The FRIENDLY CITY
Ellsworth
Maine

CHAPTER 34

PERSONNEL ORDINANCE

CITY OF ELLSWORTH, MAINE

A true copy –

Attest: Suzanne McLean City Clerk

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Amended 09/08/2003

Repealed 07/21/2008

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PURPOSE OF ORDINANCE

The City of Ellsworth Personnel Ordinance is hereby set forth to establish the current policies and procedures applicable to the City's employees. The Personnel Ordinance does not constitute an employment contract between the City and any employee.

These rules set forth the principles and procedures which will give reasonable assurance to the City of Ellsworth and its employees that personnel matters will be dealt with on an equitable basis and that the citizens of the City of Ellsworth may derive the benefits and advantages which can be expected to result from a competent staff of city employees.

These rules apply to all employees unless otherwise noted. Volunteers shall be subject to only those provisions that are specifically stated to include them, if any.

CHAPTER I - Employment Philosophy

1. Employment in the City government shall be based on merit and free of personal political consideration.

2. Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the municipal government.

3. Positions having similar duties and responsibilities shall be classified and compensated for on a uniform scale.

4. Efforts shall be made to maintain morale by fair administration of this ordinance and by consideration of the rights and interests of the employees, consistent with the best interests of the public and the City.

5. Continuity of employment shall be subject to satisfactory performance of work, availability of funds and appropriate employee conduct.

6. Management Rights: The City retains the right to determine working hours, salaries, size of its employment force and the formulation of this ordinance related to personnel matters. In the case of any unionized department, the City retains these rights through the negotiation of a contract with the union.

CHAPTER II - Selection

Section 1. Recruitment

The City of Ellsworth shall employ the best-qualified persons who are available at the salary levels established for City employment. The City hiring authority, with the cooperation of department heads, shall seek out the most desirable employees for vacant positions. Except as provided in Section 2 below, within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practicable.

The character of an employment search will vary from position to position, but may include, but not limited to; advertising, departmental notices, open competitive examination, and contact with State and other employment offices.

Section 2. Preference

First preference in filling any vacancy shall be given to the promotion or transfer of present employees having the qualifications for the vacant position. It is recognized, however, that in order to meet specific requirements for a position, it may be necessary to hire a non-employee to fill the vacancy. Such a decision, however, shall only be made after a careful review of the qualifications and/or training requirements of present City employees who apply for the position. In cases where residents of The City of Ellsworth and non-residents are equally qualified for particular vacant positions, residents shall receive first consideration in filling such vacancies.

Section 3. Applications

The employment application form shall be as established by the City Manager, in accordance with all applicable municipal, state and federal laws. Such forms must be signed by the applicant and may require whatever information is deemed necessary by the Manager for the evaluation of all applicants. The City of Ellsworth relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any willful misrepresentations, falsifications, or material omissions in any of this information or data may result in exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment

Section 4. Interviews

The hiring authority or their designee may request a personal interview with one or more applicants for any position to assist in the determination of the best candidate for employment.

Section 5. Recommendations

When the hiring authority has designated another person(s) to evaluate applications and/or conduct interviews, that designee (s) shall submit in writing a list of names of qualified candidates with a brief evaluation report of each and a recommendation for appointment to the vacant position. In all cases, the hiring authority shall have the final decision.

Section 6. Equal Employment Opportunity

The City of Ellsworth provides equal employment opportunity to all applicants and employees. This policy applies to all employment-related decisions, including recruiting, hiring, assigning, supervising, training, upgrading, transfer, compensation, benefits, discipline, discharge, promotion, and education.

The City of Ellsworth shall not discriminate in employment opportunities or practices against any individual with regard to race, color, ancestry, national origin, religion, political affiliation, sex, marital status, age, sexual orientation, physical or mental disability, or any other status protected by law.

The City of Ellsworth will make reasonable accommodations for applicants and qualified individuals with known disabilities unless doing so would result in an undue hardship.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, Department Head, Human Resources Department or the City Manager. Employees can raise concerns and make reports

without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

Section 7. Hiring of Relatives

It is the City's practice to hire and promote on the basis of an individual's merit, knowledge, skills and abilities. The employment of relatives in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. For that reason, except as may be authorized in certain circumstances by the City Manager, such as, circumstances requiring emergency temporary staffing, employment of relatives within the same department or division where one relative would hire, supervise, discipline, conduct performance reviews or set any other conditions of employment for another relative is prohibited. These restrictions are also applicable when assigning, transferring or promoting an employee.

For the purposes of this ordinance, relative includes the following: any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage such as domestic partners, adopted children, and foster children.

Employees who marry or establish a close personal relationship during employment can continue in their current positions as long as an employment relationship with one relative supervising the other and/or establishing the conditions of employment is not created through marriage, reorganization, or other circumstance. Employees who become subject to the provisions of this ordinance must inform their supervisor or Department Head as soon as practical. If such a supervisory relationship does occur between relatives, one of the employees will either be required to transfer to another open position for which that person is qualified or one of the employees will be required to resign their employment with the City within a period of no more than 30 days from the date on which the situation arose. If neither employee is willing to resign, the City has the right to terminate either employee at its discretion.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment.

This section shall not apply to [1]the Paid On Call Volunteer Firefighter, Seasonal, and Temporary Employees.

CHAPTER III - General Rules

Section 1. Responsibility

The City Manager or their designee shall have the responsibility for administration of the personnel program consistent with the Personnel Ordinance.

[1] Amended August 17, 2009

Section 2. Hiring Authority

Oversight of individual employees shall be the responsibility of the hiring authority as provided in the Ellsworth City Charter. The hiring authority is that person(s) specifically authorized by the City Charter to hire or appoint the employee.

Section 3. Status

It is the intent of City of Ellsworth to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time.

Personnel status is the category of employment into which an employee falls based upon the method of hire and/or the nature of tenure. The following are the categories of personnel status and their definitions:

Regular Employee:

Has satisfactorily completed the probationary period (only full-time and part-time employees may attain regular status).

Probationary Employee:

Hired for an initial/promotional/transferal trial period of six months which may be extended to a maximum of twelve (12) months upon request of the immediate supervisor and/or the decision of the City Manager. During the probationary period the employee may be removed or demoted at any time with or without cause. Such removals or demotions shall not be subject to review or appeal.

Full-time Employee:

Hired to a position requiring regularly scheduled employment for at least thirty-five (35) hours per week.

Part-time Employee:

a. Regular Part Time Employee:

Hired to a position requiring regularly scheduled employment for periods of less than thirty-five (35) hours per week.

b. Intermittent Employee:

Hired to a position, which calls for non-scheduled irregular hours of employment. (Example: reserve police officer)

c. On-Call Intermittent:

Hired to a position, which may be scheduled regularly or irregularly, but calls for intermittent work as needed and is compensated only on a per call basis. (Example: call fire fighter)

d. Seasonal Employee:

Hired to a position established for less than full-year periods and which is expected to be of a regularly recurring nature.

e. Temporary Employee:

Hired for work not to exceed one hundred and eighty (180) [2]consecutive calendar days or for a particular project with a specified duration of time.

f. Interim Employee:

Hired to a position at the administrative level for the period of time necessary to recruit and appoint a person to fill the vacant position or in the temporary absence of the employee regularly holding the position if the absence is of thirty (30) consecutive calendar days duration or longer.

Any regular full-time employee who receives a promotion or a transfer shall be required to serve another probationary period.

Section 4. Classification

To aid in the determination of applicability of the state and federal wage and hour laws each position and/or title within the City government shall be categorized as either exempt or non-exempt. Such classification governs applicability of overtime provisions to the position. It will be the responsibility of the City Manager, in conjunction with the preparation of the position descriptions, to determine exempt or non-exempt status.

Section 5. Position Descriptions

Job specifications for each position in the City employment shall be developed by the hiring authority or their designee and shall be periodically updated. These job descriptions shall set forth the following information:

- Job title
- Classification
- Qualifications
- Expected hours
- Responsible to and evaluated by
- Responsibilities
- Duties

Section 6. Performance Evaluation

A performance evaluation for purposes of this ordinance is the examination and review of job performance for purposes of determining continuation of employment, promotion, demotion or salary adjustment.

All employees, regardless of status shall be evaluated on the following schedule:

1. 30-days after hire
2. 90-days after hire

[2] Amended March 16, 2009

3. 180-days after hire
4. Annually (including one 6-month check in each year)

Performance Evaluations shall be conducted by the immediate supervisor in a manner which the City Manager or their designee shall prescribe.

Employees shall be afforded the opportunity to review and discuss their written performance evaluation with their immediate supervisor and shall sign their evaluation as proof of discussion and understanding although they may not necessarily agree with the evaluation. An employee may prepare a written response to any item included in the evaluation. This response shall be submitted to the evaluator and attached to and become part of the performance evaluation. A copy of the complete performance evaluation will be provided for the employee and placed in their personnel file.

Section 7. Personnel Files

Personnel files are maintained by the City of Ellsworth. In so far as permitted and/or required by law, all personnel records shall be confidential.

During regular business hours an employee may inspect their personnel file. Requests to inspect a personnel file shall be made to the City Manager, or their designee. No personnel file shall be removed from the Human Resources Office. An employee may receive a copy of any document contained within their personnel file upon request.

Section 8.

New Hire Training Requirements: The Human Resources Department will assign all mandatory training to new employees within 5 days after hire.

CHAPTER IV - Compensation

Section 1. Salaries & Wages - General

It is the objective of the City of Ellsworth to pay employees on a basis commensurate with salaries and wages for municipalities of the same approximate size and for comparable private work in the area and that will attract and retain well-qualified and responsible employees. Classification of a position and specific duties and responsibilities of a position as set forth in job descriptions shall be major factors in determining the rate of compensation. A Wage and Salary Schedule shall be prepared and reviewed annually. New employees will usually be hired at the minimum rate for the position as specified in The Wage and Salary Schedule except that in circumstances where qualifications and training indicate, a higher starting rate may be authorized.

In the case of two or more positions and/or titles being held by one employee, the rate of compensation shall be determined by the job requirements of the combination of positions and not by the number of positions. In the event of reorganization or reassignment of duties causing the combination of positions to change, the rate of compensation may be adjusted if necessary or appropriate. In the event of transfers, the current rate as specified in the Wage and Salary Schedule for the new position shall apply unless a higher starting rate is indicated and authorized.

Section 2. Overtime

A non-exempt employee shall be compensated at an hourly wage rate and shall be paid at one and one-half (1½) times their regular hourly rate for all hours worked over forty (40) hours within the regular workweek. Paid holidays, paid leave, and bereavement leave shall not be considered as time worked for the purpose of computing overtime or compensatory time. Law enforcement officers and fire fighters have different workweeks and have provisions for computing overtime eligibility under the Fair Labor Standards Act. Overtime must be authorized in advance by the employee's supervisor. Employees whose positions are classified as exempt are not eligible to receive overtime pay.

Section 3. Compensatory Time

A non-exempt regular full time employee may be compensated with one (1) hour of compensatory time for each hour worked in excess of their regularly scheduled workweek up to forty (40) hours and one and one-half hour (1½) for work in excess of forty hours per week. Such work shall require the prior approval of the City Manager or designee. Such compensatory time shall be recorded and may be taken at the time of the employee's choice provided it does not interfere with the operational needs of the department or office and has been approved by the City Manager or designee. No employee shall be allowed to accumulate more than one (1) weeks normally scheduled hours of compensatory time[3]; beyond that, any overtime will be compensated at time and ½ rates pursuant to the overtime policy. Upon separation of employment the employee will be compensated for any earned and unused compensatory time.

