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## **Preamble**

Where the terms and conditions of this policy are in conflict with the terms and conditions of any active contract with any collective bargaining unit of the City of Brewer, the employees under said collective bargaining contract shall be bound by the terms of the active collective bargaining contract. Employees eligible to join bargaining units and who choose not to join the bargaining unit are considered to be represented by the bargaining unit for the purpose of this personnel policy and they are considered to be covered by the applicable contract. However, the applicable state statutes shall take precedence over this policy and any active collective bargaining contract.

## **ARTICLE I EMPLOYMENT PRACTICES**

### **SECTION 1. EQUAL OPPORTUNITY POLICY. (#2)**

The City of Brewer's employment policy shall provide for equal employment opportunity to its employees and applicants for employment in compliance with all State and Federal regulations. Without regard to race, color, sex, creed, political affiliation, religion, age and physical or mental disability (where the disability will not interfere with the employee's ability to perform the requirements of the position). The City fills its job requirements by selecting from the available labor force those applicants best matched to perform the duties required.

a. **PURPOSE.** The purpose of this policy is to reaffirm the City's position regarding non-discrimination in all matters relating to employment throughout the organization.

b. **RESPONSIBILITY.** The City Manager or his or her designee will be responsible for administering and complying with the non-discrimination policy. In addition, all department heads will be expected to conduct their departmental business according to the spirit and intent of this policy.

c. **SCOPE OF EMPLOYMENT RELATIONSHIP.** As an indication of the City's commitment to Equal Employment Opportunities, the City's policy of non-discrimination must prevail throughout every aspect of the employment relationship, including recruitment, selection, placement, training, compensation, promotion, transfer, layoff, recall and termination.

d. PROCEDURE FOR COMPLIANCE.

1. Notify all appropriate recruitment sources in the area of the City's equal opportunity policy.
2. Include the phrase "Equal Opportunity Employer" in all help wanted advertising.
3. Include the equal employment opportunity clause in purchase orders and subcontracts where applicable.
4. Expect that all labor unions with which we have collective bargaining agreements adhere to the same policy of non-discrimination in their dealings with City employees.

**ARTICLE II  
RECRUITMENT AND SELECTION**

SECTION 1. GENERAL.

Recruitment of persons for departmental positions with the City of Brewer shall be the responsibility of the department heads, subject to the approval of the City Manager.

SECTION 2. FILLING VACANCIES.

Except as provided in Section 4 (a) below when a vacancy occurs or is expected to occur in an existing position and the department head wishes to fill the vacancy, the department head must notify/consult the City Manager of the vacancy and request approval to recruit applicants to fill the position. Recruitment shall be accomplished according to the guidelines established in this Article (Recruitment and Selection). The recruitment of or promotion to a department head and other high ranking City personnel, (e.g. Administrative Assistants, etc.), except for appointed positions of the City Council, will be the responsibility of the City Manager. All solicitation of applications for positions with the City of Brewer shall be conducted in a manner consistent with the non-discrimination policy set forth in this manual. (#1)

SECTION 3. CREATION OF A NEW POSITION.

The recruitment of departmental personnel for a new position can be routinely accomplished by the department head, but only after authorization and approval from the City Manager and the City Council for the creation of a new position.

## SECTION 4. PROMOTIONS & RECLASSIFICATIONS.

### a. PROMOTIONS.

1. Competitive Selection Process. Subsection 2 below, all full-time promotional positions will be filled by the competitive selection process. The City shall always seek the best-matched person for the particular job. Where City employee and outside applicants have equal qualifications; the City employee will be given preference. Department heads shall have the authority to recommend promotions, subject to the approval of the City Manager. Promotion shall mean when a City employee moves to a position in a higher pay range and/or increased responsibilities.

2. Promotion from Within. Upon written request of the Department Head and subject to the approval of the City Manager, the Department Head may recommend that a subordinate be promoted to the supervisor's position without going through the competitive selection process. In the case of a vacancy in a position of Department Head or other high ranking City personnel, the City Manager may promote a subordinate to that position without going through the competitive selection process. (#1)

b. RECLASSIFICATIONS. On occasion, the title or rank given to a particular position is not appropriate for the tasks being performed. In these cases, a reclassification may be necessary. A reclassification shall mean the change of title or rank of a position with no change or no substantive change in job duties (job description). This may or may not involve a pay change.

c. PROMOTION AS A RESULT OF RECLASSIFICATION. A reclassification may result in increased employee responsibility and/or increased compensation. This may occur without the competitive selection process based on the Department head's recommendation with the approval of the City Manager.

### SECTION 5. TRANSFERS.

An employee of the City may transfer to a position in another department if there is a position available, the City wishes to fill the position, and the transfer is approved by the City Manager. Requests for transfer must be submitted in writing at least two weeks prior to the time for which transfer is requested. The requesting employee is responsible for maintenance of transfer procedures and acquisition of the necessary departmental approvals. Obtaining final approval of transfer from the City Manager will be the responsibility of the head of the department to which the employee requests transfer. If more than one employee seeks transfer to the same position, the transfer will be approved according to the promotional guidelines stated in Article II Section 4.a.

SECTION 6. RECRUITMENT PROCEDURE.

a) Temporary Filling of Positions: The City Manager is authorized to alter the recruitment procedure where deemed necessary on a temporary basis, particularly when immediate filling of a position is necessary. Such allowable alterations are intended for temporary positions. If such a position is to become regular, the position will be considered vacant and the normal recruitment procedure will be followed to fill the position. To compete for the position, the temporary employee in the position will be required to apply for the position and will be subject to the same testing procedures as any other applicants. Changes from the prescribed recruitment procedure must be done in such a manner as to maintain adherence to local, State and Federal Equal Opportunity regulations.

b) Full-time Employees - Regular Recruitment

a. A Notice of Position Opening, which the City wishes to fill, shall be posted at the offices of each Department hiring the position, one prominent location at City Hall, and the City's website. This posting will allow City employees interested in promotion or transfer to the position, an opportunity to apply. The notification shall be posted for the duration of the application period. (#4)

b. The position will be advertised in a newspaper of local circulation for a period of no less than one (1) day. Ads and inquiries may be published in professional journals, magazines or web sites. (#2) (#4)

Position postings and advertisements shall have the following composition:

Announcement	EMPLOYMENT OPPORTUNITY
City Name	CITY OF BREWER
Position Title	WASTEWATER TREATMENT PLANT OPERATOR TRAINEE
Description of Duties & Responsibilities	Duties include: Assisting in the operation and maintenance of plant equipment and pumping stations plus laboratory work.
Description of Education & Experience Required & Preferred	High School diploma or equivalent required. Must have mathematical & mechanical ability. Treatment plant experience preferred.
Statement of Salary & Benefits (may give specific salary amount or range in some cases)	Competitive salary and fringe benefits.

Application materials  
address & contact points

For application material, contact:  
City Manager's Office, 80 No. Main St.  
City Hall, Brewer, ME 04412  
Tel. 989-7500

Application Deadline

Application deadline  
5:00 p.m. September 10, 1999.

Equal Opportunity Statement

Equal Opportunity Employer

c. An Application deadline should be established for the receipt of all applications to fill the position. Applications for a position will not be considered if received after the time and date established as a deadline to receive applications. The application period will be a minimum of seven (7) days, except under unusual circumstances as allowed by the City Manager.

d. All candidates for employment with the City of Brewer shall be required to complete the City's employment application. Resumes and letters of recommendation may also be submitted and in some positions will be required. Resumes and applications for employment shall be considered confidential in accordance with 30-A MRS §2702, as amended from time to time, subject to disclosure of certain materials regarding the applicant who is hired.

e. Personal interviews will be conducted for all final candidates for employment. If sufficient qualified applicants have been submitted, a minimum of three candidates will be interviewed.

f. At the discretion of the City Manager, written or oral examinations may be required for certain positions.

g. Verification of information stated on the "Application for Employment" and a check with references and prior employers are required.

h. When a department head has selected a final candidate, he or she shall inform the City Manager of their recommendation, providing documentation regarding the candidate, such as a resume, letters of recommendation, the employment application, and interview results, as appropriate. (#4)

i. A post offer employment physical examination or an annual medical assessment as defined by statute is required for all new full-time regular employees in the Police and Fire Departments and for some selected positions in other departments. Psychological exams are also required in the Police and Fire Departments. In these cases, hiring of the recommended candidate may be conditional upon the results of these examinations. Medical problems that cannot be reasonably accommodated and would impair performance of an essential job function may disqualify the candidate from employment. The cost of such examinations will be borne by the City.

j. Once approved by the City Manager, a letter offering employment to the new employee will be made by the department head to whom the new employee will be responsible. If accepted, the department head will issue the letter of employment and prior to the formal announcement, will inform internal candidates in writing, of their unsuccessful bid for the position. The hiring of supervisory and high ranking personnel and any position, required by ordinance, will be done by the City Manager. In the case of police officers and firefighters, appointment by the City Manager is required. (#2)

k. All newly hired and/or appointed personnel will be required to report to their department head on the first day of employment to undergo processing for employment and a pre-employment briefing. The briefing will consist of completing personnel forms, tax withholding forms, safety orientation, review of personnel regulations, sexual harassment training, Internet Policy, Computer Use Policy and dissemination of benefit information. All new employees must undergo the pre-employment processing and orientation before being placed on the City's payroll. (#2)

Authorization from the City Manager must be obtained for both full-time and part-time employees before being placed on the payroll. The City Manager's office will be responsible for maintaining all official personnel and employment records of each City employee.

It shall be the responsibility of the newly hired and/or appointed employee's department head to prepare and maintain the EMPLOYEE Orientation form for each new employee. The department head will be responsible for notifying the various city departments who have responsibility for maintaining and processing employee benefit records.

