrollment, and payroll deductions, and to the extent it obtains HIPAA-protected health information (PHI), and it will maintain that information in confidence. Specifically, the City will not use or disclose such information for employment-related actions and decisions or in connection with other benefit plans.

PHI refers to individually identifiable health information received by the City's group health plan and created or received by a healthcare provider, health plan, or healthcare clearinghouse that relates to the past, present, or future health of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care. Such health information includes health status, medical condition, claims experience, receipt of health care, medical history, genetic information, and evidence of insurability and disability.

PHI does not refer to health information received apart from a group health plan, such as workers' compensation, short-term disability, and long-term disability, medical information received based upon the Americans with Disabilities Act (ADA), medical information received based upon the Family and Medical Leave Act (FMLA), or pre-employment physicals. However, the City's medical privacy policy will apply to such information.

The plan and its insurers will only disclose summary health information to the plan sponsor for the purpose of obtaining premium bids or for the purposes of modifying, amending, or terminating the Employment Retirement Income Security Act (ERISA) healthcare plan. The plan and its insurers will not disclose PHI to the plan sponsor. As a plan sponsor, the City will request summary health information only for the purpose of obtaining premium bids or for the purposes of modifying, amending, or terminating the ERISA healthcare plan. Summary health information means claims history, claims expenses, or type of claims experienced from which the following information has been deleted:

- Names
- Street address, city, county, ZIP code
- All elements of dates (except year)
- Telephone numbers
- Fax numbers
- Electronic-mail addresses
- Social Security numbers
- Medical records numbers
- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers, including license plate numbers
- Device identifiers and serial numbers
- Web Universal Resource Locators (URL)
- Internet Protocol (IP) address numbers
- Biometric identifiers, including fingerprints and voiceprints
- Full-face photographic images and any comparable images
- Any other unique identifying number, characteristic, or code

Before assisting employees with understanding the group health plan, filing claims, or disputing claims, the City will obtain an individual's authorization to access that person's protected health information.

The City, as plan administrator and plan sponsor, will provide plan participants with a summary plan description. A notice of the privacy practices will be provided by the health insurer.

The City will discipline (up to and including discharge) employees for improper access, use, or disclosure of protected health information or other confidential medical information.

The City will not take any retaliatory action against any person for filing a complaint, assisting in an investigation, or otherwise opposing any act under the HIPAA privacy regulations.

Any protected health information will be secured against unauthorized access.

When protected health information is used for payment of benefits and plan operations, only the minimum necessary information will be released.

If you have questions about the disclosure of your employee health information, please contact the Human Resources Department at (207) 286-0593.

## **COBRA**

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose their group health coverage. For additional information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

### **What is COBRA Continuation Coverage?**

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

If you are an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because either one of the following qualifying events happens:

- Your hours of employment are reduced, or
- Your employment ends for any reason other than your gross misconduct.

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because any of the following qualifying events happens:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the plan as a "dependent child."

### **When is COBRA Coverage Available?**

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, commencement of a proceeding in bankruptcy with respect to the employer, or the employee's becoming entitled to Medicare

benefits (under Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event.

Filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to the City of Biddeford and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee's spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

### **You Must Give Notice of Some Qualifying Events**

**For other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the Plan Administrator within 60 days after the qualifying event occurs.**

### **How is COBRA Coverage Provided?**

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), your divorce or legal separation, or a dependent child's losing eligibility as a dependent child, COBRA continuation coverage lasts for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his spouse and children can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). Otherwise, when the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage generally lasts for only up to a total of 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended.

#### ***Disability extension of 18-month period of continuation coverage***

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage.

#### ***Second qualifying event extension of 18-month period of continuation coverage***

If your family experiences another qualifying event while receiving 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of

COBRA continuation coverage, for a maximum of 36 months, if notice of the second qualifying event is properly given to the Plan. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the dependent child stops being eligible under the Plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

### **If You Have Questions**

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

The EBSA Regional Office for the State of Maine is located in Boston, MA at:

JFK Federal Building  
15 New Sudbury St, Room 575  
Boston, MA 02203  
Tel: 617-565-9600  
Fax: 617-565-9666

### **Keep Your Plan Informed of Address Changes**

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

### **Plan Contact Information**

Marcella Faucher, Human Resources Director  
City of Biddeford  
205 Main Street  
Biddeford, ME 04005  
Phone #: 207-286-0593