Section 4. - Increases

All employees may be eligible for a merit increase on an annual basis, based on the employees' performance evaluation and subject to the City's financial status. For non-exempt employees, the increase is at the discretion of the Department Head and requires the approval of the City Manager. For exempt employees and Department Heads, the increase is at the discretion of the City Manager and requires approval of the City Council. Merit increases for the City Manager are at the discretion of the City Council. Eligibility for a salary increase will be determined annually following completion of the performance evaluation process, in accordance with the City's performance evaluation schedule. No employee shall receive more than one merit increase in any 12-month period, except during the initial implementation of this policy. In addition, every third year, the position will be reviewed to determine whether a market adjustment is warranted. All merit increases and market adjustments are contingent upon the financial condition of the City and are not guaranteed.

Section 5. Expense Reimbursement

1. Mileage/Tolls/Parking – City-owned or rental vehicles provided by the City will be made available to employees needing to travel on City business. Employees provided the use of a city-owned vehicle or a vehicle rented to the City will not receive mileage allowances. In the event a rental vehicle is

[3] Amended 9/15/2008

[10] Amended June 20, 2011

available to an employee but the employee chooses instead to utilize their personal vehicle, mileage reimbursement will be permitted only up to an amount equal to the cost to the City of the rental vehicle. In the event no rental vehicle is available and an employee uses their personal vehicle, the employee will be reimbursed for mileage based on the actual mileage necessary. The reimbursement amount is not to exceed the maximum reimbursement allowed under the IRS regulations, and will be reviewed annually during the budget process. Use of an employee's personal vehicle must be previously authorized by the hiring authority or designee. Tolls and parking fees shall be reimbursed upon submittal of a receipt.

2. Meals/Lodging – Employees shall be entitled to reimbursement for meals in a reasonable amount and reasonable expenses for lodging provided those expenses are necessitated directly by the performance of duties as a City employee. Reimbursement applies only to the City employee. The maximum reimbursement for breakfast is $10.00; the maximum reimbursement for lunch is $15.00; and the maximum reimbursement for dinner is $20.00. No reimbursements will be made without an itemized receipt demonstrating the actual amount spent. No expenses for alcoholic beverages will be reimbursed. All reimbursement requests must receive approval from the employee's supervisor.

3. Telephone - Reimbursement for telephone toll charges incurred in the conduct of City business as long as such toll calls were not able to have been made during the regular work day and/or on regular business telephones, shall be made to any employee. Such reimbursements shall be only as authorized by the employee's supervisor.

5. Training - The City Council believes that both the City and its employees benefit from training and educational opportunities.

Employees required or approved to attend seminars or training courses may be eligible for expenses incurred for same. Should such training occur during normal working hours, the employee may also be eligible for regular salary or wages for the duration of the training. Eligibility for such training expenses shall be determined by the individual's department head.

Following completion of any seminar or training course, the employee must submit proof of expenses accompanied by approval of the department head in order that payment may be effected.

An employee may receive an "advance" of expenses provided departmental approval is received and application for same is made to the City Manager or their designee. Any unused portion of the advance and all coinciding receipts must be turned into the Finance Department within one week after the training session or seminar.

Employees of the City of Ellsworth may be eligible to apply for reimbursement of tuition costs associated with the pursuit of degree programs or specialized training that is directly relevant to their current position with the City. To be considered for participation in the tuition reimbursement program, employees must submit a formal tuition reimbursement application to their department manager and the City Manager for review and approval prior to enrollment. Eligibility for the program requires employees to have received a rating of Fully Successful or better on their most recent annual performance evaluation. The City may reimburse up to 100% of the cost of tuition, fees, books, and materials. Reimbursement will be issued upon successful completion of the approved program or

course, with the employee maintaining a minimum grade of “C” or its equivalent. Any coursework scheduled during regular work hours must receive prior approval from the City Manager.

Employees who voluntarily resign or are involuntarily terminated within four years of receiving tuition reimbursement will be required to repay the full amount of the reimbursement to the City based on the following schedule:

Within one year of course/training completion	100%
After one year but before two years	75%
After two years but before three years	50%
After three years but before four years	25%

CHAPTER V - Employee Benefits

Eligible employees at the City of Ellsworth are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, and unemployment insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee classification. The Human Resources department can identify the programs for which each employee is eligible.

Part 1. Cafeteria Plan

The purpose of the cafeteria plan for employee benefits is to provide City employees with the opportunity to select the benefit package that best meets their needs.

Section 1. Cafeteria Plan Regulations

1. Each employee has a certain number of credits based on the years of full time employment with the City of Ellsworth. When applicable, as outlined by the below Credit Accrual chart, credit levels will increase as of the employee's service date.

2. On the employee's annual date of full time service with the City (anniversary date) each employee shall select the desired level of employee benefits applicable to their needs with their credits. This selection may not be changed during the ensuing year except for significant life changes such as births, deaths, marital situations, or spousal employment situations. Unused credits are not carried forward from year to year.

3. The following benefits are provided by the City and are not subject to the Cafeteria Plan: holidays, bereavement leave, jury duty, and military duty. Workers' Compensation, earned paid leave for non-cafeteria plan employees, unpaid leaves of absence and family and medical leave in accordance with the Family and Medical Leave Policy are also outside the Cafeteria Plan. However leaves taken under these policies may impact Cafeteria Plan benefits. See the appropriate policy for details.

4. Department Heads that are new hires previously employed by an entity other than the City of Ellsworth shall be assigned credit levels as delineated in section 2.

5. Regular part time employees who are assigned a regular schedule of at least twenty (20) hours per week shall be eligible for pro-rated credits based on their regular weekly hours of work divided by

forty. Temporary, seasonal, and intermittent employees shall be ineligible for credits. Employees going from part time to full time shall accrue credits based on their full time employment anniversary date.

6. Partial credits may be used to purchase additional Medical Services Reimbursement, [4]up to the maximum amount available; for example: .25 credits left, employee can purchase $25 of medical services account.

7. Any employee who wishes to discontinue an allowable benefit may do so at any time upon written request to the Human Resources Department. Any credits expended to secure the discontinued benefit will not be refunded. The credits may not be reallocated until the employee's anniversary date.[5]

Section 2. Credit Accruals

Years of Service	Non-Dept. Heads	Dept. Heads
Start	8 Credits	15 Credits
After 6 Months	11 Credits	
After 1 Year	13 Credits	16 Credits
After 3 Years	15 Credits	
After 5 Years	17 Credits	17 Credits
After 10 Years	19 Credits	19 Credits
After 15 Years	21 Credits	21 Credits
After 20 Years	22 Credits	22 Credits
After 25 Years	23 Credits	23 Credits
After 30 Years	24 Credits	24 Credits
After 35 Years	25 Credits	25 Credits

Section 3. Health Insurance

Level 1 – Acadia (POS-C)-Individual	80%	6 Credits
Level 2 - Employee & Children –	80%	8 Credits
Level 3 - Family Plan	80%	11 Credits
Level 1 -Pemaquid (PPO-2500) Plan-Individual	90%	6 Credits
Level 2 - Employee & Children	90%	8 Credits
Level 3 - Family Plan	90%	11 Credits

The City will provide each employee with a Health Reimbursement Account (HRA) to renew each calendar year for employees enrolled in the Pemaquid (PPO-2500) plan only. Employees enrolled in Single coverage will receive up to $3,000 per year. Employees enrolled in Employee & Children or Family coverage will receive up to $6,000 per year. The City will renew the HRAs annual, but unused portions of the HRA from the prior year expire at the end of the year and do not roll over to subsequent years.

Explanation of Benefits and Benefit Limitations:

[4] Amended August 17, 2009
[5] Added March 16, 2009

Family Plan is for legally married spouses or domestic partners as defined by the insurance policy.

Section 4. Medical Services Account

Level 1	$200 City Contribution	1 Credit
Level 2	$300 City Contribution	2 Credits
Level 3	$400 City Contribution	3 Credits
Level 4	$500 City Contribution	4 Credits
Level 5	$600 City Contribution	5 Credits

Explanation of Benefits and Benefit Limitations:

1. The City contribution to the medical services account may be used to reimburse the employee for medical, dental, and optical service costs not covered by the City's health insurance plan. This would include reimbursement for deductibles and co-shares under health insurance plans, prescribed eyeglasses, dental/orthodontic treatments, services, and hardware, medical equipment prescribed by a physician, but not covered by health insurance. The account can also be used to pay for the employee's share of psychiatric, counseling or other mental health services.

2. The medical services account cannot be used to reimburse for travel or travel related medical expenses (hotels, mileage, meals, tolls, parking, airline tickets, etc.). The account can be used to reimburse for prescription drugs, but not for non-prescribed medical, dental, or optical equipment. The account cannot be used to pay the employee's share of health insurance premium.

3. The funds in the medical services account are not cumulative. The costs for which reimbursement is sought have to have been incurred prior to the employee's anniversary date. Any funds remaining shall revert to the City.

Section 5. Fitness Club Memberships

Level 1	$200 City Contribution	1 Credit
Level 2	$300 City Contribution	2 Credits
Level 3	$400 City Contribution	3 Credits

Section 6. Life Insurance

Level 1 - 1 X Salary	.25 Credits
Level 2 - 2 X Salary	.50 Credits
Level 3 - 3 X Salary	.75 Credits

Explanation of Benefits and Benefit Limitations:

1. Employees enrolled in the City's health insurance program will automatically be covered by a life insurance policy equal to one time's salary.

Section 7. Income Protection Plan (short-term disability)

Level 1 - 40% of Salary/Wages	.25 Credits
Level 2 - 55% of Salary/Wages	.50 Credits

Level 3 - 70% of Salary/Wages .75 Credits

Section 8. Retirement - City Contribution to Maine State Retirement and Deferred Compensation Plan

Missionsquare Retirement

Level 1 - 2% of Salary/Wages	1 Credit
Level 2 - 4% of Salary/Wages	2 Credits
Level 3 - 6% of Salary/Wages and	3 Credits
Level 4 - 8% of Salary/Wages and	4 Credits
MSR	
Plan A	3 Credits
Plan 2C	4 Credits

Explanation of Benefits and Benefit Limitations:

1.Employees may enroll in both retirement options. However, the City will provide matching funds for only Maine State Retirement if both options are selected and credits must be used for the Maine State Retirement. Employees may elect to enroll in MissionSquare at a flat amount or percentage of their earnings weekly.

2. Employees enrolled in the deferred compensation plan shall be required to match the city contribution.

3. Current employees who enroll in a retirement plan after 7/1/97 shall be required, at the time of enrollment in the Cafeteria Plan, to continue participation in the deferred compensation plan or MSR for at least three years, or lose the equivalent credits.

4. Employer contributions to the deferred compensation plan are vested to an employee after five years of uninterrupted service with the City.