#### SECTION 7. RECRUITMENT PROCEDURES (TEMPORARY, PART-TIME AND SPECIAL EMPLOYEES).

The categories of employees are set forth in Section 10. The recruitment procedure for employees other than those designated as regular full-time is as follows:

- a. PART-TIME REGULAR - employees shall be hired according to the recruitment guidelines in Article II Section 6.
- b. PART-TIME TEMPORARY - employees shall be recruited in a manner as prescribed by the City Manager. Employees in this category shall be required to complete the employment application form and payroll information.
- c. FULL-TIME TEMPORARY - employees shall be required to fill out the employment application. The Department Head will choose the top 3 to 5 candidates for interview and will make the decision as to who will be hired.
- d. PART-TIME CALL - employees shall be recruited in a manner as prescribed by the City Manager. Employees in this category shall be required to complete the employment application form and payroll information.

#### SECTION 8. ELIGIBILITY.

Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified candidates. Employment is not limited to residents of the City of Brewer.

#### SECTION 9. DISQUALIFICATION OF APPLICANTS.

Throughout the hiring process applicants may be disqualified from consideration for employment with the City of Brewer. The reasons for disqualification of an applicant include, but are not limited to:

- 1. Lack of minimum qualifications for the position.
- 2. Candidate has been convicted of a crime. (Applies to Police and Fire Departments and other departments where conviction would impair the effectiveness of the employee's job performance.)
- 3. Candidate has falsified or omitted information on an application for employment.
- 4. Candidate has a driving record (for positions requiring driving city vehicles only) which restricts the applicant's ability to be insured by the City's insurance carrier.
- 5. Commission of a crime of moral turpitude.
- 6. Commission of a crime of domestic violence.

#### SECTION 10. CLASSIFICATION OF EMPLOYMENT.

##### DEFINITIONS:

- a. FULL-TIME REGULAR - employees who are designated as full-time regular and who are regularly scheduled to work 35 hours or more per week and who are employed for an indefinite period into the future after serving their probationary period. Full-time employees shall be eligible for City benefits for the position in which they are employed.

b. FULL-TIME TEMPORARY - employees who are designated a full-time temporary worker and who are regularly scheduled to work 35 hours or more per week in a position which is temporary in nature and not intended to become regular. Temporary employment may not continue for more than six months unless an exception is made by the City Manager for an extension not to exceed an additional six months. Employees in this category who are employed for more than six months are eligible for holiday and sick leave proportionate to hours worked. Sick leave shall begin to accumulate after the six months service according to the policy applicable to full-time regular employees.

c. PART-TIME REGULAR - employees who are designated as part-time regular and who are regularly scheduled to work less than 35 regularly scheduled hours per week on a continuing basis. Part-time regular employees are eligible for holiday, personal leave, vacation leave, and sick leave proportionate to hours worked. The sick leave policy and vacation leave policy applicable to full-time regular employees shall apply to employees in this category. (#2)(#4)

d. PART-TIME TEMPORARY - employees who are designated a part-time temporary and who are regularly scheduled to work who work for a period of less than 35 hours per week on a temporary basis. Employees in this category are not eligible for City benefits.

e. PART-TIME CALL - employees who do not work a regular weekly schedule and whose hours of work are on an on-call/as-needed basis. Employees in this classification include but are not limited to Part-time Firefighters. Employees in this category are not eligible for City benefits.

f. ACTING - when an employee leaves employment with the City or takes a leave of absence and it is desirable for that position to be filled immediately, (particularly supervisory positions) an employee from another position may be temporarily appointed to the vacant position until the employee on leave returns or the recruitment procedure is completed and a regular employee is hired. Compensation for assuming an acting position will be appropriately adjusted.

g. OTHER EMPLOYMENT DESIGNATIONS. The following positions are designated as Department Heads: Code Enforcement Officer, Planner, Human Services Director, Technology Director, Economic Development Director, Finance Director, Assistant City Manager, Librarian, Fire Chief, Police Chief, Parks and Recreation Director, Public Works Director, City Engineer, Water Superintendent, Director of Environmental Services and others as designated by the City Manager. (#2)(#4)

h. SEASONAL EMPLOYMENT. Seasonal employment is appointment to a position that generally has a duration coinciding with one or more of the four (4) seasons and the position terminates with the end of one or more of the applicable season(s). Such employees are paid for hours actually worked and receive no other benefits except those mandated, including Workers' Compensation and Unemployment Compensation. (#4)

i. STUDENT EMPLOYMENT. Student employment is employment of students during their enrollment in schools, including summer employment. Students may be paid as determined by the Department Head and in accordance with Federal and State laws. Student employees may be paid for hours actually worked and receive no other benefits except those mandated, including Workers' Compensation and Unemployment Compensation. (#4)

j. WORKFARE. Workfare personnel includes individuals required to perform work for the City of Brewer under Title 22 MSRA §4316-A and are not deemed to be City employees for any purpose and are not entitled to pay benefits or other conditions contained within these Rules & Regulations. (#4)

The City Clerk and Assessor are generally considered Department Heads with the exception of their responsibilities outlined in Article X.

The City Manager may designate some employees as Middle Management for the purpose of receiving some benefits outlined in this personnel policy.

#### SECTION 11. PROBATIONARY PERIOD.

a. DEFINITION AND PURPOSE. The six-month probationary period provides the employee the opportunity to become acquainted with the job and learn any necessary skills. The new employee is responsible for learning the duties of the job and becoming capable of performing them. If at any time during this period it is determined by supervisory personnel that the employee is not capable of performing the duties of the position and/or has violated work rules the employee may be terminated immediately and without the same appellate rights as regular employees. The City Manager may extend the Probationary Period.

b. LIMITATIONS OF THE PROBATIONARY PERIOD. No employee of the City of Brewer shall be considered regular until the probationary period is successfully completed. Nonetheless new employees may be eligible for City benefits in accordance with their status and the requirements of the particular benefit. (#2)

c. DEPARTMENT HEAD PROBATION. Department heads that by ordinance or charter serve at the pleasure of the City Manager or City Council shall not be required to serve a probationary period.

d. PROBATIONARY PERIOD FOR PROMOTIONS. Employees of the City of Brewer who are promoted will be required to serve a probationary period of six months, which may be extended at the discretion of the City Manager. All benefits and seniority earned as of the date of promotion will be retained by the employee.

e. FOR CERTAIN EMPLOYEES. The probationary period may be determined by collective bargaining agreement or state law. During the probationary period, employees may be terminated without the same appellate rights as regular employees. The probationary period may be extended at the discretion of the City Manager.

f. TEMPORARY EMPLOYEES. If a full-time temporary employee becomes regular in the same job position, the time served as a temporary employee will be considered toward the probationary period for regular employment. Time served as a part-time temporary employee will not be considered toward the probationary period.

### **ARTICLE III EMPLOYMENT POLICIES**

#### SECTION 1. OUTSIDE EMPLOYMENT.

Full-time City employees must acknowledge that the City of Brewer is their primary employer and that City employees will remain at work or return to work when their services are required by the City. Employees of the City of Brewer may engage in outside employment provided such employment does not in any way hinder the proper performance of their duties or impair their efficiency to the City.

#### SECTION 2. EMPLOYMENT OF RELATIVES.

No person shall be employed by the City of Brewer who is related by blood or marriage as defined as immediate family in the bereavement section (Article IV Section 7) of this policy, to an employee in the same department or is related to an employee who has supervisory or compensatory control regardless of the department. Temporary employees whose term of service are six (6) months or less and call firefighters are exempted from the provisions of this section. (#2)

#### SECTION 3. REDUCTION IN WORK FORCE.

When there is to be a reduction in the number of employees employed by the City, within a department, or in a particular position(s), the City Manager will make a thorough analysis of the situation, and consult with the heads of the affected departments for their advice in making such decisions.

The City Manager in consultation with department heads shall determine which position(s) shall be eliminated in the order of need for the service provided by the position(s).

Where two or more employees are in the same classification and not all of the employees in that classification are to be laid off, then the employee with the least seniority shall be laid off first. Seniority is defined as the length of continuous full-time service to the City.

In the event of a reduction in force, the laid off person(s) may transfer to an equal or lesser vacant position within the City which the employee(s) is qualified to perform, as determined by the City Manager and the Department Head. If more than one laid off employee is qualified for said vacant position, the senior employee shall be given preference for that position.

Laid off employees shall have no displacement rights (bumping).

a. NOTIFICATION OF TERMINATED EMPLOYEES DUE TO REDUCTION IN FORCE. Employees must be notified by the City Manager in writing at least two weeks before the effective date of termination due to layoff. Reasons for the layoff must be given in writing to the terminated employee. Employees who have given satisfactory service to the City and who are laid off will be eligible for re-employment in other positions for which they are qualified. Employees whose position or classification has been abolished shall be given preference for any vacancy that may occur in the City (within one (1) year of layoff), provided that the laid off employee is qualified for said vacant position, as determined by the City Manager and the Department Head. Laid off employees who are reinstated within one year of the date of last employment with the City shall retain their original date of hire and continue to be eligible for benefits that may exist at the time of rehire. Where more than one laid off employee is qualified for reinstatement, the employee laid off last shall be reinstated first. (#2)

#### SECTION 4. STANDARD WORKWEEK.

The standard workweek for City employees is forty (40) hours, except that administrative and clerical personnel generally have a thirty-seven and one-half (37½) hour standard work week. The days and hours of work for Department Head employees and some Middle Management employees may vary from the standard workweek due to the nature of their job responsibilities

All employees are expected to be on duty at the scheduled starting time each workday. If, for any reason, an employee is not able to report for work at the scheduled time, the employee should notify his or her supervisor as soon as the employee becomes aware of the absence or tardiness.

**ARTICLE IV  
LEAVES OF ABSENCE**

SECTION 1. GENERAL.

The City of Brewer seeks to provide for its employees certain protection and security of continuing salary or wage payments during periods when illness, vacation, emergency, or certain civic responsibilities that may require time away from the job. Such periods, termed "leaves of absence" are to be administered with the understanding that such leaves will be granted with pay only when qualified and available and the employee's responsibilities to the needs of the City are met.