### **WOMEN'S HEALTH AND CANCER RIGHTS ACT**

The Women's Health and Cancer Rights Act of 1998 was signed into law on October 21, 1998. The Act requires that all group health plans providing medical and surgical benefits with respect to a mastectomy must provide coverage for all of the following:

- A. Reconstruction of the breast on which a mastectomy has been performed
- B. Surgery and reconstruction of the other breast to produce a symmetrical appearance
- C. Prostheses
- D. Treatment of physical complications of all stages of mastectomy, including lymph edema

This coverage will be provided in consultation with the attending physician and the patient, and will be subject to the same annual deductibles and co-insurance provisions which apply for the mastectomy. For

deductibles and coinsurance information applicable to the plan in which you enroll, please refer to the summary plan description or contact the Human Resource Department at 207-286-0593.

### **CHILDREN’S HEALTH INSURANCE PROGRAM**

If you are eligible for health coverage from you employer, but are unable to afford the premiums, some States have premium assistance programs that can help pay for coverage. These States use funds from their Medicaid or CHIP programs to help people who are eligible for employer-sponsored health coverage, but need assistance in paying their health premiums.

If you or your dependents are already enrolled in Medicaid or CHIP and you live in the State of Maine, you can contact Maine’s Medicaid office at 1-800-321-5557 or online at [www.maine.gov/dhhs/oms/](http://www.maine.gov/dhhs/oms/) to find out if premium assistance is available. If you or your dependents are NOT currently enrolled in Medicaid or CHIP, and you think you or any of your dependents might be eligible for either of these programs, you can contact Maine’s Medicaid office or dial 1-877-KIDSNOW or [www.insurekidsnow.gov](http://www.insurekidsnow.gov) to find out how to apply.

If you qualify, you can ask the State if it has a program that might help you pay the premiums for an employer-sponsored plan.

Once it is determined that you or your dependents are eligible for premium assistance under Medicaid or CHIP, your employer’s health plan is required to permit you and your dependents to enroll in the plan – as long as you and your dependents are eligible, but not already enrolled in the employer’s plan. This is called a “special enrollment” opportunity, and you must request coverage within 60 days of being determined eligible for premium assistance.

### **LIFE INSURANCE**

The City agrees to provide life insurance policies in the amounts of 1 (one) times salary up to a maximum of \$100,000, plus \$10,000 for its full time regular employees. The City also agrees to provide part time regular employees with a life insurance policy equal to \$10,000.

The City may offer voluntary insurance coverage’s to the employees at no cost to the City. If this is available, the City shall pass on the appropriate information to each employee.

### **SHORT TERM DISABILITY**

The City shall provide short-term disability for its regular/part-time hourly employees through its selected insurance carrier. Short-term disability may be used in addition to sick and vacation time.

### **LONG TERM DISABILITY**

The City shall provide long-term disability through its selected insurance carrier to salaried regular employees.

### **LONGEVITY PAY**

The City agrees, as of July 1, 1985, to grant a longevity scale for all regular/part-time employees as follows: Three percent after three years of service; five percent after ten years of service; six percent after 15 years of service, six and one-half percent after 20 years, and seven percent after 25 years.

## **SEVERANCE PAY**

Salaried exempt and non-exempt employees shall be granted severance pay of one week for each year of service from the date of hire as a full-time employee with the City upon honorable separation of service. This provision shall not apply to employees hired after January 1, 1997.

Employees that have outstanding payments due to them under this severance pay program shall receive payment for the outstanding amount over a three to five year period. The payments shall be made into either a Retirement Health Savings (RHS) account or a 401A deferred compensation account. Each plan will be finalized within forty five (45) days of adoption. The amount owed shall be based on the employee's weekly wage as of December 31, 2015 times the number of completed years of employment with the City.

Ongoing severance payments will be paid to the employees 401 A deferred compensation account annually.

Should an employee retire or leave the employment of the City in good standing prior to the full payment of the liability, the City Manager shall be authorized to amend the payment plan to ensure the entire liability is paid at the time of separation.