Section 9. Paid Leave

Full-time employees

Level Basic*	40 hours	0 Credits
Level 1	80 hours	2 Credits
Level 2	120 hours	3 Credits
Level 3	160 hours	4 Credits
Level 4	200 hours	5 Credits
Level 5	240 hours	6 Credits
Level 6	280 hours	7 Credits

Part-time employees working 30-hour week

Level Basic*	40 hours	0 Credits
Level 1	60 hours	2 Credit

Level 2	90 hours	3 Credits
Level 3	120 hours	4 Credits
Level 4	150 hours	5 Credits
Level 5	180 hours	6 Credits
Level 6	210 hours	7 Credits

Part-time employees working 20-hour week

Level Basic*	40 hours	0 Credits
Level 1		------
Level 2	60 hours	3 Credits
Level 3	80 hours	4 Credits
Level 4	100 hours	5 Credits
Level 5	120 hours	6 Credits
Level 6	140 hours	7 Credits

* All City employees are required to have at least Basic Level leave.

Explanation of Benefits and Benefit Limitations:

1. Earned paid leave is provided in lieu of sick leave, vacation, or personal days.
2. For the purpose of this section, a 'year' is the 12 consecutive month period following an employee's date of hire.
3. Accrual. All leave for the year is accrued immediately upon purchase on the employee's anniversary date. For new employees, Basic Level is accrued on the date of hire but employees who have not passed their probation period may not use leave before the employee has been employed for 120 calendar days. After six months of employment, a new employee may elect to convert Basic Leave into Level 1 for two (2) credits.
4. Employees may not increase Paid Leave more than two levels on their anniversary date. This shall not apply to employees who have a significant life change event as defined in subsection 3 in Section 1 Cafeteria Plan Regulations.
5. Sick Leave Accumulated prior to cafeteria plan implementation: The employee may keep the sick leave accumulation and use it strictly for their own personal illness or injury or if it is necessary for the employee to provide care for an employee's child, spouse, or parent. . At the time of separation from service employees that are immediately eligible for benefits under the Maine State Retirement System or other City adopted qualified Retirement Plan, shall receive a payment equal to the wage equivalent of 50% of their remaining sick leave accumulation in cash, contribution to a qualified City retirement plan, or City RHS account.
6. Use of earned paid leave
    a. Absent an emergency, illness or other sudden necessity for taking earned paid leave, an employee must give at least seven days' advance notice to the employee's supervisor of

the employee's intent to use leave. Use of leave must be scheduled to prevent undue hardship on the City as reasonably determined by the City.

b. Notice required for an emergency, illness or other sudden necessity must be reasonable under the circumstances, recognizing that advance notice may not be feasible. In such circumstances, an employee shall make a good faith effort to provide as much notice as is feasible under the circumstances to the City of the employee's intent to use vacation/ earned paid leave.

7. Earned paid leave may be taken in increments of one (1) hour.

8. Carry Over. An employee may carry over up to 480 hours of accrued earned paid leave from year to year, not including any new earned paid leave hours acquired on the employee's anniversary date. Unused leave in excess of the 480 hours before the new accrual will be lost.

9. Upon separation from employment, an employee is entitled to be paid for all earned paid leave. This does not include City contributions to retirement or the value of other fringe benefits.

10. Transfer of Accrued Leave. The purpose of this policy is to establish a procedure by which full-time employees may voluntarily transfer accrued unused paid time to other full-time employees who meet the criteria outlined in this policy and who have expended their own accrued paid time off due to catastrophic illness or injury or other qualifying drastic circumstances as determined by the City Manager, in accordance with the following procedures and limitations:

a. The request for such leave may be made by the employee seeking the leave or by any person on that employee's behalf. The request must be made in writing to the Department Head for the receiving employee. If the request is submitted by someone other than the receiving employee, that employee's consent must be given before the request will be processed.

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[11] Amended June 20, 2011

b. When the receiving employee has completed at least one year of employment with the City and has exhausted all of their own accrued leave time, other City employees may transfer to that person a maximum of 40 hours each, up to a total of 160 hours, in any 12 month period measured backward from the date the receiving employee uses the time.

c. Leave time must be donated in whole hour increments with a 10-hour minimum.

d. Leave time may be transferred only in the event of the receiving employee's own catastrophic illness or injury or a catastrophic illness or injury of an immediate family member. Immediate family member for purposes of this section is defined as spouse, parent, parent-in-law, child, stepchild, or domestic partner. When requested, the receiving employee must provide medical or other sufficient documentation of the need for the leave.

e. This policy does not apply to employees out of work for work-related illness or injury covered by workers' compensation.

11 Amended June 20, 2011

f. Any transfer of paid time by the transferring employee must be completely voluntary. No employee shall be coerced, threatened, intimidated or financially induced into donating time under this policy.

g. While an employee is on shared leave, they will continue to be classified as a City employee and shall receive the same compensation and benefits they would otherwise receive if using their own accrued time.

h. The Human Resources Department is responsible for computing the values of donated leave and for adjusting the accrued leave balances to show the transferred leave. The receiving employee shall be paid their regular rate of pay; therefore, one hour of shared leave may cover more or less than one hour of the receiving employee's salary. The dollar value of the leave is converted from the donor to the recipient. Records of all leave transferred will be maintained and the value of any leave transferred which remains unused will be returned at its original value to the employee or employees who donated the leave.

i. Inappropriate use of this policy may result in the cancellation of the donated leave or use of shared leave. In no event will any unused shared leave be paid to the receiving employee in the event that person leaves employment with the City.

j. The City of Ellsworth, in its sole discretion, may cancel this program at any time.

Part 2: Other Employee Benefits

Section 1. Earned Paid Leave

1. Any employee that is not eligible for the Cafeteria Plan will accrue earned paid leave at a rate of (1) hour for every forty (40) hours worked, up to a maximum of forty (40) hours of leave per year.

2. For the purpose of this section, a "year" is the 12 consecutive month period following an employee's date of hire.

3. Accrual of earned paid leave starts immediately upon hire but employees who have not passed their probation period may not use leave before the employee has been employed for 120 calendar days.

4. Earned paid leave may be taken in increments of one (1) hour.

5. Notice

a. Absent an emergency, illness or other sudden necessity for taking earned paid leave, an employee must give reasonable advance notice to the employee's supervisor of the employee's intent to use leave. Use of leave must be scheduled to prevent undue hardship on the City as reasonably determined by the City.

b. Notice required for an emergency, illness or other sudden necessity must be reasonable under the circumstances, recognizing that advance notice may not be feasible. In such circumstances, an employee shall make a good faith effort to provide as much notice as is feasible under the circumstances to the City of the employee's intent to use earned paid leave.

6. An employee may carry-over up to forty (40) hours of accrued earned paid leave from year to year. Unused leave in excess of 40 hours will be lost.

7. Upon separating from employment, an employee is entitled to be paid for accrued earned paid leave.

Section 2. Worker's Compensation

The City of Ellsworth provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides incapacity benefits after a short waiting period or, if the employee is hospitalized, immediately. For a compensable injury resulting in lost time, payment of incapacity benefits is made by the City's insurance carrier in lieu of the employee's regular salary.

The City of Ellsworth may initially send an injured employee to a physician of the City's choice. The appointing authority may also require a return-to-work medical evaluation to determine if an employee who has been out of work is able to perform the essential functions of the employee's position with or without reasonable accommodation in such a manner that would not pose a direct threat to health and safety of the employee or others.

[6]If an employee is out of work due to incapacity resulting from an accepted Workers Compensation claim, while the employee is receiving Workers Compensation incapacity benefits the City will pay for any City benefits the employee was paying for at the time of injury. Also the City will continue to contribute to the employee's retirement plan at the usual match for the regularly scheduled work hours as long as the employee is unable to work due to an accepted Worker's Compensation injury and has not returned to work in any manner. The City will pay for these benefits for a period no longer than 6 months. This policy will be retroactive to any employee out on Worker's Compensation and receiving payments as of July 1, 2009. If for any reason other than incapacity due to the injury in question, the employee does not return to work, the employee agrees to reimburse the City the full amount of benefits paid by the City on the employee's behalf under this paragraph.

Employees who sustain work-related injuries or illnesses should inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible.

Section 2. Social Security

All employees shall contribute to the Social Security System on a cost sharing basis with the City. Contributions of the employee shall be made through payroll deductions. The percentage of premium is periodically subject to change by Federal law and increases in deductions shall be automatic.

Section 3. Holidays

Regular full-time and regular part-time employees shall be entitled to paid holidays' and the concurrent provisions of this section. Compensation for full-time employees shall be based on their regular workday. Compensation for regular part-time employees shall be pro-rated based on average hours. Paid holidays shall be as follows:

[6] Amended August 17, 2009

New Year's Day (January 1)

Martin Luther King, Jr. Day (third Monday in January)

Presidents' Day (third Monday in February)

Memorial Day (last Monday in May)

Juneteenth (June 19)

Independence Day (July 4)

Labor Day (first Monday in September)

Indigenous Peoples' Day (second Monday in October)

Veterans' Day (November 11)

Thanksgiving (fourth Thursday in November)

Day after Thanksgiving (For employees on a regular 4-day work week schedule, a 10-hour floating holiday will be provided. The float hours cannot be accumulated)

Christmas (December 25)

Floating Holiday

The Floating Holiday is based on the calendar year and cannot be accumulated. An employee must provide one week's notice to their Department Head of the intent to use a floating holiday and must receive permission from the Department Head to do so.

If an eligible hourly employee works on a recognized holiday at the request of the City, they will be paid holiday pay plus wages at one and one-half times their straight-time rate for the hours worked on the holiday.

In the case of the salaried employee who works on a regular holiday, compensatory time shall be granted equal to the time worked on the holiday.

The following holiday schedule will apply to employees who work a regular five-day work week (Monday through Friday): a recognized holiday that falls on a Sunday will be observed on the following Monday. A recognized holiday that falls on a Saturday will be recognized on the preceding Friday.

Employees or departments with a regular workday on Saturday or Sunday shall observe recognized holidays falling on Saturday or Sunday on the actual date of the holiday.

The following holiday schedule will apply to employees who work a regular four-day work week: If a recognized holiday falls on a Sunday, the holiday will be observed on the following Monday. If a recognized holiday falls on falls on a Friday, the holiday will be observed on the preceding Thursday. Employees will be provided with 10 hours of floating holiday time for each recognized holiday that falls on Saturday. Floating holiday hours cannot be accumulated.

If a recognized holiday falls during an eligible employee's paid absence (such as paid leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Paid time off for holidays will not be counted as hours worked for the purpose of determining whether overtime pay is owed.

Section 4. Court Service

The City of Ellsworth encourages employees to fulfill their civic responsibilities by serving jury duty when required.

Employees called to perform jury service shall be granted leave to do so and shall be paid their regular salary for a period of up to 160 hours. Such employees shall turn over any earnings received from such appearances (other than for mileage reimbursement) to the City Treasurer. Where contractual agreement has otherwise provided for court service compensation for certain employees, this provision shall not apply and shall not be deemed to be inconsistent with such contractual agreement.

Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Employees are expected to report for work whenever the court schedule permits.

The City of Ellsworth will continue to provide health insurance benefits for the full term of the jury duty absence. Employees will be eligible for paid holidays during jury duty leave.

Section 5. Bereavement Leave

Employees shall be granted up to three (3) consecutive workdays from the date of death, with pay, for absence resulting from the death of a member of the immediate family. Immediate family shall mean the spouse or domestic partner, the parents of the spouse, and the parents, stepparents, guardian, children, stepchildren, brothers, sisters, wards, grandparents and grandchildren of the employee. Up to One (1) day with pay may be granted by the City Manager or, in the case of library employees the Library Director, in situations involving any other death for attendance at the funeral.