SECTION 2. ANNUAL LEAVE.

a. GENERAL. Annual leave or vacation is established for employees of the City of Brewer so that during the year they may have an opportunity to enjoy periods of rest and relaxation away from the job.

b. ACCRUAL OF TIME. Accrual of vacation time and regulations governing the taking of annual leave shall be dictated by a contract for all employees under a collective bargaining agreement. For all other employees, vacations with pay shall be based upon the number of completed years of continuous full-time employment with the City of Brewer. The City Manager may, upon request and at his discretion, allow the use of accrued vacation time prior to the completion of one year, or any year, of continuous full-time employment with the City of Brewer.

Upon the beginning of continuous, full-time employment, each employee shall accrue paid vacation time at the rate of ten-twelfths (10/12) of a day for each full calendar month of full-time employment during each employment year through and including the sixth year of employment. Upon the beginning of the seventh year of full-time employment, each employee shall accrue paid vacation time at the rate of one and three-twelfths (1 3/12) day for each full calendar month of full-time employment during each employment year through and including the fourteenth year of employment. Upon the beginning of the fifteenth year of full-time employment each employee shall accrue paid vacation time at the rate of one and eight-twelfths (1 8/12) days for each full calendar month of full-time employment during each employment year thereafter.

VACATION SUMMARY

1 to 6 years	2 weeks (10 working days)
7 to 14 years	3 weeks (15 working days)
15 years or more	4 weeks (20 working days)

ACCUMULATION. Vacation time earned in each employment year must be taken prior to the end of the following employment year. Unused vacation time may be accrued beyond the end of the following employment year with the written permission of the Department Head, City Manager or for the City Clerk and the City Assessor the Council Chairman, but in no case can vacation time be accrued more than 2 years beyond the employment year in which it was earned. Extended accrual of vacation time granted by written permission must be reported to the payroll office. Employees absent from work for more than thirty (30) days are not eligible to accrue additional vacation leave. (#2)

c. SCHEDULING. Vacations shall be approved in advance by the Department Head in accordance with the employee's preference and the needs of the department; provided, however, that no more than one person in a supervisory position within a department (a supervisory position means a position in which one employee other than the department head has the supervision of another employee within the same department) shall be on vacation at any one time if such vacation will reasonably necessitate overtime for other employees within the same department. When a conflict exists between the preferences of two or more employees, the preference of the employee with the greatest seniority within the job classification shall be given first consideration. If a paid holiday occurs during the employee's vacation, the employee may take an additional vacation day annexed to the scheduled vacation, or take the day at any other time during the employment year. Different provisions may govern employees working under a union contract.

d. RECORDKEEPING. A "Request for time Off" form shall be completed by the employee requesting vacation item. This form will then be forwarded to the Finance Department (Payroll). This form includes the dates of annual leave. If an employee wishes to receive advance pay for the vacation time, he/she must fill out a salary advance form (See Article V, Sec. 4b) which must be submitted to the payroll office the Tuesday prior to the payroll date for which the advance payment is requested.

e. INCREMENTS. One week of annual leave shall be taken as a five (5) day increment, all other accrued annual leave may be taken in increments as small as one half hour. Sick leave, sick bonus leave, personal leave, and executive leave may also be taken in half-hour increments. Different provisions may govern employees working under a union contract.

TIME CONVERSION. (#2)The following will be used to convert a day to hours for full-time employees:

<u>Hours per Week</u>	<u>Hours per Day</u>
40	8 (10-Water/WPCF)
37.5	7.5
35	7

The following will be used to convert a day to hours for part-time employees:

Regular Weekly Schedule

Hours per day will be Weekly Hours divided by five (5) days rounded to the nearest half-hour.

Irregular Weekly Schedule

Hours per day will be Total Hours from anniversary date to anniversary date divided by 260 (52 weeks X 5 days per week) rounded to the nearest half-hour.

f. TERMINATION. Upon termination of employment with the City of Brewer, all employees will be paid all vacation time accumulated as of the date of termination.

SECTION 3. HOLIDAYS.

a. RECOGNIZED HOLIDAYS. The following days shall be holidays for employees of the City of Brewer: New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and the day immediately following it, and Christmas Day. If a holiday falls on Saturday, the preceding Friday shall be deemed a holiday, and when a holiday falls on Sunday, the Monday following shall be observed as a holiday.

b. PAY. All employees (except temporary employees with less than six (6) months of service and part-time call employees) covered by this policy shall receive full pay for the holidays listed above.

c. ELIGIBILITY. In order to be compensated for a holiday, an employee must have worked or have been on an approved absence, except an unpaid leave of absence, the workday preceding and the workday following the holiday. Employees receiving workers compensation shall not be eligible for holiday pay. Employees absent from work for more than thirty (30) days are not eligible for subsequent holiday pay during the period of their absence.

d. HOLIDAYS. Non-Standard workweek. Employees working a non-standard workweek shall be eligible for holiday pay equal to the number of work hours scheduled for the holiday, as provided in paragraph b. above. If the holiday occurs or is observed on a work day when the employee is not scheduled to work, the employee shall be eligible for holiday pay, proportionate to average hours worked on a weekly basis, in addition to the regular weekly pay.

A non-standard workweek is defined to include a work schedule of four or fewer workdays per week or a different number of work hours each day of the workweek.

#### SECTION 4. SICK LEAVE.

a. GENERAL. The City of Brewer provides a plan of sick leave to provide some continuation of pay for employees who, through illness or injury (not related to employment) are unable to perform their duties and/or illness or injury to a member of the employee's immediate family. Periods to which this policy applies are those which, in the opinion of the Department Head, justify absence from work because of illness or injury which would seriously impair the ability of the employee to perform his or her normal duties. The City reserves the right to require a doctor's certificate to certify the fact of the illness or injury. It is the intention of the City to exercise this right only when abuse of sick leave is suspected or when the sickness extends more than five (5) days in a twelve- (12) month period.

b. EXTENDED LEAVE AND WORKERS' COMPENSATION. In cases of a long illness or disability, where total accumulated sick leave is exhausted, accumulated annual leave may be used.

c. ELIGIBILITY FOR SICK LEAVE. Each employee must recognize that there is an obligation to the department and employer, which requires each employee to give reasonable notice of their absence. It is the employee's responsibility to be certain that information concerning inability to work because of illness or injury be communicated to the employee's supervisor as early as possible on or before (when possible) the day of the absence and to provide updates on the employee's expected return to work.

d. ACCRUAL AND ACCUMULATION. Sick leave shall accrue at the rate of one and one quarter (1 1/4) day of paid sick leave for each full calendar month of service. The accrual begins with the first calendar month of employment (new employees must complete a full calendar month of service before earning and receiving one (1) day of paid sick leave). The maximum accumulation permitted will be one hundred twenty (120) days. Sick leave shall not accrue while an employee is absent from work for more than thirty (30) days

e. RETIREMENT. Upon retirement as defined by the Maine State Retirement System, enabling legislation, as the same may be amended from time to time, each employee of the City of Brewer shall be entitled to receive 25% payment of sick leave accumulated but not taken which is available at the time of retirement from the City of Brewer.

f. SICK LEAVE BONUS DAYS. Effective July 1, 2006 employees completing three (3) consecutive months of employment without taking sick leave will be granted one (1) sick leave bonus day. A sick leave bonus day will not be charged against sick leave and may be taken by the employee for any purpose, except as substitution for suspension as a result of corrective action. Sick leave bonus days will be granted after each three(3)month period for which sick leave is not taken, cumulative to six (6) days. When a sick leave day is taken, an employee shall become entitled to a sick leave bonus day on the same day three(3) months after the most recent sick leave day. Sick leave bonus days must be scheduled and approved by the Department Head in accordance with the employee's preference and the needs of the City. (#2)

g. DONATED VACATION. After all paid leave options have been exhausted and the employee's condition requires continued absence, the City Manager may permit city employees to donate vacation leave from available balances, not to exceed 120 additional days. Unused donated vacation leave will be returned to the donor(s) on a pro-rata basis.

#### SECTION 5. WORKER'S COMPENSATION LEAVE. (#6)

Employees who sustain injury on the job and are eligible for workers' compensation benefits, shall not be paid sick leave and shall only receive the benefits allowed under the Workers' Compensation Act, if their incapacity continues for more than fourteen (14) days. If the incapacity does not continue for more than fourteen (14) days, the employee may use sick leave to cover lost work time during the first seven- (7) days of incapacity.

Immediately after the occupational injury or illness, the employee is required to report to his/her supervisor or department head and ensure that a City of Brewer Occupational Illness and Injury Report and First Report of Injury are completed within 24 hours of the occupational injury or illness. The employee may be required to verify the illness or injury by a doctor's certificate presented to the city.

When receiving workers' compensation, the employee will continue to accrue seniority and, for a maximum of twelve (12) months, the city will pay its share of health insurance premiums for the employee in accordance with the terms of these policies. During said period, there shall be no additional accumulation of vacation, holiday or sick leave.

All categories of employees are eligible for benefits under the Workers' Compensation Act for personal injuries arising out of and in the course of employment or is disabled by occupational disease.

When an on-the-job accident occurs, the affected employee is to report it immediately to his or her immediate supervisor, who in turn, will send a written report to the City Manager's Office where the claim will be processed. In addition, a photocopy should be forwarded to the Payroll clerk in the Finance Office.

This section shall not apply to employees who are covered under a collective bargaining contract.

Section 6. FAMILY AND MEDICAL LEAVE. Eligible employees who request and are granted Family and Medical Leave in accordance with the policy attached as Appendix A, may take up to 12 weeks of Family and Medical Leave in a 12-month period. During a Family and Medical Leave, an employee may continue coverage under the City's group health insurance policy by continuing to pay their portion of group health premium. If the absence extends beyond the available Family and Medical Leave, and the employee receives additional or extended leave, the employee, under COBRA, may continue participation in the City's group health insurance plan upon the employee's payment of group health insurance premiums as required by COBRA. Employees absent from work for more than 30 consecutive calendar days will not continue to accrue City benefits such as sick leave, vacation leave, and holiday pay.