## **PAYROLL DEDUCTIONS**

Deductions from employees' pay are ruled by current laws, contracts, and this Personnel Policy. They include the following:

Deductions required by law and contracts, which include Federal withholding tax, State withholding tax, Social Security tax, Medicare tax, State retirement systems, recognized employee organization dues, and health care insurance premiums.

Deductions can be arranged for the United Way, 457 deferred compensation, recognized employee organizations, voluntary benefits and other deductions as approved by the City Manager. These types of deductions are arranged only upon receipt of the written authorization from an employee. Cancellation of deductions must be made in writing.

## **RETIREMENT**

The City of Biddeford is a participating local district (PLD) in the Maine Public Employees Retirement System (MPERS) for the benefit of all regular employees. Employees who wish to participate in MPERS, as it applies to the City, must apply upon commencement of employment. No other enrollment date is given while employed by the City of Biddeford. An employee reaching compulsory retirement age may be continued in employment and agree to waive any voluntary retirement privilege during the period of extended employment. Any employee, who was an employee of the City prior to the adoption of the personnel policy ordinance on July 15, 1975, may, if he so wishes pay the arrearage of the City and employee contribution at any time provided there is no expense incurred by the City.

In addition, to the State retirement plan, the City participates jointly with employees in social security payments. Benefits provided include a retirement feature, survivor's benefit payments if death occurs before retirement, disability, insurance and Medicare coverage.

The City also participates in a 457 deferred compensation plan which is offered to each employee at commencement of employment. The employee must choose whether to participate or not within 30 days of employment or other specified times as dictated by the plan.

The City reserves the right to make any changes to the type of plan offered, as deemed necessary. This benefit shall only be offered to regular full-time employees in accordance with the City's 457 Plan Document.

Employees may participate in both the 457 Deferred Compensation Plan and the Maine Public Employees Retirement System Plan; however, employer contributions will only be made to the Maine Public Employees Retirement System Plan.

Employees electing participation only to the 457 deferred compensation plan shall receive an automatic (3%) contribution to their plan made by the City. In addition, the City will match up to an additional three percent (3%) of the employees' contribution for a total of up to 6%.

Any person with at least 30 years of service in the fire department call force, upon retirement, shall continue to receive the call force stipend for the rank at retirement until death

### **CLOTHING ALLOWANCE**

Some employees of the Engineering/Wastewater and Maintenance Departments are provided an annual clothing allowance to assist with the cost of work related clothing. Employees requesting reimbursement are required to provide their Department Head with receipts for such purchases.

### **EDUCATION & TUITION ASSISTANCE**

- A. It is the policy of the City to provide for educational training opportunities for its employees at a reasonable expense to the City. This policy shall cover the following types of educational training:
1. ***Job related seminars training sessions etc.*** The City shall pay for all expenses.
  2. ***Job related courses on an academic level.*** The City shall reimburse the employee the cost of job related courses on an academic level after the successful completion of the course with a C or better average. The City will not reimburse for any grade below C.

These include courses on an academic level which are taken in conjunction with job related courses in subsection B of this section, with the intent of obtaining an associate's or higher academic degree. The City shall reimburse the employee for the cost of tuition and the registration fees for these courses upon award of the degree.

By definition, "job related" is intended to cover training which is designed to improve the quality of an individual's performance at his job or similar position which he might reasonably be promoted into, and which will provide more efficient and/or economic service to the City and its citizens. "Job related" shall also be defined to mean a direct benefit to the City, as opposed to indirect benefit. The Department Head shall make the determination as to "job relatedness" of an academic course. This determination may be appealed within ten days to the City Manager, who shall make a determination within ten days, which determination shall be final.

- B. An employee desiring to be reimbursed for a course must request from his Department Head at least 30 days before the first day of registration for the desired course. The Department Head shall be authorized to approve courses consistent with available budget funding or past budget funding, and may disapprove of reimbursement where he determines that available or projected funding will be inadequate to cover the cost thereof. The Department Head, with approval of the City Manager, may establish such rules for application of educational reimbursement funds

consistent with this section as he deems appropriate.

- C. In no case shall the City pay for any training for which the employee receives reimbursement from another source.

## **EMPLOYMENT SEPARATION**

### **Resignation**

An employee wishing to leave employment in good standing shall file a written resignation as soon as possible, but at least two (2) weeks prior to the effective date, stating reason(s) for the resignation. Department heads shall provide at least a 30-day written notice of resignation prior to the effective date stating reason(s) for the resignation. The employee's resignation shall be promptly forwarded to the Director of Human Resources. Failure of the employee to give such notice will be noted on the employee's service record and may result in denial of future employment with the City.