Section 6. Military Duty Leave

The City of Ellsworth complies with state and federal military leave laws. Any individual with questions about such leave should direct them to their supervisor or Department Head.

Section 7. Special Leave For Emergency Service

Any employee of the City who wishes to participate as a volunteer for the City Fire Department shall be allowed to be "on call" during normal working hours provided prior arrangements have been made with the City Manager to ensure that primary job requirements are met. There shall be no reduction in salary or wages for response to such emergency calls provided there is no additional compensation received for such calls.

Section 8. Family and Medical Leave

In accordance with the federal Family and Medical Leave Act, The City of Ellsworth will grant job protected unpaid family and medical leave to eligible employees for up to twelve (12) weeks per twelve (12) month period for any one or more of the following reasons:

1. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave taken for this reason must be taken within the 12-month period following the child's birth or placement with the employee); or

2. In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or

3. The employee's own serious health condition that makes the employee unable to perform the functions of their, position.

Definitions

12 Month Period - means a rolling 12 month period measured backward from the date the leave is taken and continuous with each additional leave day taken.

Spouse - includes unmarried domestic partners. If both parties work for the City of Ellsworth their total leave in any 12 month period may be limited to an aggregate of 12 weeks if the leave is taken for either a birth, placement for adoption or foster care of a child, or to care for a sick parent.

Child - means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child includes a biological, adopted, foster, or stepchild.

Serious Health Condition, - means an illness, injury, impairment, or a physical or mental condition as defined by federal law. This may include a condition that involves inpatient care; any period of incapacity requiring absence from work for more than (3) three calendar days and that involves continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is incurable, or which if left untreated, would likely result in a period of incapacity of more than three (3) calendar days; or prenatal care by a health care provider.

Coverage and Eligibility

To be eligible for federal family/medical leave an employee must:

1. Have worked for the City of Ellsworth for at least twelve (12) months, and

2. Have worked at least 1250 hours during the 12 month period immediately preceding the commencement of the leave.

Intermittent or Reduced Leave

A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary."

1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

2. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.

B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child with the employer's consent.

Substitution (Use) of Paid Leave and Other Paid Time

A. An employee will be required to substitute (use) accrued paid leave and compensatory time concurrently with family/medical leave taken. Any leave taken up to the total of 12 weeks permitted by law after exhausting accrued time off will be unpaid.

Notice Requirement

A. An employee is required to give thirty (30) days notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form must be completed by the employee and returned to the Human Resources Department. In unexpected or unforeseeable situations, an employee must provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed "Request for Family Medical Leave" form.

B. If an employee fails to give thirty (30) days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied until thirty (30) days after the employee provides notice.

Medical Certification

A. For leave taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form and return the certification to the Human Resources Department. Medical certification must be provided by the employee within fifteen (15) days after requested, or as soon as is reasonably possible.

B. The City of Ellsworth may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

C. All documentation related to the employee’s or their family members’ medical condition will be held in strict confidence.

Effect on Benefits

A. An employee granted leave under this policy will continue to be covered under the City of Ellsworth health insurance, life insurance or income protection disability plan under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.

B. Employee contributions, as appropriate, will be required either through payroll deduction or by direct payment to the Deputy Treasurer. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to change in rates that occur while the employee is on leave.

C. If an employee's contribution is more than thirty (30) days late, the City of Ellsworth may terminate the employee's insurance coverage.

D. If the City of Ellsworth pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the Employer for delinquent payment (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.

E. If the employee fails to return from unpaid family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member, or (2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the City of Ellsworth may seek reimbursement from the employee for the

portion of the premiums paid by the City of Ellsworth on behalf of the employee (also known as the employer contribution) during the period of leave.

F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave.

Job Protection

A. If the employee returns to work before or at the conclusion of the permitted 12 weeks of leave permitted under federal law, they will be reinstated to their former position or an equivalent position with equivalent pay, benefits, status, and authority.

B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

C. If the employee fails or is unable to return to their regular position at the conclusion of the available FMLA time, the employee will be reinstated to their same or similar position, only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

State Family Medical Leave

In some circumstances, employees may be eligible for FMLA leave time under state law instead of or in addition to federal law. State law permits an eligible employee to take up to 10 weeks of unpaid leave during a 2 year period. In order to qualify for state FMLA leave, an employee must have worked for The City for at least 12 consecutive months prior to the need for the leave.

Leave under the state FMLA is available for the following reasons:

- A serious health condition of the employee;
- The birth of the employee’s child or the employee’s domestic partner’s child;
- The placement of a child age 16 or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;
- A spouse, domestic partner, child, domestic partner’s child, or parent with a serious health condition;
- The donation of an organ of the employee for a human organ transplant; or,
- The death or serious health condition of the employee’s spouse, domestic partner, parent, or child if the spouse, domestic partner, parent or child as a member of the state military forces, or the US Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

Many of the same provisions regarding the application of the federal FMLA detailed above also apply to leave under the state law. If an employee believes they qualify for leave for one of these conditions, they should speak to the Human Resources Department immediately as to specific rights and obligations under state law.

Family/Medical Leave Forms to Be Submitted by the Employee

1. Request for Family/Medical Leave

2. Physician or Practitioner Certification Family Member/Serious Health Condition (2A) Employee Serious/Health Condition (2B)

3. Authorization for Payroll Deduction for Benefit Plan Coverage Continuation During a Family Medical Leave of Absence

4. Fitness for Duty to Return From Leave

Section 9.

State Paid Family Medical Leave

Effective January 1, 2025, the City will comply with the State of Maine's Paid Family and Medical Leave Act as required by law. In accordance with the act, a total of 1% of each employee's earnings will be contributed to the state-administered Paid Family and Medical Leave program. The 1% contribution will be shared equally between the City and each employee. Each pay period, 0.5% will be deducted from each employee's gross wages. In addition, the City will make a 0.5% employer contribution each pay period. The City will make all necessary payroll adjustments to ensure timely and accurate deductions and contributions as stipulated by the State of Maine's Paid Family and Medical Leave Law. In the event the Maine Department of Labor changes the contribution rate, the City and the employee will split the contribution on a 50% basis.

The State's plan is to have paid FMLA leave available for employees beginning May 1, 2026. Please contact Human Resources for information about this program.

Section 10. Other Unpaid Leave of Absence

A regular employee who needs an absence for work for a reason other than those covered elsewhere in this ordinance may be granted a leave of absence without pay by the City Manager upon recommendation of the Department Head. The maximum leave granted is 90 days.

An employee desiring such time off must apply in writing to the Department Head at least two weeks in advance of the requested leave time. The request must specifically state the reasons for such leave and the length of time requested. Such requests will be determined on an individual basis by the City Manager, at the recommendation of the Department Head.

An employee must have completed six months of continuous service before the effective date of the leave of absence. The employee must exhaust any accrued leave at the inception of the leave of absence.

If such leave is granted, the employee will maintain any benefits and/or service accrued through the date of the inception of the leave but no benefits shall accrue during the absence nor shall the employee be eligible for other city-paid benefits during the absence. For instance, holidays falling within the leave of absence shall be unpaid. Upon completion of such a leave of absence, the employee may be able to return to their regular position if that position is still available and suitable. In the event that the position has been abolished or reassigned in their absence or is otherwise no

longer available or suitable, the employee shall be given a position of equal classification, status and salary if such position is available. If no such positions are available, the employee may apply for any other job that is vacant and for which the employee is qualified for. If no such positions exist or if the employee is not the best candidate for such position, the employee's employment may be terminated.

If an employee on an unpaid leave of absence from the City starts a business, operates a business, undertakes a new career, or engages in similar activity, the leave will be terminated and the employee may be terminated from employment.

The granting or denial of a leave of absence shall be solely within the discretion of the hiring authority and shall not be subject to the grievance procedure.

CHAPTER VI - Work Week and Wage Administration

Section 1. Hours of Work

The hours of the regular workweek for regular full-time and regular part-time employees shall be as prescribed by individual departmental requirements and/or as called for by the job description(s) for the position(s). Exempt employees shall accomplish the work assigned to them regardless of the hours required to do the work.

Notwithstanding any other provisions of this ordinance the hiring authority reserves the right to alter, amend and/or otherwise determine the hours of work in any and all departments where it deems it necessary.

Section 2. Records of Hours Worked

Accurately recording time worked is the responsibility of every hourly employee. Federal and state laws require The City of Ellsworth to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Hourly employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

It is the employees' responsibility to approve their time records to certify the accuracy of all time recorded. The supervisor will review and then approve the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by reapproving the time record.

Section 3. Paydays

All employees are paid weekly on Friday. Each paycheck will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will receive pay on the last day of work before the regularly scheduled payday.

Employees may have pay directly deposited into their bank accounts if they provide advance written authorization to the City of Ellsworth. Employees will receive an itemized statement of wages when the City of Ellsworth makes direct deposits.

CHAPTER VII - Changes in Status

Section 1. Seniority

Seniority, for purposes of this Ordinance, shall mean length of continuous service in a particular status within a particular department and may be the governing factor in all matters of shift assignments, layoffs, recall, vacation preference or overtime work provided all other qualifications are equal. Probationary employees shall not be afforded any seniority. Once the probationary period is completed, seniority shall be retroactive to the date of initial hire. The seniority rules apply to regular full-time employees only. A break in service shall only be caused by resignation, dismissal, retirement or failure to report for work within five (5) workdays of being recalled from layoff. Transfer or promotion to another department will not constitute a loss of seniority. Demotion, for any reason, shall not constitute a loss of seniority.

Seniority lists shall be established and maintained for each department by the department head or their designee.

Section 2. Promotion Policy

The City encourages employees to develop skills, attain greater knowledge of their work and make known their qualifications for promotion to more responsible positions. No department head shall deny an employee permission to apply for a promotional opportunity in any City department but no such promotion is guaranteed. When the hiring authority determines that an insufficient number of well-qualified employees are available from within the City's ranks, they may consider outside applicants along with employees in order to provide an adequate number of candidates for consideration.

Section 3. Standards for Promotion

The hiring authority shall apply the following standards with respect to promotions and the filling of job vacancies within the City service: job-related skills, knowledge, ability, experience, education and past performance which will contribute to the satisfactory performance of duties of the position.

Section 4. Demotion

An employee may be demoted to a lower position for which they are qualified for any of the following reasons:

A. When an employee would otherwise be laid off because their position is being abolished, lack of work, a cut-back in City personnel due to the City's financial condition or because of the return to work from authorized leave of another employee to such position in accordance with these rules (leave of absence).

B. When an employee does not possess the necessary qualifications to render satisfactory service in the position they hold. A demotion under this provision shall be rendered pursuant to the procedures contained in Chapter VIII.

C. When an employee does not render satisfactory service after being advised of their shortcomings and given ample opportunity to improve their performance. A demotion under this provision shall be rendered pursuant to the procedures contained in Chapter VIII.

D. When an employee voluntarily requests such demotion.

Section 5. Resignation

An employee may resign from the City service in good standing by submitting in writing the reasons thereof and the effective date to the hiring authority at least fourteen (14) calendar days in advance. The hiring authority may permit a shorter period of notice if extenuating circumstances exist. The resignation shall be accompanied by a statement by the department head as to the resigned employee's service performance and pertinent information concerning the cause of resignation. Failure to comply with this rule may be cause for denying future employment with the City.