#### SECTION 7. BEREAVEMENT LEAVE.

In the event of a death of a member of an employee's immediate family, each employee will be allowed up to three (3) days of leave with pay for the purpose of attending the funeral and to attend to the affairs of the family. An employee will be allowed one (1) day of leave with pay for the purpose of attending the funeral of the employee's aunt, uncle, niece or nephew. In cases where exceptional circumstances exist, time off beyond that which is already allowed, with or without pay, may be granted at the discretion of the department head in consultation with the City Manager, or the City Manager in the case of department heads. The term "immediate family" shall mean the employee's spouse, child, step-child, mother, step-mother, father, step-father, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandmother, grandfather or grandchildren. It is understood that this leave is not intended as vacation time and only that portion of the allowable leave which is necessary in order to accomplish the purpose set forth above will be taken by the employee.

#### SECTION 8. MILITARY LEAVE.

Any full-time employee who is a member of the National Guard or Military Reserves, and is required to undergo field training or active duty therein, shall be entitled to a leave of absence without pay for the period of such training or active duty, which may be in addition to the employee's vacation in accordance with USERRA.. If the weekly compensation for Military Service is less than the employee's regular weekly straight time pay, the City shall pay to the employee, the difference in pay upon presentation of evidence of military compensation for up to two (2) weeks in any calendar year. If compensation for Military Service is equal to or greater than this amount, then no payment shall be made. Special exceptions may be made for periods of more than two (2) weeks for military leave without pay at the discretion of the Department Head and the City Manager.

#### SECTION 9. EMERGENCY LEAVE.

A leave of absence without pay and without accrual of benefits may be granted to employees in emergency circumstances and for educational and medical purposes when the employee has exhausted the other appropriate types of leave. Such leave shall not exceed six (6) months. Approval of the leave of absence must be obtained from the department head and the City Manager.

#### SECTION 10. PERSONAL LEAVE.

After the first anniversary date, regular full-time & part-time (pro rata) employees shall be granted two (2) personal leave days each employment anniversary date to be used for any purpose other than substitution for suspension as a result of corrective action. These days shall be taken with pay, but will not be accumulated from one year to the next. Personal leave days shall be in addition to accumulated vacation leave and holidays. (#2)

#### SECTION 11. JURY DUTY.

Every employee who is called or required to serve on a jury will be excused from work for the period necessary to perform this duty. If the jury is prematurely excused from duty during the time of its service, the employee is expected to report for work as usual. An employee required to serve on a jury and thus having to be absent from regular work shall be paid the difference between the compensation received from jury duty and base wage from the City, upon presentation of proof of jury pay granted for up to 25 work days in any twelve (12) month period.

#### SECTION 12. EXECUTIVE LEAVE.

Department Heads and selected Middle Management employees who are not receiving comp time (as determined by the City Manager) shall be entitled to five (5) days of executive leave with pay during each employment year. Executive leave may not be accumulated from one employment year to another.

SECTION 13. PROFESSIONAL DEVELOPMENT LEAVE.

Department Heads and selected Middle Management employees (as determined by the City Manager) are encouraged to attain and maintain a high degree of professionalism in the operation of their departments. In order that they may keep abreast of new methodology, technology and changes that affect their areas of responsibility to the City, the City Manager may authorize the following:

- a) Leaves with or without pay for professional development purposes.
- b) Reimbursement of tuition and books for job-related college level courses or courses required toward the attainment of a job-related degree.
- c) Reimbursement of tuition and books shall not be made unless funds for such reimbursement have been authorized in the budget for the fiscal year in which the course was completed.
- d) The employee receives a minimum-passing grade of C for undergraduate courses and a minimum-passing grade of B for graduate courses.

SECTION 14. WITNESS LEAVE.

Every employee who is subpoenaed to appear before a Court of Law or before a State or Federal administrative body with subpoena powers shall be excused from work for the time necessary to comply with the subpoena. Employees shall not be excused from work to appear in Courts of Law or before State or Federal administrative bodies with subpoena powers unless they are officially subpoenaed except where an employee's job requires that he appear in court as part of his normal job performance. Appearance as a subpoenaed witness shall be without pay, unless directly related to City business.

**ARTICLE V  
WAGE AND SALARY ADMINISTRATION**

SECTION 1. PAY PROCEDURE.

a. METHOD OF PAYMENT. Employees of the City of Brewer are paid by check or by direct deposit every other Friday. Part time call firefighters will be paid semi-annually. Direct deposit is at the discretion of the employee. The Payroll Office computes checks and copies of all deductions and total accumulation for the calendar year are supplied to each employee with the check or direct deposit receipt. (#2)

b. DEDUCTIONS. Mandatory deductions from each check are Federal Income Tax, State Income tax, 401-A (if applicable) and Maine State Retirement contributions. All employees hired on or after April 1, 1986 are subject to Medicare tax. Employees deemed ineligible for the Maine State Retirement System or other qualified plans shall be subject to Social Security withholdings as required by law. There are also optional deductions that may be permitted by the City and authorized by the employee.

## SECTION 2. SALARY ADMINISTRATION.

a. EMPLOYEE EVALUATION. All employees shall be reviewed and evaluated by their supervisors at least once annually.

b. PROMOTIONAL INCREASE. If an employee is advanced to a position of increased responsibility, his/her compensation level may advance to the entry level of the new position to which the employee was promoted as approved by the City Manager.

c. PAY ADJUSTMENT POLICY. The City recognizes that the nature of an employee's job may change over the course of time. For example, an employee may acquire added responsibilities in his/her job, without a corresponding change in job classification. Hence, that employee's job classification and compensation level may no longer accurately reflect the relative value of the work being performed. Accordingly, the compensation levels of the City of Brewer employees may be reviewed to insure that compensation levels are kept commensurate with type and value of the work being performed.

## SECTION 3. OVERTIME.

a. AUTHORIZATION OF OVERTIME PAY. Non-exempt full-time regular employees receiving an hourly wage shall receive compensation or compensatory time in the form of overtime at the rate of time and one-half for all hours worked over the standard forty hour (40) workweek.

Compensatory and sick leave time shall not be used in calculating hours worked for overtime purposes.

b. COMPENSATORY TIME - The maximum compensatory time, which may be accrued by any affected employee, shall be 120 hours (i.e., not more than 80 of actual overtime hours worked). An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional overtime hours of work. An employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt the operations of the department. Compensatory time will not accrue until after 40 hours have been worked, and will be registered with the Finance Department on a "Comp Time Earnings," form signed by the department head.

It is understood that if an employee is prevented by City duties from taking accrued compensatory time, the employee will not forfeit such accrued compensatory time provided it is taken as soon as practicable. Compensatory time must be used within 12 months of the date(s) in which the time was earned. Department heads, due to the nature of their position, are exempted from this compensatory time policy.

Payment for accrued compensatory time upon termination of employment shall be calculated at the average regular rate of pay for the final year of employment, or the final regular rate received by the employee, whichever is the higher.

Compensatory time and sick leave time shall not be used in calculating hours worked for overtime purposes.

c. RESPONSIBILITY FOR OVERTIME WORK. Employees may be required to work overtime when the needs of the City so dictate. Any overtime must be approved in advance by the employee's supervisor.

#### SECTION 4. SALARY ADVANCES.

a. VACATIONS. An employee with an approved period of annual leave (vacation) or other leave of at least one week's duration, which will extend through a normal pay period or periods may request advance receipt of vacation (or other leave) pay. A normal pay period is two (2) weeks. (#2)

b. PROCEDURE. Complete a "Request for Salary Advance" form. All "Request for Salary Advance" forms must be submitted and approved by the employee's department head in time for inclusion in the appropriate week's payroll.

#### SECTION 5. HEALTH INSURANCE AND RETIREMENT (#9)

a. HEALTH INSURANCE. A group insurance program is available to full-time regular employees and part-time regular employees who work at least 20 hours per week on a regular basis. The City shall identify the base health insurance plan off of which its benefits are based. The City may offer other plans. If an employee elects a plan that has a higher premium than the base plan, the employee shall contribute toward that premium the difference between the total premium cost and what the City would have paid for that level coverage under the base plan. If an employee elects a plan that has a lower premium than the base plan, the base plan employee contribution rates shall apply. The group health plan will become effective the first day of the month following the date of employment provided the employee's application has been received by City's group carrier before the effective date. If the City's group carrier does not receive an application within 60 days of the eligibility date, the application will be considered a late enrollee. The employee who enrolls late may be required to provide evidence of good health and be subject to acceptance by the City's group carrier. Complete details of plan benefits are

provided to employees in booklet form at the time of their employment and the costs, program and benefits available may change from time to time.

b. REGULAR EMPLOYEE COSTS UNDER THE BASE PLAN. Employees working 35 hours or more per week who are not covered by a collective bargaining agreement and who choose to receive health insurance coverage with the City shall receive group health insurance coverage. The coverage will be provided by a carrier and at a benefit and employee contribution level chosen by the City, which may from time to time be modified.

Employees scheduled to work at least 35 hours and who wish to receive health insurance coverage will contribute to their health insurance premium. The employee contribution will be: 20 percent of the cost for single coverage; for single adult and child, 20 percent of the premium for such coverage; for employee and spouse and employee and family, 20 percent of the premium for family coverage. Employees scheduled to work at least 30 but less than 35 hours and who wish to receive health insurance coverage will contribute to their health insurance premium. The employee contribution will be: 30 percent of the cost for single coverage; for single adult and child, 30 percent of the premium for such coverage; for employee and spouse and employee and family, 30 percent of the premium for family coverage.