### **Layoff**

An employee may be subject to a non-disciplinary, involuntary termination through layoff in connection with a shortage of funds, abolition of a position or lack of need for the work performed by an employee or group of employees. In such cases, affected employees will be given as reasonable an amount of advance notice as conditions permit, preferably at a minimum (2) weeks.

### **Checkout Upon Separation**

Employees, who resign, retire or are removed/discharged or laid off will be required to turn in any City owned property, clothing, keys, working materials etc. no later than their final workday. The Director of Human Resources will conduct an exit interview with all regular full time and part time employees prior to termination. An appointment to conduct the exit interview shall be set up at the convenience of both parties prior to the last week of work.

### **Death of an Employee**

Separation shall be effective as of the date of death of the employee. Any wages, stipend or other allowances due the employee as of their date of death, including vacation and/or sick time, (in no case will sick time exceed the maximum accrual allowed) shall be paid to the estate of the employee or last known beneficiary on record and in writing with the Director of Human Resources.

## **OTHER PAYMENTS UPON SEPARATION**

Accrued Vacation Pay: All earned vacation pay will be due the employee in full upon separation

Unused Sick Time: all hourly employees shall be entitled to the following payout of unused sick time:

Retiring from the city, as determined by either reaching the age of 65 or having worked for the city for at least twenty-five (25) consecutive years:

50% of the value

Salaried employees: no cash value

## **PERFORMANCE EVALUATIONS**

Annual reports of each employee's performance during the preceding year are to be completed by supervisory personnel and discussed with the department head prior to presentation to the employee. It is the responsibility of the department head to see that evaluations are completed and submitted within the proper time frames. The rating supervisor will provide the employee with a copy of the evaluation report at the time of discussion with the employee. A completed, signed and dated copy will then be submitted to the City Manager for placement in the employee's personnel file.

Where rating supervisors have identified characteristics of an employee's performance needing improvement, the supervisor should be as specific as possible in describing the deficiency and the ways and means of improving to an acceptable level. Supervisors are therefore entitled to retain a copy of each of their employee's evaluation report for the purpose of follow-up to any actions required or for reference in general.

### **Discretionary Performance Evaluations**

When in the opinion of supervisory or management personnel, there arises a marked change in the performance of an employee that is not disciplinary in nature, an unscheduled performance evaluation can be completed in the same manner as an annual evaluation. Typically, discretionary performance reports are completed, reviewed with the employee and placed in the personnel file as a means of formally recognizing the need to correct significant declines in an employee's performance.

### **Review with Employee**

All formal performance evaluations will be thoroughly discussed with the applicable employee to point out both areas of successful performance and areas that need improvement or that are unacceptable. Employees are to be encouraged to comment about their work performance in writing or verbally and to discuss working conditions and offer suggestions for improving department operations.

Employees shall sign the performance report to acknowledge awareness of its contents and discussion with the rating supervisor. The employee's signature does not necessarily mean that the employee fully agrees with the contents of the report and the employee may so state on the form before signing.

### **Effects of a Substandard Rating**

A substandard rating, as applied to performance evaluations means rating below the rating level of satisfactory. Employees receiving a substandard rating or ratings may have their employment conditions modified in the following manner:

- Ineligibility for promotional consideration until the deficiency is corrected.
- Withholding of a merit or performance-based wage increase, for which the employee may have been eligible, until deficiency is corrected.
- Transfer to a comparable position or demotion of an indefinite duration.
- Termination.

Specific action that may occur as the result of a substandard rating(s) will depend on, but is not limited to such considerations as the weight or significance of the evaluation category compared to the importance

of other aspects of job performance and the length of time pertinent job factors have been observed by the rating supervisor.

Employees receiving substandard ratings will be re-evaluated within three (3) months to document the particulars of progress in deficient categories unless the rating has resulted in transfer, demotion or termination. If the employee's performance in the deficient categories has improved to at least a satisfactory rating, while maintaining acceptable performance in other performance categories, the department head may recommend the implementation of any merit or performance pay increase otherwise due, and/or restoration of promotional considerations.