Section 6. Layoffs

Any employee may be laid off by the City whenever it is necessary because of a shortage of funds, lack of work, or related reasons, which do not reflect discredit upon the employee. Work record and seniority in each particular case shall be the basis for determining layoffs. If rehired within two years of the date of layoff, the employee will retain all accrued benefits.

Section 7. Unapproved Absences

An employee absent from work for five (5) consecutive days without approval shall be deemed to have resigned after written notice, by the hiring authority, to the employee (or to the employee's last known address).

Section 8. Severance Pay

a. layoff,

b. death of the employee (payment will be made to the employee's estate).

Section 9. Retiring in Place

[7]If an employee retires from service, and then decides to return to active employment, as far as the City is concerned that employee will start again as a NEW hire, with the wage and benefits of a new hire, with no seniority. The time previously employed may count towards FMLA eligibility or as otherwise required by law. The employee returning must also follow any rules that the retirement plan they contribute to requires. For example, re-hire date, benefit eligibility etc.

[7] Amended August 17, 2009

CHAPTER VIII Disciplinary Action and Grievance Procedure

Section 1. Disciplinary Action

Disciplinary action will be handled in accordance with the procedures set forth herein. Nothing in this Chapter shall limit the City of Ellsworth's right to suspend or discharge a probationary employee during the employee's probationary period with or without cause.

A. Levels of Discipline

The City of Ellsworth subscribes to the concept of "progressive discipline." Under normal circumstances, instances of minor misconduct or poor performance will result in oral or written reprimands. Subsequent misconduct or poor performance by the same employee may result in increasing levels of disciplinary severity, including suspension and ultimately discharge. Notwithstanding the policy of progressive discipline, the City of Ellsworth may issue discipline at whatever level of discipline it deems appropriate to the circumstance, including, for example, termination for a significant single instance of misconduct. Possible disciplinary actions include the following:

i. Oral Reprimand

ii. Written Reprimand

iii. Suspension Without Pay

iv. Dismissal

Informal counseling shall not be considered discipline and is not subject to this section.

B. Procedure

Whenever a department head has cause to believe that disciplinary action may be appropriate, the department head shall give reasonable notification to the employee concerned of the time and place of a disciplinary hearing. If appropriate, an employee may be placed on paid administrative leave pending the disciplinary hearing.

The purpose of the disciplinary hearing is to inform the employee of the facts that are believed to warrant possible disciplinary action and to give the employee the opportunity to respond.

If the department head determines that discipline is warranted, the department head shall determine the appropriate level of discipline. A department head may issue an oral reprimand, written reprimand, or suspension of up to five (5) days, or may recommend dismissal to the City Manager, or their designee.

i. If an oral reprimand is warranted, the department head shall document the oral reprimand with a "counseling memo" placed in the employee's personnel file.

ii. If a written reprimand is warranted, the department head shall prepare the written reprimand, review it with the employee, have the employee sign it (to acknowledge that the employee has received and reviewed the reprimand, even if the employee disagrees with the reprimand), and place it in the employee's personnel file.

iii. If a suspension without pay is warranted, the department head shall prepare a memorandum to be placed in the employee's personnel file and shall designate on which days the suspension will be served. The department head may allow the suspension to be served as a block or as individual days over the course of a number of weeks.

iv. If a department head recommends termination, the City Manager, or their designee, shall review the matter and determine whether termination is appropriate, and either terminates the employee's employment or institute some lesser form of discipline, as the City Manager deems appropriate.

An employee who receives disciplinary action may grieve the action taken within five (5) work days as provided in section 2, below, except that a grievance of disciplinary action shall begin at Step 2 for non-termination discipline or Step 3 for cases of termination. The disciplinary action shall be stayed pending outcome of the grievance.

C. Causes for Discipline

Causes for disciplinary action include, but are not limited to:

i. Misconduct, indolence, or insubordination, such as failure to obey a department rule or lawful and reasonable direction from a supervisor;

ii. Inefficiency, incompetence, or unsatisfactory work performance;

iii. Excessive absenteeism, tardiness, or early departure from work;

iv. Misuse of sick time;

v. Malfeasance or conviction of any criminal offense;

vi. Violation of Personnel Rules, Chapter IX, Conduct of Employees;

vii. Violation of the Code of Ethics;

viii. Finding by a Court of a violation of any other City ordinance;

ix. Engaging in off-duty employment or other activity that is incompatible with the employee's duties, functions, and responsibilities as a City employee;

x. Engaging in physical violence or threatening violence;

xi. Failure to maintain a polite and cooperative attitude; and

xii. Any other action that reflects poorly on or negatively impacts the City of Ellsworth.

Section 2. Grievance Procedure

Any regular full-time and regular part-time employee shall have the right to present a grievance in any matter, which directly affects his/her condition of employment according to the following procedure:

Step 1:

The grievance shall first be discussed with the employee's department head. The department head shall then take such steps as are advisable, including consultation with the employee's immediate supervisor in an effort to resolve the grievance informally.

Step 2:

If the grievance is not resolved within five (5) workdays of initial discussion in Step 1, the grievance may then be submitted in writing to the City Manager who shall provide the employee with a decision in writing within five (5) workdays of submission.

Step 3:

If the grievance is not resolved within five (5) workdays after the receipt of the written decision from the City Manager at Step 2, the grievance, if it involves a matter of policy or termination of employment, may then be submitted in writing to the City Council. The City Council, or a sub-committee of the Council established to hear the grievance, shall call and conduct a hearing of all parties involved within thirty (30) days after submission. The City Council, or subcommittee, shall provide the employee with a written decision within ten (10) workdays of the hearing.

CHAPTER IX - Conduct of Employees

Section 1. General

Employees are expected to conduct themselves at all time during their hours of employment in a manner that will bring no discredit to the City. All employees of the City are expected and required to treat the public with promptness, patience, courtesy and respect. Information about members of the public, gained from their positions, is to be considered confidential.

Section 2. Compliance with Federal, State, and Local Laws

Employees of the City shall comply with all federal, state, and local laws and regulations. Failure to comply may result in disciplinary action.

Section 3. Departmental Rules, Regulations, and Standard Operating Procedures

Written departmental regulations will supplement this ordinance and will be binding on the employees of the individual departments. In case of conflict between this ordinance and the departmental regulations, the more restrictive wording shall take precedence.

This section shall not apply to employees otherwise provided for by contractual agreement and shall not be deemed to be inconsistent therewith.

Section 4. Working Relationships and Interdepartmental Cooperation

Employees of the City shall maintain high standards of cooperation, efficiency, and economy in their work. City employees shall cooperate with the public and employees in other City departments to the fullest extent practical. Department heads and supervisors shall organize and direct the work of their work units so as to achieve these objectives.

Under emergency situations, when an employee's supervisor or department head is not available, the employee shall perform such duties as shall be assigned by the department head or designee present or overseeing the emergency situation.

Section 5. Attendance at Work

Employees shall be at their respective places of work in accordance with the general or departmental regulations pertaining to hours of work. In the event of necessary absences because of illness or any

other cause, it is the responsibility of the employees to notify the department supervisor prior to the time the employee is required to report for work.

All departments shall furnish periodic work, attendance, and request for leave reports, as the City Manager shall request.

Section 6. Inclement Weather and Emergency Closings

It is the employee's responsibility to arrive at work on time even during periods of inclement weather. Infrequent instances of tardiness of less than one hour, due to weather conditions, may be excused by the department head without loss of pay.

At times, emergencies such as severe weather, fires, power failures, or earthquakes, can disrupt City operations. In appropriate cases, determined by the City Manager, circumstances may require the closing of City Hall. When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid.

Section 7. Rest and Meal Periods

Each workday, full-time hourly employees are provided with two paid rest periods of fifteen (15) minutes in length. To the extent possible, rest periods will be provided in the middle of work periods. Since this time is counted and paid as time worked, employees shall be absent from their workstations only for the allotted rest period time.

All full-time employees are provided with one unpaid meal period each workday. Department Heads will schedule meal periods to accommodate operating requirements. Employees will be relieved of all municipal duties during meal periods. In the event that a situation occurs requiring the employee to go back on duty, the meal period may be resumed later for the remaining meal period time.

Section 8. Strikes and Slowdowns

No municipal employee of any status may participate in a work stoppage, sympathy work stoppage or slowdown.

Any employee, who instigates, promotes, sponsors, or engages in a work stoppage, sympathy work stoppage or slowdown may be subject to disciplinary action, up to and including dismissal.

Section 9. Outside Employment

Employees may engage in other employment outside of their City working hours provided it is understood and accepted that their primary duties and responsibilities shall be to the City of Ellsworth. Employees accepting secondary employment shall notify the City Manager in writing, in advance of taking such employment. If, in the opinion of the City Manager there is a conflict with the City employment, because, for instance, the outside employment may negatively affect the employee's ability to fully satisfy the job-related requirements of their position at the City of Ellsworth or may involve the use of confidential information acquired directly or indirectly through employment at The City of Ellsworth, the employee shall be so advised. After discussion with the employee the City Manager shall determine if the outside employment inappropriately conflicts with City employment. If the City Manager so determines, they shall notify the employee, in writing, to cease the outside employment. If the employee fails to cease the outside employment as directed by the City Manager it is grounds for termination.

Section 10. Political Activity

While working for the City, employees shall not seek or accept nomination or election to any office in the City Government[8]. Employees shall not use their authority of influence for the purpose of interfering with or affecting the result of an election or a nomination for office. Employees shall not take part in the management or campaigns of candidates for City Council, nor shall they circulate petitions, distribute campaign literature, or solicit or receive funds from any person, pertaining to the nomination of City Council members.

City employees shall not directly or indirectly, coerce, command, or advise state or local employees to pay, lend or contribute anything of value to a party, committee, organization, agency, or person for partisan political purposes.

No officer or employee of the City shall directly or indirectly interfere with the participation of any City employee in the non-partisan affairs of Ellsworth (except as provided in the first paragraph of this section), provided that no conflict of interest results. A "conflict of interest" shall mean a situation in which an employee's participation in the affairs of the City results in financial gain to their family other than a regular compensation paid to them as an officer of the City.

[9]No employee shall wear a City uniform or clothing provided by the City for purposes other than City work purposes.

Nothing in the paragraph shall be construed to prohibit any City employee from donating their own funds, time, or services for a political cause (except as provided in the first paragraph of this section), provided such donation of time or services is not made during the employee's City working hours or upon the premises of the City or by using the facilities or the services of the City.

Section 11. Receipt of Gifts

A City employee is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from any person who has or is seeking to obtain business with the City of Ellsworth or from any person within or outside City employment whose interests may be affected by the employee's performance or non-performance of his official duties.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement, Christmas or unsolicited advertising or promotional materials, e.g., pens, note pads, calendars of nominal intrinsic value, is permitted.

Section 12. Conflict of Interest

No employee shall participate in the decision to make purchases or enter into contracts where the employee has any interest, either directly or indirectly, in the vendor or contract with the City. An "interest" shall include any financial interest or other interest other than that possessed by the general public, held by the employee, the employee’s immediate family, or individuals residing in the employee’s household. No City employee shall sell materials to the City unless such material is awarded under a sealed bid.

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[8] Amended August 17, 2009
[9] Amended August 17, 2009

Section 13. City Property

Employees must not, directly or indirectly, use or allow the use of City property of any kind for other than official activities, except as authorized by the City Manager. Please also refer to the Vehicle Policy.