Employees scheduled to work at least 20 hours but less than 30 hours per week and who wish to receive health insurance coverage will contribute to their health insurance premium. The employee contribution will be: 50 percent of the cost for single coverage; for single adult and child, 50 percent of the premium for such coverage; for employee and spouse and employee and family, 50 percent of the premium for family coverage.

Employees scheduled to work less than 20 hours per week and those hired as temporary workers, regardless of the hours worked each week, will not be eligible to participate in the City-sponsored health insurance program.

The employee, through bi-weekly payroll deductions, will pay any employee costs associated with participation in the health insurance program.

The employee contribution to the health insurance premium will be adjusted annually at the time of premium changes indicated by the City's health insurance carrier. (#3)

c. EMPLOYEES ELECTING OUT OF COVERAGE. Full-time regular employees may elect to receive a stipend instead of health insurance coverage. The stipend will be 45% of the City's portion of cost of single level health insurance coverage provided by the City of Brewer's group carrier. Regular employees working less than full-

time may elect to receive a stipend instead of health insurance coverage. The stipend will be 45% of pro rata employer contribution to the cost of single level insurance coverage under the base plan as outlined in Section 5, paragraph b above. The monthly stipend will be paid in twenty-six equal payments through the employee's payroll check. This stipend is a taxable benefit and is subject to Medicare, federal and state taxes. The employee must give proof of insurance coverage annually to the Finance Department in order to qualify for the stipend.

d. RETIREMENT. The City of Brewer is a participant in the Maine State Retirement System, and also maintains one or more IRC Section 401(a) qualified money purchase retirement plan(s) currently provided by ICMA (which coupled with a long term disability program is hereinafter called "the ICMA plan") for employees in certain job classifications, which job classifications will be set forth in Article 5, Section 5, paragraph e (ELIGIBLE EMPLOYEES). It is a condition of employment that all employees, except personnel deemed ineligible by the Maine State Retirement System such as city part-time firefighters, city election clerks, special duty police officers, part-time dispatchers and other employees classified as on-call or per diem, who shall become employees of the City of Brewer on or after July 1, 1999, shall enter whichever of these plans is appropriate to their job classification, as such plan applies to the City of Brewer. The plans provide various options for retirement, disability benefits, and survivor benefits. The details of these plans are contained in the plan documents.

Employees deemed ineligible by the Maine State Retirement System shall be subject to Social Security withholdings as required by law.

e. ELIGIBLE EMPLOYEES. Positions eligible for "the ICMA Plan," include, but are not limited to the following: Assistant City Manager, Finance Director, Fire Chief, Economic Development Director, City Clerk, City Planner, City Engineer, and Police Chief. The list of eligible employees may be increased or decreased at the option of and upon the recommendation of the City Manager. (#2)

#### SECTION 6. OTHER BENEFITS. (#5) (#8) (#10)

##### PERSONAL LOAN PROGRAM

It is the policy of the City of Brewer to offer 0% interest loans to all full-time and part-time regular employees working a minimum of 20 hours per week for purchases described in this Section 6 of the personnel manual. Such loans are taxable benefits in accordance with IRS regulations. No assignments or re-negotiation of loans will be allowed once the loan agreement is in place. No employee will be allowed to have more than three open loans or be

allowed to borrow more than \$5,000 in personal loans from the City of Brewer at any one time. Upon the termination or retirement of employee, all outstanding Personal Loan balances are immediately due and payable in full.

a. PERSONAL COMPUTER LOANS. It is the policy of the City to encourage and support all employees to become more comfortable and proficient at using personal computers and related software. A personal computer package costing up to a maximum of \$2,500 may be purchased and deducted through regular payroll deductions not exceeding 104 weeks, interest free. A copy of the invoice (with sales tax) of the purchase and a notarized Loan Agreement with the City of Brewer must be in the payroll department office prior to issuing a refund check to the employee and beginning deductions. A previous loan must be paid off in full to be eligible for a purchase/loan agreement on any future PC upgrades. Upon the termination or retirement of employee with an outstanding Personal Computer Loan balance, payment is due in full.

b. ENERGY EFFICIENCY LOANS. It is the policy of the City of Brewer to encourage and support city employees in addressing energy efficiency projects at their primary residence. In order to be eligible for this program the employee must provide proper documentation to prove that the property receiving these funds is in their name and is their primary residence. Qualified Energy Efficiency upgrades shall not exceed \$5,000 and shall be deducted through regular payroll deductions not exceeding 104 weeks interest free. A copy of the invoice (with sales tax of the purchase and a notarized Loan Agreement with the City of Brewer must be in the payroll department office prior to issuing a refund check to the employee and beginning deductions. The City of Brewer will provide vouchers to qualified contractor/vendors when requested in order to allow the project to begin prior to payment.

Qualified energy efficiency upgrades include, but are not necessarily limited to:

- Furnace replacement
- Solar Panels (passive and active)
- Window upgrades
- Weatherization, including insulation improvements
- Other projects that are deemed qualified as energy projects by the City Manager.

c. HRA BRIDGE LOANS. The City of Brewer offers a no interest bridge loan to employees in the PPO health insurance plan who need to pay a co-insurance and/or deductible expense before their HRA funds are accessible to them. The loan amount shall not exceed the lesser of the total calendar year HRA amount for the employee's plan level minus HRA funds already made available to the employee that calendar year or the employee's actual PPO co-insurance and/or deductible expense. Such loans shall be repaid proportional to the amount HRA funds being loaned.

d. OTHER LOANS. At the discretion of the City Manager, and within the terms of the loan program described above, a loan may be provided to an employee to address an extraordinary emergency situation if the City Manager determines it is in the interest of the City to do so. Such loans shall be limited to extreme cases, shall not exceed \$5,000 and shall be deducted through regular payroll deductions not exceeding 104 weeks interest free. The employee shall make the request in writing and provide any documentation requested by the City Manager. A notarized Loan Agreement with the City of Brewer must be in the payroll department office prior to issuing a check and beginning deductions.

#### LIFE INSURANCE

The City will provide one (1) times salary level of life insurance for all qualified employees.

#### CAFETERIA PLAN AND HRA

The City will provide to eligible employees, at the employee's option a "Section 125 Cafeteria Plan," which permits health, vision and dental insurance pretax premium conversion, medical reimbursement, and dependent care reimbursement. (#2)

Effective July 1, 2014, the City shall provide all regular nonunion employees eligible for the health insurance benefit per Section 5(a) above a Health Reimbursement Arrangement (HRA) account. The Finance Director shall be responsible for providing each employee a Summary Plan Description that lays out the funding levels, eligible uses, and program guidelines, which may change from time to time.

**ARTICLE VI**  
**EMPLOYEE CONDUCT AND CORRECTIVE PROCEDURES**

SECTION 1. CONDUCT OF EMPLOYEES

a. GENERAL. A City employee is prohibited from engaging in any conduct including, but not limited to conduct described in this Article VI, which could reflect unfavorably upon City service. 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 entity, or losing complete impartiality in conducting City business.

b. RECEIPT OF GIFTS. A City employee is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loans, or any other item of monetary value from any person who has or is seeking to obtain business with the City of Brewer, or from any person, within or outside City employment whose interest may be affected by the employee's performance or non-performance of his/her official duties. Employees may accept free coffee or non-alcoholic beverages from local restaurants while on duty. Acceptance of nominal gifts such as food and refreshments in the ordinary course of business meetings, or unsolicited advertising or promotional materials, e.g. pens, notepads, hats, cups, calendars, is permitted.

c. BUSINESS ACTIVITIES AND SOLICITATION. No employee shall engage in any business other than his/her regular duties during working hours.

d. CONFIDENTIAL INFORMATION. Many City employees deal with plans and programs of significant public interest. Employees must not use this confidential information to their own private advantage or to provide friends or acquaintances with private advantages. If an employee finds that he/she has an outside financial interest, which could be affected by City plans or activities, he/she must immediately report the situation to his/her superior.

Each employee is charged with the responsibility of releasing only information which is required under the "right-to-know law. Violation regarding the dissemination of confidential information or use of that information for monetary or non-monetary private gain can be just cause for discharge or other corrective action of the employee as determined by the City Manager.

b. CITY PROPERTY. Employees shall not, directly or indirectly, use or allow the use of City property of any kind for other than official activities. Employees shall not use City telephones for personal calls when the placing of such calls would interfere with the employee's duties, would incur financial liability to the City, or would interfere with the use of telephones for official business. The City must be reimbursed by the employee for any toll telephone calls or fax charges made for personal purposes.

c. CITY POLICIES. The City of Brewer maintains administrative and legislative policies that detail the approved uses of City equipment, processes, and assets. These policies include, but are not limited to, computer and inter-net usage, credit card usage, and mileage reimbursement. All employees of the City are required to read and sign an acknowledgement of these policies. Signed acknowledgements will become part of each employee's personnel record. A copy of the policies is maintained at the City Clerks office.

f. POLITICAL ACTIVITY. While employed by the City, all personnel shall refrain from seeking or accepting partisan nomination or election to any office in Brewer City government, and from using the influence of their office in any way for or against any partisan candidate for elective office in the City government. City employees shall not work at the polls, i.e. circulate petitions or campaign literature for elective City officials, or be in any way involved with soliciting or receiving subscriptions, contributions, or political service from any person for any political purpose pertaining to the government of the City. This rule is not to be construed to prevent City employees from becoming or continuing to be, members of any political organization, from attending political meetings, from expressing views in political matters, or from voting with complete freedom in any election.