Section 14. Use of Phone and Mail System

Employees should practice discretion in using city telephones when making local personal calls and shall be required to reimburse the City of Ellsworth for any charges resulting from their personal use of the telephone.

The use of the City of Ellsworth-paid postage for personal correspondence is not permitted.

Section 15. Use of City of Ellsworth Data Processing Equipment

Computer information systems and networks are an integral part of business at The City of Ellsworth. The City has made a substantial investment in human and financial resources to create these systems. The intent of these rules is to provide employees with general requirements for utilizing the City of Ellsworth's computers, networks and Internet services. More specific administrative procedures and rules governing day-to-day management and operation of the computer system may supplement these rules.

The policies and directives have been established in order to:

- Protect this investment.
- Safeguard the information contained within these systems.
- Reduce business and legal risk.
- Protect the good name of The City.

These rules provide general guidelines and examples of prohibited uses for illustrative purposes but do not attempt to state all required or prohibited activities by users. Employees who have questions regarding whether a particular activity or use is acceptable should seek further guidance from the Technology System Administrator (TSA) or City Manager.

Failure to comply with these rules and/or other established procedures or rules governing computer use in accordance with employee's, standard operating procedures, and other related policies, may result in disciplinary action, up to and including restricted access and/or dismissal. Illegal uses of the City of Ellsworth's computers and/or networks will also result in referral to law enforcement authorities.

Violations

Violations will result in disciplinary action by The City, up to and including termination, in accordance with City policy. Actions will be predicated upon the following factors:

- The type and severity of the violation.

- The presence of any repeated violations.
- Whether it causes liability or loss to The City.

Administration

The TSA is responsible for the administration of this policy.

Contents

The topics covered in this document include:

- Statement of responsibility
- Expectation of Privacy
- Internet and e-mail
- Computer viruses
- Access codes and passwords
- Physical security
- Copyrights and license agreements

Statement of Responsibility

General responsibilities pertaining to this policy are set forth in this section. The following sections list additional specific responsibilities.

Manager Responsibilities

The City Manager and Supervisors must:

- Ensure that all personnel that use or have access to City computers are aware of, and comply with, this policy.
- Create appropriate performance standards, control practices, and procedures designed to provide reasonable assurance that all employees observe this policy.

TSA Responsibilities

The TSA must:

- Develop and maintain written standards and procedures necessary to ensure implementation of, and compliance with, these policy directives.

- Provide appropriate support and guidance to help employees fulfill their responsibilities under this directive.

Expectation of Privacy

The City of Ellsworth retains control, custody and supervision of all computers, networks and Internet services owned or leased by the City. The City reserves the right to monitor all computer and Internet activity by employees and other system users. Employees have no expectation of privacy in their use of computers, and/or networks, including e-mail messages and stored files.

The Internet and E-mail

The Internet is a very large, publicly accessible network that has millions of connected users and organizations worldwide. E-mail is an integral feature of the Internet.

Policy

Access to the Internet is provided to employees for the benefit of The City of Ellsworth and its citizens. With it, employees are able to access a variety of information resources around the world.

Unfortunately, the Internet also contains considerable risk and inappropriate material. To ensure that all employees are responsible and productive Internet users, and to protect The City's interests, the following guidelines have been established for using the Internet and e-mail.

Use of City supplied e-mail or Internet implies acceptance of these policies.

Acceptable Use

Employees using the Internet are representing the City. Employees are responsible for ensuring that the Internet is used in an effective, ethical, and lawful manner. Examples of acceptable use are:

- Using a Web browser to obtain City related business and government information from commercial and governmental websites.

- Accessing databases for information as needed by the City.

- Using e-mail to conduct City business.

- Minimal personal use is acceptable within the parameters of this policy. Minimal use is considered to be on an irregular basis for a short period of time during the work period. Personal use of the Internet should not interfere with the performance of the employee's job duties.

- Using personal break or lunch periods on personal messages or web browsing.

Unacceptable Use

Employees must not use the Internet for purposes that are illegal, unethical, harmful to the City, or nonproductive. Examples of unacceptable use are:

- Sending or forwarding chain e-mail or any messages containing instructions to forward the message to others.

- Indiscriminately broadcasting e-mail or sending the same message to multiple recipients or distribution lists.

- Subscribing to mailing lists unrelated to work.

- Using excessive time for personal e-mail. It is understood that some personal messages will be sent and received, and time spent on personal activities should be kept to a minimum.

- Conducting a personal business using City resources.

- Transmitting or accessing any content that is offensive, harassing, fraudulent or in violation of the City's sexual harassment policy. It is possible to connect to offensive web sites accidentally in the course of legitimate research, and this should not cause alarm. Employees are expected to close or back out of these windows immediately. Examples include, but are not limited to, pornography, gambling, and potentially offensive stories or jokes. Employees needing to access this type of content, such as the police department during normal investigative procedures, should get supervisor approval before accessing these sites.

- Streaming transmissions, audio or video, this includes, but is not limited to; radio and television web-casts unrelated to business must be approved prior to viewing. This does not include web-casts for business purposes.

- Intentionally using internet facilities to disable, impair or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.

Downloads

Employees should not upload or download files that are not related to City business. Employees should get prior approval from their department head prior to downloading files. If the department head is unsure whether or not it is safe to download, then they should contact the TSA or their designee.

Employee Responsibilities

An employee who uses the Internet or Internet e-mail shall:

- Ensure that all communications do not interfere with their productivity or the productivity of others.
- Be responsible for the content of all text, audio, or images placed or sent over the Internet.
- All outbound communications should have the employee's name attached.
- Not transmit copyrighted materials without written permission from the copyright holder.
- Know and abide by all applicable City policies dealing with security and confidentiality of City records. Police department employees must know and abide by general order 2-21 as of the date of this policy.
- Run a virus scan on all files received through the Internet.
- Avoid transmission of confidential information. If it is necessary to transmit confidential information, employees are required to take reasonable steps to ensure that the information remains confidential, is delivered to the intended recipient, that the intended recipient is authorized to receive such information, and that the intended use is legitimate. Data encryption is the only known reasonable method at this time.
- Be responsible for any unauthorized charges including but not limited to credit card charges, subscriptions, long distance telephone charges, equipment and line costs, or for any illegal use of its computers such as copyright violations.

Copyrights

Employees using the Internet are not permitted to copy, transfer, rename, add, or delete information or programs belonging to others without express written permission from the copyright owner. Failure to observe copyright or license agreements may result in disciplinary action by the City and legal action by the copyright owner.

Monitoring

All messages created, sent, or retrieved over the Internet are the property of The City of Ellsworth and are regarded as public information. The City of Ellsworth reserves the right to access the contents of any messages sent over its facilities if The City believes, in its sole judgment, that it has a business need to do so.

All communications, including text and images, can be disclosed to law enforcement or other third parties without prior consent of the sender or the receiver. ***This means, don't put anything into your e-mail messages that you wouldn't want to see on the front page of the newspaper, or be required to explain in a court of law.***

At this time, it is not policy, practice or desire to monitor messages or Internet traffic. However logs with this information exist, they may be spot checked. Please be aware that legal obligations (court decisions, decrees, notice of pending *relevant* legal action) or gross abuse can force a change to this policy at any time without prior notice.

Remember that e-mail is a written form of communication that can survive electronically for a very long time (even after deletion). It cannot be un-sent, and *it cannot be considered private*.

Computer viruses

Computer viruses are programs designed to make unauthorized changes to programs and data. Therefore, viruses can cause destruction of City resources.

Background

It is important to know that:

- Computer viruses are much easier to prevent than cure.
- Defenses against computer viruses include protection against unauthorized access to computer systems, using only trusted sources for data and programs, and maintaining anti-virus software.

TSA responsibilities

The TSA shall:

- Install and maintain appropriate anti-virus software on all computers.
- Respond to all virus attacks and destroy any virus detected.

Employee responsibilities

These directives apply to all employees:

- Employees shall not knowingly introduce a computer virus into City computers.
- Employees shall not load diskettes, CDs or other media of unknown origin.
- Employees shall not tamper with the configuration of anti-virus software except as directed by the TSA or their designee.
- Incoming files/data (diskettes, cd's, and other) shall be scanned for viruses before they are read.

- ***Never*** open e-mail attachments that end with ".exe", ".bat", ".bas" or other known executable identifiers.

- Any employee who suspects that their workstation has been infected by a virus shall immediately contact the TSA or their designee.

Access Codes and Passwords

The confidentiality and integrity of data stored on City computer systems must be protected by access controls to ensure that only authorized employees have access. This access shall be restricted to only those capabilities that are appropriate to each employee's job duties.

TSA responsibilities

The TSA shall be responsible for the administration of access controls to all networked City computer systems. The TSA will process user adds, deletes, and changes upon the request from the end user's supervisor.

The TSA will maintain a list of administrative access codes and passwords and keep this list in a secure area.

Accounts that remain inactive for an extended period of time will be deactivated, and then purged by the TSA or designee.

Employee Responsibilities

Each employee:

- Shall be responsible for all computer transactions that are made with their User ID and password.

- Shall not disclose passwords to others. Passwords must be changed immediately if it is suspected that they may have become known to others. Passwords should not be recorded where they may be easily obtained.

- Will change passwords when prompted to by the TSA or their designee.

- Should use passwords that cannot be easily guessed by others.

- Should log out or lock their workstation when leaving it unattended for any length of time.

- Each employee must use their personal username and password. Usernames and passwords must not be shared.

- Store data and files in a data repository designated by the TSA. Because servers are backed up routinely, this protects against data loss.

Supervisor's Responsibility

Department heads should notify the TSA or designee promptly whenever an employee leaves the City, or transfers to another department, so their access can be revoked or changed. Involuntary terminations must be reported concurrent with, or prior to, termination.

Physical and Data Security

It is City policy to protect computer hardware, software, data, and documentation from misuse, theft, unauthorized access, and environmental hazards.

Employee Responsibilities

The directives below apply to all employees:

- Media (diskettes, CDs, tapes, or other data storage devices) should be stored out of sight when not in use. If they contain sensitive or confidential data, they must be locked up. Employees are strongly encouraged to store such data in their designated data repository.

- Media should be kept away from environmental hazards such as heat, direct sunlight, and magnetic fields.

- Critical computer equipment, such as file servers and network equipment must be protected by an uninterruptible power supply (UPS). Other computer equipment must be protected, by a surge suppressor at minimum. Laser printers will be plugged into separate electrical outlets and not into UPS's.

- Computer and network hardware should not be exposed to environmental hazards such as food, smoke, liquids, high or low humidity, and extreme heat or cold. Where these hazards are unavoidable, appropriately hardened equipment must be used.

- Since the TSA is responsible for all equipment installations, disconnections, modifications, and relocations, employees are not to perform these activities. This does not apply to portable computers for which an initial connection has been made by the TSA or their designee.

- All data stored on City owned equipment belongs to the City, any attempt to delete, erase or otherwise conceal information stored on this equipment with out TSA approval may result in disciplinary action.

- Information belonging to the City of Ellsworth is ONLY to be accessed to conduct City business, any attempts to access information not belonging to the employee, or not necessary in conducting City business may result in disciplinary action.

- Employees shall not take shared portable equipment such as laptop computers off the premises without the informed consent of their supervisor. Informed consent means that the manager knows what equipment is leaving, what data is on it, and for what purpose it will be used.

- Employees should exercise care to safeguard the valuable electronic equipment assigned to them. Employees who neglect this duty may be accountable for any consequent loss or damage.

- Employees must remember that existing policy concerning care and handling of City property also applies to computer equipment.

Copyrights and License Agreements

It is the City's policy to comply with all laws regarding intellectual property.

Legal Reference

The City and its employees are legally bound to comply with the Federal Copyright Act (Title 17 of the U. S. Code) and all proprietary software license agreements. Noncompliance exposes the City and the responsible employee(s) to civil and criminal penalties.

Scope

This directive applies to all software that is owned by the City, licensed to the City, or developed using City resources by employees or vendors. Software not owned or licensed to the City must not be installed on City computers.

TSA Responsibilities

The TSA will:

- Maintain records of all software owned or licensed by City, including software license details and assignments for all software applications, utilities, and modules.

- Periodically scan City computers to verify that only properly licensed, City owned software is installed.

Employee Responsibilities

Employees shall not:

- Install software unless authorized by the TSA. Only authorized software that is licensed to or owned by the City is to be installed on City computers.
- Copy software unless authorized by the TSA.
- Download software unless authorized by the TSA.

Civil Penalties

Violations of copyright law expose The City and the responsible employee(s) to the following civil penalties:

- Liability for damages suffered by the copyright owner.
- Any lost profits attributable to the copying.
- Large monetary damage awards for each illegal copy.

Criminal Penalties

Violations of copyright law that are committed "willfully and for purposes of commercial advantage or private financial gain" that is, to save or make money, expose The City and those employees responsible to the following possible criminal penalties:

- Fines up to $500,000.00 for each illegal copy.
- Jail terms of up to five years.

(as of the date of this policy)

Section 16. Use of Equipment and Vehicles

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines. Employees are to notify the Department Head or designee if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, may result in disciplinary action.

Employees whose work requires operation of a motor vehicle must present and maintain a valid vehicle operator's license that is neither suspended nor revoked and must be able to provide proof of adequate insurance coverage. Any changes to such an employee's driving record or license status must be reported to the employee's supervisor immediately. Where applicable, failure to maintain a valid driver's license may be sufficient cause for immediate termination.

Employees traveling on behalf of the City must comply with all state, federal, and local traffic rules and regulations. The City of Ellsworth is not responsible for and will not reimburse an employee for any fine incurred by the employee for violating a traffic or criminal law while traveling on behalf of the City. Employees traveling on City business are expected to wear seatbelts at all times.

Any accident, no matter how minor, which occurs while any employee is operating a vehicle on City business, must be reported immediately to the City Manager.

Employees who operate personal vehicles on City business are strictly prohibited from operating such vehicles under the influence of alcohol or controlled substances, except for prescription medication authorized by a physician who does not cause unsafe performance.

Employees are not permitted to use City vehicles for personal business/activity.

Failure to follow these rules may result in disciplinary action, up to and including immediate termination.

Section 17. Safety

To assist in providing a safe and healthful work environment for employees, customers, and visitors, the City of Ellsworth has established a workplace safety program. This program is a top priority for the City of Ellsworth. The City Manager has responsibility for implementing, administering, monitoring, and evaluating the safety program.

Section 18. Use of Tobacco Products

In keeping with the City of Ellsworth's intent to provide a safe and healthy work environment, use of tobacco products including, but not limited to, cigarettes, cigars, electronic cigarettes, vaping devices, nicotine pouches, and smokeless tobacco products such as chewing tobacco and snuff is prohibited within all City buildings and vehicles. Exterior designated smoking areas, as appropriate, shall be determined by the City Manager.

Section 19. Employee Dress and Appearance

1. As representatives of the City of Ellsworth, employees are expected to maintain a neat and professional appearance. Employees are encouraged to dress in a manner that is professional yet flexible, suitable for their specific role and daily tasks. For most office environments, a business casual dress code is expected. This includes:
    - **Tops**: Collared shirts, blouses, sweaters, and professional-looking tops. Polos are acceptable as long as they are neat and include the City's logo. No other logos or graphics will be permitted.
    - **Bottoms**: Slacks, khakis, skirts, and professional-looking jeans. Denim is allowed on a departmental basis with prior approval from the City Manager and Department Head as long as it is not ripped, frayed, or overly distressed.
    - **Footwear**: Closed-toe shoes, loafers, flats, and professional boots are recommended. Clean, casual shoes such as sneakers are allowed, provided they are in good condition.

Specific Considerations

1. **Public Interaction**: Employees who interact with the public or represent the city at official events should adhere to a business professional dress code, including suits, dresses, or professional separates.
2. **Fieldwork & Facilities Roles**: Employees whose work involves physical tasks or fieldwork may wear attire appropriate for safety and functionality, such as uniforms or workwear. Safety gear must be worn as required.
3. **Seasonal & Cultural Sensitivity**: Employees are encouraged to dress comfortably in alignment with seasonal weather conditions. The city supports culturally diverse attire, including traditional clothing, provided it adheres to general professionalism standards.

Prohibited Attire

- Clothing with offensive language, images, or symbols.
- Apparel that is overly revealing or not suitable for a professional setting.
- Excessively casual attire such as sweatpants, flip-flops, and beachwear (except for specific roles where this is necessary).

Professional appearance also means maintaining good hygiene and grooming while working. Facial hair is permitted as long as it is neat and clean. Earrings are acceptable as long as they are not a safety hazard. Rings through the nose, eyebrow, tongue, or other body parts visible to the public may not be worn while working. All tattoos must not be offensive or shall be covered at all times while working.

Employees who violate this policy in the opinion of their Department Head or the City Manager may be asked to leave the workplace until they are in compliance. Repeated infractions of this policy may be cause for disciplinary action.

Under certain limited circumstances, an exception to this policy may be made for an employee with a bona fide medical and/or religious need. To request such an exception, the employee must contact the City Manager as soon as the need for the exception arises.

Section 20. Violence in the Workplace

The safety and security of all employees is of primary importance. Threats, stalking, threatening and abusive behavior, or acts of violence against employees, visitors, customers, and/or City facilities or property by anyone on City property, on a City-controlled site, or in connection with City employment or business will not be tolerated (even those made in jest). Violations of this policy will lead to corrective action up to and including termination and/or referral to appropriate law enforcement agencies for arrest and prosecution. The City of Ellsworth reserves the right to take any necessary legal action to protect its employees.

All employees are responsible for notifying their Department Head immediately of any threats that they witness or receive or that they are told another person witnessed or received. Even without a specific threat, all employees should report any behavior they have witnessed that they regard as potentially threatening or violent or that could endanger the health or safety of an employee when the behavior has been carried out on City premises, on a City-controlled site, or is connected to City

employment or business. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened.

Section 21. Drug and Alcohol Use and Drug Testing

It is The City of Ellsworth's desire to provide a healthful and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

Drug and Alcohol Use

While on the City of Ellsworth premises and while conducting City-related activities off the City of Ellsworth premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol, legal drugs prescribed to someone other than the employee, or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment.

Alcohol and Drug Policy and Testing Procedures for City Employees Required to Hold a Commercial Drivers Licenses

1. Purpose

The City of Ellsworth is committed to a drug and alcohol free workplace. In order to ensure the safety of its employees and the general public, as well as to comply with 49 CFR Part 382 and other pertinent federal laws, the City Council has adopted this employment policy.

The City takes pride in its employees who perform critical duties in a tidy effective manner with safety foremost in their minds. This policy strengthens our commitment to a safe workplace.

2. Program Administrator

The Human Resources Manager is designated by the City Council as the Alcohol/Drug Testing Program Administrator. The Program Administrator is responsible for answering questions from drivers, employees or the public in general. The Program Administrator will maintain the confidentiality of all information relating to drug and alcohol testing. The Program Administrator may provide such information as necessary to enable the appropriate supervisor to take the appropriate action to ensure compliance with this policy. In addition to his/her duties under this policy, the Program Administrator is also responsible for compliance with the Program Administrator Guidelines.

3. Scope of Policy

This policy applies to all regular full-time, part-time or on-call and temporary employees who are required to hold a Commercial Driver's License (CDL) for their position. All applicants for employment positions requiring a CDL are required to pass a drug test as a prerequisite of

employment, prior to final hiring. Any applicant who fails a drug test shall not be hired, although may re-apply for employment in the future.

Any person who was employed on a part-time or on-call basis for the City of Ellsworth at least once during calendar year 1995 and is employed at least once annually thereafter shall be considered a continuing employee for purposes of this policy, and is not subject to pre-employment testing prior to recommending work. However, such employees are subject to all other provisions of this policy.

All covered employees shall receive a copy of this policy, as well as educational materials on alcohol and substance abuse.

4. Compliance with Regulations

All CDL employees subject to alcohol and drug testing must be in compliance with this policy at all times while working for the City. This includes all time spent operating commercial vehicles, as well as time spent maintaining or repairing those vehicles.

NOTE REGARDING INDEPENDENT CONTRACTORS: Independent contractors and their employees who must hold a CDL for the contracted activity are subject to the requirements of 49 CFR Part 382 and are responsible for compliance with that and related laws. The City will not provide or pay for tests, evaluations or rehabilitation for independent contractors or their employees. The City shall make compliance with the law a condition of any contract, which requires a CDL driver.

5. Substances Tested

When drug and alcohol screening is required by this policy, a breath test and/or urine test will be given to allow for determination of the following:

1. Alcohol

2. Marijuana

3. Cocaine

4, Amphetamines

5. Phencyclidine (PCP)

6. Opiates

6. Prescription Drug Use

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

1. The prescription drugs or their generic equivalent have been prescribed to the employee within the past 12 months by an authorized medical practitioner.

2. The employee does not consume prescribed drugs more often than as prescribed by the employee's physician.

3. Any employee who has been informed that the medication could cause adverse side effects while working shall inform their supervisor prior to using these substances. The

City at all times reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse effect. If such a finding is made, the City may notify the employee's doctor (with employee's permission) to determine if other medications are available which would not seriously affect the employee's ability to work safely. If an appropriate substitute medicine is not available, the City may limit or suspend the employee's work activities to non-safety sensitive duties.

7. Tests Required

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

1. Pre-employment. Drug tests will be conducted when an offer is made to hire an employee for a CDL position. The offer for employment is contingent on the applicant passing these tests. This includes existing employees who are applying for CDL positions.

2. Random. Drug and alcohol tests will be conducted on a random, unannounced basis. The number of annual drug tests shall equal 50% of the number of CDL required positions while the number of annual alcohol tests shall equal 25% of the CDL required positions. The City has entered into an agreement with a third party administrator (TPA) to randomly select the CDL employees for testing and then notify the Program Administrator of the person or persons chosen.

3. Post-accident. As soon as is practicable after an accident, the employee shall be tested for alcohol and drugs if: (A) the accident involved the loss of human life; or (B) the employee received a citation for a moving traffic violation arising for the accident.

4. Reasonable suspicion. All employees who exhibit to a trained supervisor signs and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work, or just after work will be required to submit to an alcohol and/or drug test. The supervisor shall document the specific facts, symptoms or observations by completing a "Reasonable Suspicion Record" form.

NOTE: Do not allow an employee to drive themselves to the testing facility for a reasonable suspicion test. Instead, the supervisor or another employee should provide transportation to the testing facility.