Any City of Brewer employee who becomes a candidate for any City of Brewer elective position which would affect the performance of the employee's duties as an employee of the City of Brewer, shall, at least thirty (30) days prior to the date of the primary or general election and continuing until such person is eliminated as a candidate, request a leave of absence without pay, or resign.

g. ATTENDANCE. Employees shall be at their respective places of work in accordance with the general or departmental regulations pertaining to the hours of work. All departments shall keep a daily attendance record and furnish a biweekly absentee report and such other reports as requested by the Payroll Office. Advance notice of any absence or tardiness should be made directly to the employee's supervisor whenever possible.

h. STRIKES AND SLOWDOWNS PROHIBITED. Chapter 9-A, Title 26, M.R.S.A prohibits stoppages, slowdowns and strikes. In view of the public nature of the functions carried on by the City, functions that cannot be subjected to interruption, no matter how slight, without widespread inconvenience and hurt to the general public, the City does not and will not recognize the right of any employee or group of employees to engage any strikes, slowdowns, or work stoppages which would involve suspension or interruption of the normal work of City departments. Accordingly, any employee who shall participate in the above named actions may be disciplined or discharged from City employment.

i. WORKING RELATIONSHIPS. Employees of the City shall maintain the highest standards of cooperation, efficiency, and economy in their work. City departments shall cooperate with the public and other City departments to the fullest extent possible. Department Heads and supervisors shall organize and direct the work of their units to achieve these objectives.

#### SECTION 2. CORRECTIVE ACTION.

The principal objective of correcting an employee's action or behavior shall be to improve the performance, efficiency and morale of the City service. In most instances, an attempt will be made to solve problems in an informal manner before steps are taken.

A record of all formal corrective actions shall be kept in the City Manager's office. Prior to a formal corrective action, the employee's personnel file shall be reviewed in order to determine all relevant documentation. A department head/supervisor may take formal corrective action if warranted no later than 14 calendar days following the situation that gives rise to the consideration of corrective action, or after learning of such situations, unless an extension of time is authorized by the City Manager. If an extension is authorized, the employee will be notified in writing of the rationale for the extension.

When a department head/supervisor determines an employee's performance is below acceptable standards and action is necessary to improve City services, the department head/supervisor shall communicate orally or in writing to the employee the deficiency or problem observed.

The types of corrective action that can be taken are:

a. COUNSELING. When a department head/supervisor determines that an employee's performance, conduct or behavior might violate City Charter, code, ordinances, policies or expectations, the department head/supervisor shall privately counsel the employee. The department head/supervisor will detail the problem and provide the direction and opportunity for the employee to correct the behavior.

b. ORAL WARNING/REPRIMAND. A department head/supervisor or the City Manager may determine that a formal Oral Warning/Reprimand is necessary to communicate to the employee the lack of progress addressing the deficiency identified in the counseling in step a.

c. WRITTEN WARNING/REPRIMAND. A department head/supervisor or the City Manager may determine that a Written Warning is necessary to communicate to the employee the deficiency or problem observed. A copy shall be placed in the employee's personnel file. The employee will receive a copy of the warning.

d. SUSPENSION. A department head/supervisor may temporarily suspend an employee for the remainder of a workday, with pay, upon the reasonable judgment of the Department Head that suspension is warranted for performance, misconduct or behavior. Whenever possible, the City Manager will be notified of the suspension. The suspended employee shall meet with the Department Head on the next working day and before returning to work. A Department Head or the City Manager may suspend or continue the suspension with or without pay for up to 10 working days. Suspension of more than 10 working days can only be made by the City Manager and only after a hearing in which the employee, a representative of the employee if the employee so desires, and Department Head meet with the City Manager. All suspensions shall be recorded in writing and placed in the employee's personnel file and a copy provided to the employee.

e. DEMOTION. A Department Head upon approval by the City Manager may demote an employee into a lower classification (with the appropriate pay reduction). Upon the approval of the City Manager, the Department Head shall notify the employee in writing of the reasons for the demotion, and file copies with the City Manager's office. An employee shall be demoted only if he/she has previously received (1) repeated oral warnings or (2) a suspension for improper conduct or nonperformance or (3) the employee's actions were of an extremely serious nature. Demotion shall only occur after the employee has been given a fair hearing before the City Manager.

f. DISMISSAL. A Department Head may recommend to the City Manager dismissal of an employee from City employment after a pre-termination hearing. Under appropriate circumstances an employee may be suspended immediately. The City Manager shall be notified of such recommendations as soon as possible and the employee shall be entitled to a pre-termination hearing before the City Manager.

g. REASONS FOR CORRECTIVE ACTION. Any employee of the City may be disciplined or dismissed for poor performance or unsatisfactory conduct including, but not limited to, the following:

- 1) Is incompetent, negligent, inefficient, or unable to perform the normal duties of the position.
- 2) Has intentionally falsified a time sheet.
- 3) Has been found to have abused approved absences, such as sick leave, bereavement leave, etc.
- 4) Has taken City property without authorization.
- 5) Has threatened to, or attempted to, or has used political influence in securing a position, leave of absence, transfer, change of grade and pay or character of work.
- 6) Is abusive in conduct or language toward the public or other City officers or employees.

- 7) As an employee of the City shall so conduct their private and professional lives as to bring discredit upon the City by scandal, spectacle, or ridicule.
- 8) Absent without authorization; an employee has been absent from duty without authorization or without good cause.
- 9) Has violated the City Charter, City Codes, ordinances and policies, State or Federal laws, or the rules and regulations in this personnel manual.
- 10) Is careless or negligent with the property of the City.
- 11) Has engaged in unauthorized use of City vehicles or equipment.
- 12) Is under the influence or possession of drugs, alcohol or illegal substances while on duty.
- 13) Has violated any official regulation or order, or fails to obey any proper direction made and given by a supervisor.
- 14) Is insubordinate.
- 15) Engages in sexual or other illegal harassment.

### SECTION 3. FAIR HEARING PROCEDURE.

a. DEFINITION. A "grievance" shall be a complaint or dispute of any regular employee regarding the application, meaning, or interpretation of the City's personnel manual or agreements governing the work activity and conditions of employment for City employees who are not covered by a collective bargaining agreement. The term "grievance" shall not be interpreted to include establishment of wages, salaries or fringe benefits. (#2)

b. PROCEDURE. Reasonable efforts shall be made by the employee and the City to informally arrive at a fair and equitable resolution to every grievance without resorting to the grievance procedure hereinafter set forth. An employee filing a grievance shall have the right, at every step hereinafter provided under "procedure", to present witnesses and evidence to support his/her grievance without fear of reprisal. Except during Step 1, an employee filing a grievance shall have the right, at his/her expense, to be accompanied or represented by an attorney or other individual during all meetings related to this grievance procedure. Employees of the City who wish to file a formal grievance must follow the following procedure:

Step 1. An employee who has a grievance as defined herein shall submit the matter in writing, to the head of the employee's department. The grievant and the department head shall meet to discuss the grievance within ten (10) calendar days after receipt of the grievance in writing, by the department head. (Hereafter, the department head shall mean the department head or his/her designee.) The employee must file the grievance within ten (10) calendar days after the date that the grievable incident occurred. The department head shall respond in writing to the grievance made by the employee within seven (7) calendar days after the date of the meeting.

Step 2. If the Department Head's reply does not satisfactorily adjust the grievance, the employee may within seven- (7) calendar days after receipt of such reply, submit the grievance to the City Manager. (Hereafter, City Manager shall mean the City Manager or his designee.) The City Manager will meet with the grievant within seven (7) calendar days following the receipt of the written grievance. The City Manager shall respond in writing to the grievant within seven (7) calendar days after the meeting with the grievant. The City Manager's reply shall be delivered to the employee or by mail. Any request for a grievance panel hearing must be received by the City manager within fourteen (14) calendar days after the date of the City manager's reply. The City Manager's reply shall be delivered to the employee or by mail.

Step 3. If the reply from the City Manager does not satisfactorily adjust the grievance, the grievant may submit the grievance to a grievance panel for hearing. The grievant may request a hearing before the grievance panel. The panel shall be composed of three (3) members and shall be selected in the following manner: one member shall be selected by the City Manager, one member by the grievant, and the final member by the two members already chosen. Selection of all of the panel members shall be made from a list of up to ten prospective members, half of whom shall be supervisory and half non-supervisory. The City Manager shall, within seven (7) calendar days of the request for a hearing, request from the staff to supply to the City Manager and grievant the names of up to ten (10) prospective panel members to hear the grievance. The grievant must choose a panel member within seven (7) calendar days from receipt of the list of prospective panel members.

c. CONDUCT OF HEARING. The panel shall then select its panel chair, set the time for the hearing which shall be held as soon as practicable, but not more than ten (10) calendar days after the panel has been selected, and notify the grievant and the City thereof. The grievant may have present at this meeting, at his/her expense a representative or legal counsel. Copies of the grievance form shall be provided to the panel members. The panel has the responsibility to interpret the application of the City's policies covering all grievable matters as defined in this procedure. It does not have the prerogative to formulate or change policies or procedures. The panel may determine its own procedure for conduct of the hearing provided it shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant evidence.

The decision of the panel shall be final and binding. The panel chairman shall file the decision in writing with the City Manager no later than ten (10) calendar days after the completion of the hearing. Copies of the decision shall be transmitted to the grievant and the grievant's supervisor(s).

NOTE: the parties to the grievance, by mutual agreement, or by the decision of the panel chairman, may extend any or all of the time periods established in this procedure. Failure by the employee to process a grievance within the time limits as set forth, or agreed upon extension, shall constitute termination of the grievance. Failure of the Department Head or the City Manager to respond to the complaints set forth in this article shall be considered a denial of the grievance and shall allow the grievant to proceed to the next step.

## **ARTICLE VII PERSONNEL FILES**

### SECTION 1. INDIVIDUAL PERSONNEL FILES.

An individual personnel file shall be maintained on each active employee by the City Manager's office. Official personnel files of terminated employees shall be maintained by the City Clerk and stored at Brewer City Hall. A Department Head may maintain duplicate copies of pertinent personnel documents in individual departments. (#2)

### SECTION 2. ACCESS TO FILES.

An Individual may, upon written request, inspect his /her file during City Hall office hours. A person may not remove his/her personnel file from the room in which it is stored. The Department head, legal representative, and the City Manager or his agent shall have access to personnel files in order to assist any employee who wishes to examine his/her file, to place documents in files, to review an employee's record, to use information for the legal defense of the City or to carry out his/her duties relative to the keeping of records in conformity with State of Maine Right-to-Know legislation. An agent of an employee may review the employee's file upon written authority from employee.

### SECTION 3. PLACING ITEM IN FILES.

The City Manager or his/her agent may place documents in personnel files except that before any documents of a corrective nature are placed in a file, an employee shall be given a copy. The employee shall also be asked to date and initial such documents. If the employee refuses to date and initial a document, such document shall be placed in his/her file with a notation that the person refused to sign and date it.

### SECTION 4. ERRORS AND OMISSIONS.

Any employee may request correction of an error or omission in his/her file. If the City Manager or the employee's department head agrees that there is an error or omission, a notation to that effect shall be placed in the employee's file.

SECTION 5. USED FILE DOCUMENTS.

A recorded or noted reprimand may be determined to be no longer a basis for further corrective action twelve (12) months from the imposition date of the reprimand. Written reprimands may be determined to be no longer a basis for further corrective action in twenty-four (24) months. If the corrective action occurred as a result of conviction of a criminal offense, these time limits may be extended by the City Manager.

The City Manager or his/her agent may destroy any documents in any personnel file consistent with the Record Retention Rules as outlined in 5 MSRA Ch. 6 § 95-B or seventy-two (72) months after an employee ceases to be employed by the City of Brewer. (#2)

**ARTICLE VIII**  
**SEXUAL DISCRIMINATION AND HARASSMENT POLICY**

1. POLICY: It is the policy of the City of Brewer to provide a work environment free of sexual discrimination, sexual harassment and other kinds of harassment. (#2)
2. SCOPE: This policy applies to all employees at all locations.
3. DEFINITION: Sexual discrimination is defined as preferential treatment for one sex in comparison to different treatment for the opposite sex.
4. DEFINITION: Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical contact that is sexually offensive.

Sexual harassment refers to behavior that is personally offensive impairs morale and interferes with the work effectiveness of employees. Sexual harassment undermines the employment relationship by creating an intimidating, hostile or offensive work environment.

Examples of prohibited practices include, but not limited to, behavior that conveys sexual overtures; requiring submission to sexual harassment as either an explicit or implicit term of employment; basing employment, promotion, or compensation decisions on submission to or rejection of sexual harassment; using offensive sexually oriented language, including jokes.

5. DEFINITION: Illegal harassment refers to other illegal harassment on account of any protected status including but not limited to sex, race, age, disability, national origin and religion. (#2)

6. COMPLAINTS: Those individuals who believe that they have been subjected to sexual discrimination and/or harassment by their co-worker should submit a complaint, either orally or in writing, to their immediate supervisor. Those employees who believe that they have been sexually discriminated against or harassed by their supervisor should submit a complaint to the department head, or directly to the City Manager. If a complaint involves the City Manager, the employee should submit the complaint to the Mayor of the City Council. If the person issuing a complaint does not feel comfortable reporting the incident internally, he or she should feel free to contact the Maine Human Rights Commission. Their address is:

Maine Human Rights Commission  
State House Station 51  
Augusta, Maine 04333  
Telephone (207) 624-6050

Individuals, who believe they have been subjected to sexual harassment by non-employees working on City property, should bring their concern to the attention of their immediate supervisor or to higher levels of management and/or the Maine Human Rights Commission. (#2)

Employees in supervisory positions in the chain of command shall be obligated to report to their department head (or the City Manager in cases involving a department head; or the Chairman of the City Council or a Councilor(s) in cases involving the City Manager, City Clerk or the City Assessor) any instances or allegations of sexual discrimination and/or sexual harassment, regardless of whether the supervisor has evidence or knowledge corroborating the allegation. While the report should ideally be made in writing with as many details as possible, the report may be made orally. (#2)

7. RETALIATION: It is important to know that retaliation against an employee who may complain about sexual or other illegal harassment is prohibited. In particular, under Maine Revised Statutes Annotated Title 5 section 4553 paragraph D, it is illegal to "attempt to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act..." Any concerns or complaints about retaliation should be brought forth promptly by filing a complaint under Section 5 of this policy. (#2)

8. INVESTIGATION: All complaints and reports will be investigated. The person conducting this investigation shall come to a conclusion as to whether these instances or allegations took place and have merit. A recommendation of corrective action and/or disciplinary action shall be made within 10 business days, which may be extended by the City Manager. In the event it is determined that sexual discrimination or harassment has occurred,

appropriate action will be taken, up to and including dismissal of the person engaging in the discriminations and/or harassment.

9. RESPONSIBILITY: In fulfilling their obligation, managers and supervisors shall provide a positive and productive work environment free from sexual discrimination and harassment. If a supervisor becomes aware of potential sexual discrimination or illegal harassment, it is his/her responsibility to reiterate the City's policy and, when necessary, take appropriate corrective action. (#2)

**ARTICLE IX.**  
**WORK PLACE SAFETY FROM SUBSTANCE ABUSE.**

PURPOSE AND INTENT: Employees and the City have a mutual obligation to ensure a safe and healthy work environment. This policy is instituted to assure that the work place be free of employees whose job performance may be impaired by the abuse of drugs and/or alcohol.

The Employer recognizes that drug and alcohol abuse may be considered treatable illnesses and to the extent possible the response to these illnesses may be treatment and rehabilitation.

It is recognized that the consumption of alcohol or drugs, which impairs an employee from performing their jobs safely and effectively, cannot be tolerated. Therefore, the City of Brewer has a "Zero Tolerance" policy toward drug and alcohol use in that no prohibited substances may be consumed during the workday. The workday includes rest and lunch breaks.

The City recognizes employee concerns of personal privacy and that alcohol testing shall be used only in cases where questions of impaired job performance are involved or as provided by law.

PROHIBITED SUBSTANCES: Drugs shall be defined as those substances whose dissemination is regulated by law, including but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and alcohol. This definition shall include over-the-counter drugs and/or drugs that require a prescription or other written approval form a licensed physician or dentist for their use. The drugs that are included in these categories are as follows:

- a) alcohol
- b) cannabanoids
- c) cocaine
- d) heroin
- e) opium or opiates
- f) phencyclidene (PCP)
- g) lysergic acid diethylamide (LSD)
- h) barbiturates
- i) amphetamines or methamphetamines
- j) methaqualone

- k) mescaline
- l) glutethimide
- m) phenocycladine
- n) procyclidine
- o) other controlled substances in RCW 69
- p) prescription drug for which the employee does have or does not have a current, valid, personal prescription and which is not authorized or approved for use while operating a motor vehicle or other equipment.
- q) any over-the-counter drug which may impair job performance and safety.

PROCEDURE:

1. In the event there is reasonable cause to believe that an employee's job performance may be impaired by alcohol, the employee's supervisor shall question the employee with regard to the behavior. The supervisor shall directly observe the employee's behavior and document the behavior. Indications of impaired behavior include but are not limited to the following: staggering or irregular gait, the odor of alcohol on the breath, slurred speech, dilated or constricted pupils, inattentiveness, listlessness, hyperactivity, performance problems, illogical speech and thought processes, poor judgment, or unusual or abnormal behavior.

2. When possible, a second managerial employee shall also observe the employee to verify that there is reasonable cause to believe that drug or alcohol consumption may be involved. A determination shall be made as to whether or not the employee's behavior is impaired to the point of being unable to perform his/her duties effectively and safely. The employee shall be relieved of his/her duties and placed on a suspension with pay status until a clear determination can be made as to violations of this Substance Abuse Policy.

3. If it is concluded that there is reasonable cause to believe that alcohol consumption is involved, the supervisor or appropriate manager shall have an alcohol test administered. Failure of an employee to take the test(s) may be cause for corrective action. The City may also have the employee undergo a physical examination at City expense at the time that the alcohol test is administered. The test(s) must be conducted within a reasonable time period after the observation of the problem behavior.

4. If the test is negative and upon recommendation by the physician, the employee shall be returned to work with no loss of pay or benefits. Where appropriate a signed physician's release may be required by the Employer before the employee returns to work. If the behavior that led to the initial investigation is not due to substance abuse but continues to hinder job performance, the City may require the employee to undergo further

medical evaluation. Time lost due to an illness will be charged to sick leave.

5. If the test is positive, the employee may be terminated depending upon the circumstances of the situation. Circumstances that would warrant an immediate termination would include, but not limited to, incidents where the employee's impairment resulted or could have resulted in loss of life, serious injury to self or others, the serious loss or damage of property or an incident of parallel magnitude.

6. In cases where immediate termination is not warranted, the employee will be placed in an unpaid rehabilitation leave status. The employee shall then be evaluated and appropriate treatment may be recommended. Where appropriate the employee shall be referred to a treatment program agreed upon by the employee and the Employer. Once the inpatient part of the program has been completed; the employee may be re-instated but only with a written release from a physician. An employee who is returned to work as provided for under this procedure who fails to comply with any of the terms of an agreed upon treatment and/or return to work agreement may be subject to the full range of corrective action, including termination.

7. An employee who is the subject of an investigation related to substance abuse may have another employee present during the investigative procedures outlined above. Corrective actions taken by the City under this procedure shall be subject to the Grievance Procedure of this Personnel Policy.

8. The City may perform Breathalyzer tests for verification. These tests may be administered at the Brewer Police Department. The City shall pay for the costs of all tests and medical examinations carried out under this procedure.