5. Return-to-duty. An employee who engaged in conduct prohibited by Section 9 must submit to an alcohol test and drug test to return to duty. The results of a drug test must be negative to return to duty, and the results of an alcohol test must be less than 0.02 to return to duty.

6. Follow-up. An employee who previously tested positive and has returned to duty must submit to a combination of at least six (6) alcohol and drug tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work, not to exceed twelve (12) a year.

8. Testing Procedures

Drug Testing: Drug testing is accomplished by analyzing the employee's urine specimen (urinalysis). Specimens will be collected at an off-site facility selected by the City. Once the employee provides a urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a laboratory, which is certified in accordance with DHHS guidelines or equivalent guidelines.

All urinalysis procedures are required to include split-specimen techniques. Each urine sample is sub-divided into two containers and labeled as primary and split specimens. Both specimens are forwarded to the laboratory. Only the primary specimen is used in the urinalysis. In the event of a confirmed positive test result, the split specimen may be used for a second confirmation test if requested by the employee.

During testing an initial screening test is performed. If the test is positive for one or more drugs a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (GCIMS) analysis. This test ensures that over the counter medications are not reported as positive results.

If the analysis of the primary specimen results in a confirmed positive test, the employee may within 72 hours request that the split specimen also be tested at a certified laboratory of his/her choice. The second test is at the employee's expense unless the test result is negative, in which case the City will reimburse the employee.

All test results are reviewed by a Medical Review Officer (MRO) prior to results being reported to the City. In the event of a positive test result, the MRO will first attempt to contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive results (such as over-the counter or prescription medications). If the MRO determines there is a legitimate medical explanation for the presence of drugs, the result will be reported as negative. If the MRO is unable to contact the employee, then the employer will be contacted and requested to advise the employee to contact the MRO. Urine samples shall be provided in a private test room, stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode, if any, shall be colored with dye to protect against dilution of test samples. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

Alcohol Testing: Alcohol testing will be conducted using an evidential breath testing (EBT) device. The breath test must be performed by a certified Breath Alcohol Technician (BAT) trained in the use of EBT and alcohol testing procedures. Under certain circumstances, post-accident tests conducted by law enforcement personnel or medical personnel will be acceptable.

Two (2) breath tests are required to determine if an individual is over the alcohol concentration limit permitted. Any result of less than 0.02 concentration is considered a

negative result. Any result of 0.02 or greater requires a confirmation test. A confirmed test of 0.02 or greater is considered a positive result.

9. Prohibited Conduct

CDL employees shall not:

1. Report to work and/or remain on duty with an alcohol concentration of 0.04 or greater;

2. Possess any alcohol while on duty;

3. Use any alcohol while on duty;

4. Use any alcohol within four (4) hours before going on duty;

5. Use any alcohol within eight (8) hours after an accident for which the CDL employee must be tested for alcohol concentration;

6. Refuse to submit to the following alcohol and/or controlled substance tests: random test, reasonable suspicion test, post-accident test, or follow-up test;

7. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the CDL employee in writing that the use will not affect the safe operations of a commercial vehicle. In the case of a written warning by the physician, the employee shall report this to their supervisor immediately;

8. Report to or remain on duty if the employee tests positive for controlled substances.

Failure to comply with these rules is a violation of this policy and may result in disciplinary action and shall result in referral to a substance abuse professional.

10. Refusal to Test

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

1. Failure to report to the designated testing area immediately after being notified to submit to an alcohol or drug test.

2. Failure to accurately provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined to be unable to do so.

3. Engaging in conduct that clearly obstructs or delays the testing process.

11. Alcohol Concentration of 0.02 or Greater but Less Than 0.04

Provided that the employee has not violated Section 9, any employee whose alcohol test results in a concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform any safety-sensitive function for at least 24 hours following the test. The employee will not be paid for work-time lost as a result of this section unless they works in another capacity for the Municipality during that time period. The employee will not be required to

undergo evaluation by a substance abuse professional if the test result is 0.02 or greater but less than 0.04, not will a return-to-duty test be required unless there is reasonable suspicion that the employee is still under the influence of alcohol or drugs.

NOTE: This Section applies only in limited situations. For example, if an employee last consumed alcohol more than 4 hours before work, but still has a blood/alcohol level of .0.03 when they show-up for work, they are not in violation of Section 9 but is subject to this Section.

12. Notice and Consent

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

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

13. Consequences of Violation of this Policy

1. Any employee who violates Section 9 or 10 of this policy shall be immediately removed from the safety-sensitive function and will be advised by the City of the resources available for evaluating and resolving drug and alcohol abuse problems. The employee is required to be evaluated by a substance use disorder professional. All evaluation and rehabilitation shall be at the employee's cost unless otherwise agreed by the City. An employee shall not be allowed to return to the safety-sensitive function until they have a return-to-duty alcohol test result of less than 0.02 or a return-to-duty drug test with a verified negative result.

2. In addition, any employee who violates Section 9 or 10 of this policy may be subject to disciplinary action up to and including dismissal. Before discipline, reassignment or dismissal is imposed following a confirmed positive drug test, the employee shall have the opportunity to participate for up to 6 months in a rehabilitation program unless otherwise agreed by the City. Factors to be considered in determining the appropriate disciplinary response include, but are not limited to the following: Employee's work history, length of employment, current job performance and existence of past disciplinary actions. Disciplinary action is imposed by municipal policy; it is not required by federal law. *Under State law, if part of all of the costs of substance use disorder rehabilitation are covered by a group health insurance plan which includes the employee in question, then such insurance may be used by the employee for that purpose, see 26 M.R.S.A. 685 as amended by 1995 PL c.344.

3. Further grounds for discipline or dismissal under City policy include, but are not limited to:

a. Refusal to submit to a rehabilitation program after testing positive.

b. Failure within 6 months to successfully complete a rehabilitation program after commencing the program, or failure to pass a return-to-duty drug or alcohol test.

c. Evidence that the employee has substituted, adulterated, diluted or otherwise tampered with their urine sample.

d. Failure to contact a substance abuse disorder professional within five (5) regular working days after being notified of a confirmed (MRO certified) positive test for the improper use of alcohol or unauthorized substances.

4. During the period the City is awaiting an employee's test result for a post-accident test, reasonable suspicion test, or return-to-duty test, the City may transfer the employee to another position with or without a reduction in pay or benefits. The City also reserves the right to place an employee on unpaid suspension to reduce any possible safety hazard. A determination as to whether an employee is placed in another position or placed on paid or unpaid suspension may be based on, but is not limited to: who is responsible for and/or the severity of the accident, if applicable; the observed condition of the employee, if applicable; the employee's work history; length of employment; current job performance and the existence of past disciplinary actions. Action taken by the City under this subsection is a matter of municipal policy, and is not imposed by federal law.

14. Employee/Applicant Rights and Responsibilities

1. In the event of a confirmed positive test result, employees and job applicants shall have the opportunity to present an alternative explanation for the test result by contacting the Medical Review Officer (MRO). This shall be done within 72 hours after notification of the confirmed result. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.

2. Any employee with a positive test result may upon written request to the Program Administrator have the right to any information relating to the test result and procedures. A job applicant may request information concerning the test result within 60 days after the decision on their employment application.

3. Upon successfully completing a rehabilitation program within 6 months after it commences and upon passing a return-to-duty drug test, the employee is entitled to return to their previous job with full pay (but not back pay) and accrued benefits, unless conditions unrelated to the employee's previous test make the employee's return impossible or inappropriate. The rehabilitation or treatment provider in consultation with the Program Administrator shall determine whether the employee has successfully completed in the rehabilitation program. The City is not required to hold the employee's job open for more than 6 months after the employee commences a rehabilitation program. The employee may apply accrued vacation and sick leave, if any, against any time period where they are unavailable for work due to substance use disorder rehabilitation.

15. Confidentiality of Information

Unless the employee or applicant consents, all information acquired by the City in connection with the testing processes is confidential and may not be released to any person other than to the employee or applicant who is tested, the Program Administrator, officials with a need to know, and the rehabilitation provider. The foregoing shall not prevent the release of information that is required or permitted by state or federal law, or the use of information in any grievance procedure, administrative hearing or lawsuit relating to the imposition of the test or the use of the test results.

16. Documents Provided

The City will provide each person subject to this policy a copy of the policy. The City will also provide printed material, which describes the effects of alcohol and/or controlled substances on the individual's health, work and personal life, as well as information on the signs and symptoms of alcohol or controlled substances and methods of treatment or intervention for drug or alcohol abuse.

Section 22. Sexual and Other Unlawful Harassment

It is the policy of the City of Ellsworth that all employees have the right to work in an environment free of sexual and other forms of unlawful harassment. The City of Ellsworth will not tolerate any form of sexual or other unlawful harassment by supervisors, co-workers, customers or suppliers against any employee of The City.

Sexual harassment is illegal and is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

The following are types of conduct that may constitute sexual harassment:

- Slurs, jokes or degrading comments of a sexual nature

- Unwelcome sexual advances

- Suggestive or lewd remarks

- Unwelcome hugging, touching or kissing

- Requests for sexual favors

- Repeated offensive sexual flirtation or propositions

- The display of sexually suggestive pictures or objects

- Repeated unwelcome physical contact or touching such as patting, pinching or constant brushing against another's body.

This policy prohibits any overt or subtle pressure for sexual favors including implying or threatening that an applicant's or employee's cooperation of a sexual nature (or lack thereof) will have any effect on the person's employment, job assignment, wage, promotion, or any other condition of employment or future job opportunities. This policy also prohibits any conduct based on sex or other protected categories, which creates an intimidating, hostile or offensive work environment.

This policy also prohibits illegal harassment on the basis of any other protected category, such as race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin.

Any employee who feels that they are the victim of sexual or other illegal harassment or who has knowledge of such behavior occurring toward another person should immediately report the matter to their supervisor, Department Head, or the City Manager.

Any questions regarding this policy should be addressed to the employee's Department Head. No employee will be retaliated against for reporting sexual or other illegal harassment.

CHAPTER X – Additional Provisions

Section 1. Interpretation of Language

They/them pronouns will be used to refer to all employees.

Section 2. Review and Amendments

This Personnel Ordinance shall be reviewed periodically by the City Manager and proposed changes to the ordinance shall be submitted to the City Council. An amendment to this ordinance may be adopted by a majority vote of the City Council.

Section 3. Severability

If any article, section or provision of this ordinance should be found to be invalid or unenforceable by decision of the courts, only that article, section or provision specified in such decision shall be of no force and effect and such decision shall not invalidate any other article, section or provision.

Section 4. Applicability and Inconsistency

Except where enumerated in this section, this ordinance shall apply to all City employees, including those covered by collective bargaining agreements.

1. Where the specific language in a collective bargaining agreement conflicts with the language in a section of this ordinance, the collective bargaining agreement language shall prevail.

2. Where the City Council has voted to adopt a different policy for individual cases, the City Council vote shall prevail.

Provisions of this ordinance shall be applicable to employees of collective bargaining units to the extent that they are not inconsistent with the language contained within those agreements. In the event that sections of the personnel ordinance conflict with provisions of collective bargaining agreements the City shall negotiate the impact of the personnel ordinance language or allow the collective bargaining agreement language to prevail. Any provisions of this ordinance that are found

to be inconsistent with other general policies or contractual agreements approved by the City Council shall be automatically amended to be consistent.