## **ARTICLE X CITY CLERK AND CITY ASSESSOR**

### **SECTION 1. STATEMENT OF DUTIES AND RESPONSIBILITIES:**

The City Clerk and City Assessor are directly appointed by the City Council and are responsible to the City Council for the efficient and effective operation of the individual departments including co-ordination of department activities with the City Manager. These responsibilities include, but are not limited to the administration and compliance of Articles I II III IV V VI VII VIII, IX and Appendix A of this personnel policy. The Chair of the City Council is the authority for approvals normally required from the City Manager. There are provisions of this personnel policy that require the approval of the City Manager for employees of departments other than department heads. Such provisions shall apply to employees of the City Clerk and the City Assessor departments as well, except that approvals for employees of those

departments shall be required from the City Clerk or the City Assessor for each of their respective departments. (#7)

SECTION 2. EXCEPTIONS: The personnel records for members of the City Clerk and City Assessor offices are maintained in the office of the City Solicitor. The standard workweek for the City Clerk and City Assessor is 37.5 hours, which may be amended by the City Council. (#7)

SECTION 3. RECRUITMENT AND SELECTION:

The City Clerk and City Assessor are responsible for the recruitment and selection of qualified candidates for vacancies within each respective department. Article II of this manual details the procedures and responsibilities of the City Manager to recruit and select employees for all departments of the City with the exception of the City Clerk department and the City Assessor department. The City Clerk and City Assessor will generally follow the procedures of the City Manager in the recruitment and selection of employees for their individual departments.

SECTION 4. CORRECTIVE ACTION:

The City Clerk and City Assessor will generally follow the corrective action procedures and processes of the City Manager outlined in SECTION 2 of Article VI of this personnel policy.

SECTION 5. GRIEVANCE PROCEDURE.

The City Clerk and City Assessor will generally follow the grievance procedure as outlined in Section 3 of Article VI. The procedure outlined below details the processing of grievances in the City Clerk and City Assessor departments.

d. DEFINITION. A "grievance" shall be a complaint or dispute of any regular employee regarding the application, meaning, or interpretation of the City's personnel manual or agreements governing the work activity and conditions of employment for City employees. The term "grievance" shall not be interpreted to include establishment of wages, salaries or fringe benefits.

e. PROCEDURE. Reasonable efforts shall be made by the employee and the City Clerk or City Assessor to informally arrive at a fair and equitable resolution to every grievance without resorting to the grievance procedure hereinafter set forth. An employee filing a grievance shall have the right, at every step hereinafter provided under "procedure", to present witnesses and evidence to support his/her grievance without fear of reprisal.

Except during Step 1, an employee filing a grievance shall have the right, at his/her expense, to be accompanied or represented by an attorney or other individual during all meetings related to this grievance procedure. Employees of the City Clerk or City Assessor departments who wish to file a formal grievance must follow the following procedure:

Step 1. An employee who has a grievance as defined herein shall submit the matter in writing, to the head of the employee's department. The grievant and the City Clerk or City Assessor shall meet to discuss the grievance within ten (10) calendar days after receipt of the grievance in writing, by the City Clerk or City Assessor. The employee must file the grievance within ten (10) calendar days after the date that the grievable incident occurred. The City Clerk or City Assessor shall respond in writing to the grievance made by the employee within seven (7) calendar days after the date of the meeting.

Step 2. If the City Clerk or City Assessor's reply does not satisfactorily adjust the grievance, the employee may within seven (7) calendar days after receipt of such reply, submit the grievance to the chairman or in the chairman's absence the vice-chairman of the City Council. The chairman will meet with the grievant within seven (7) calendar days following the receipt of the written grievance. The chairman of the City Council shall respond in writing to the grievant within seven (7) calendar days after the meeting with the grievant. The chairman's reply shall be delivered to the employee or sent by certified mail

Step 3. If the reply from the chairman does not satisfactorily adjust the grievance, the grievant may submit the grievance to the City Council for a hearing. The request for a City Council hearing shall be indicated by the grievant on a prescribed form obtainable from the City Clerk or City Assessor's office. The chairman of the City Council must receive any request for a grievance hearing within fourteen (14) calendar days after the date of the chairman of the City Council's reply. The chairman of the City Council's reply shall be delivered to the employee or if mailed, be sent by certified mail. When a grievant requests a hearing before the City Council, the chairman will be disqualified from further participation in the grievance process.

CONDUCT OF HEARING. The remaining members of the City Council shall then set the time for the hearing which shall be held as soon as practicable, but not more than ten (10) calendar days after the request for hearing, and notify the grievant of the hearing date. The grievant may have present at this meeting, at his/her expense a representative or legal counsel. Copies of the grievance form shall be provided to the City Council members. The City Council has the responsibility to interpret the application of the City's policies covering all grievable matters as defined in this procedure. It does not have the prerogative to formulate or change policies or procedures. The City Council may determine its own procedure for conduct of the hearing provided it shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant evidence.

The decision of the City Council shall be final and binding. The

City Council shall file the decision in writing with the City Clerk or City Assessor no later than ten (10) calendar days after the completion of the hearing. Copies of the decision shall be transmitted to the grievant.

NOTE: the parties to the grievance, by mutual agreement, or by the decision of the chairman, may extend any or all of the time-periods established in this procedure. Failure by the employee to process a grievance within the time limits as set forth, or agreed upon extension, shall constitute termination of the grievance. Failure of the City Clerk or City Assessor or the chairman to respond to the complaints set forth in this article shall be considered a denial of the grievance and shall allow the grievant to proceed to the next step.

**APPENDIX A**  
**FAMILY AND MEDICAL LEAVE POLICY**

SECTION 1. REASONS FOR LEAVE.

In compliance with Federal law, it is the policy of the City to grant an unpaid leave of absence under the Federal Family and Medical Leave Act ("FMLA") for up to twelve (12) weeks in a twelve (12) month period for any employee who has been employed by the City at least 12 months and at least 1,250 hours during the twelve (12) months just prior to the commencement of leave. This leave may be requested for any one of the following reasons:

- a. The birth or care of the child;
- b. The placement with the employee of a child for adoption or foster care;
- c. To care for the employee's spouse, son, daughter or parent with a serious health condition; or
- d. Because of a serious health condition that makes the employee unable to perform the function of that employee's job.

A "serious health condition" is defined as a condition which requires in-patient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider as defined in Section 825.11 of the FMLA regulations.

An employee's entitlement to leave for the birth or placement of a child expires twelve (12) months after the birth or placement.

The twelve (12) month period in which the twelve (12) weeks of entitlement occurs is a "rolling" twelve (12) month period measured backward from the date the employee uses any FMLA leave.

SECTION 2. REQUESTING A FAMILY MEDICAL LEAVE.

The employee requesting family medical leave shall complete a form provided by the City not less than thirty (30) days in advance of the requested leave, unless prevented by a medical emergency from giving such notice. This notice should include the intended date upon which the leave would commence and the intended date of return.

If the leave is based on planned medical treatment, the employee, in addition to providing not less than thirty (30) days notice, must make a reasonable effort to schedule the treatments, subject to the approval of the healthcare provider, so as not to unduly disrupt the City's operations. Leave shall begin on the first day of absence (or partial attendance).

### SECTION 3. CERTIFICATION OF A SERIOUS HEALTH CONDITION

When the reason for absence involves a serious health condition of the employee, or the employee's child, spouse, or parent, the employee must provide certification from a physician which shall include:

- a. The date when the condition began;
- b. Its expected duration;
- c. Diagnosis; and
- d. A brief statement of treatment.

The City will provide the certificate for the physician to complete.

If the requested leave is based on a serious health condition of a family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or required.

When a Family Medical Leave involves the disability or illness of an employee, a physician's certificate is required before the employee returns to work or resumes a full work schedule, stating the employee is able to resume normal job responsibilities or detailing any work limitations which the employee's condition may require.

### SECTION 4. INTERMITTENT LEAVE

Family medical leave may be requested for twelve (12) consecutive weeks, intermittently, or under certain conditions may be used to reduce the work week or work day. In all cases, the leave may not exceed the total of twelve (12) weeks over a twelve (12) month period.

If the employee wishes to take intermittent leave or work a reduced schedule, the medical certification must indicate the dates and the expected duration of treatment and a statement of medical necessity for an intermittent leave or reduced work schedule.

For the birth, adoption, or foster care of a child, the City and the employee must mutually agree to a schedule before the employee may take intermittent leave or reduce his or her work schedule.

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 needed by that employee.

#### SECTION 5. RETURN TO WORK

On returning to work on or before the expiration of leave, an employee is entitled to return to the same or equivalent position.

Leave exceeding twelve (12) weeks may be granted without pay at the discretion of the City, however, in such instance the employee may not be returned to the same or equivalent position.

Failure to return upon expiration of leave will result in termination.

#### SECTION 6. PAY AND BENEFITS WHILE ON FAMILY MEDICAL LEAVE

The basic FMLA leave is a leave without pay. However, if paid time (sick leave, personal leave, vacation, etc.) is available for the purpose of the leave (i.e., sick leave for an employee with a serious health condition), such paid leave shall run concurrently with FMLA leave.

While an employee is on family medical leave, the City will continue the employee's group health insurance benefits at the same level and under the same conditions as if the employee had continued to work. Therefore, employees must make arrangements with the City to pay their share of health insurance premiums while out on leave.

If the employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the employee to reimburse the City the amount the City paid for the employee's health insurance premium during the leave.

Annual leave and sick leave will not accrue during a family medical leave absence.

END OF CHAPTER NOTATIONS

1.	Enacted	02/21/2006	Effective	02/26/2006	(2006-B006)
2.	Enacted	05/16/2006	Effective	05/21/2006	(2006-B024)
3.	Enacted	07/10/2007	Effective	07/15/2007	(2007-B032)
4.	Enacted	07/15/2008	Effective	07/20/2008	(2008-B045)
5.	Enacted	07/15/2008	Effective	07/20/2008	(2008-B046)
6.	Enacted	05/29/2012	Effective	06/03/2012	(2012-B024)
7.	Enacted	11/19/2012	Effective	11/24/2012	(2012-B071)
8.	Enacted	07/09/2013	Effective	07/14/2013	(2013-B044)
9.	Enacted	06/03/2014	Effective	06/08/2014	(2014-A084)
10.	Enacted	06/02/2015	Effective	06/07/2015	(2015-B029)