

## **Chapter 12. PERSONNEL POLICY**

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**ARTICLE 1. INTRODUCTION**

The purpose of this ordinance is to establish a uniform system of personnel administration for the City of Bath that ensures fair and equitable personnel policies and promotes the efficient and economical delivery of public services. This policy includes policies and procedures for employee hiring and advancement, benefits, retirement, discipline, and other related activities. These policies and procedures are not intended to and do not constitute a binding employment contract with any individual or group of employees.

The City Manager or their appointee will promulgate personnel rules, which will be submitted to the City Council for adoption by ordinance to provide for the practices and procedures necessary to the administration of the City personnel system. The City reserves the right to amend, delete, modify, or change these policies. The City Manager will have the exclusive and final authority to interpret these policies.

## **ARTICLE 2. GENERAL PROVISIONS**

### **12.201 Applicability**

This policy applies to all employees of the City, unless otherwise provided in Collective Bargaining Agreements (CBAs), or a different standard or procedure is established by Council Order, the Code of Ordinances, the Charter, or State or Federal law.

### **12.202 Management Rights**

Except as explicitly limited by a specific provision of this policy, a relevant CBA, or law, the City Manager has authority to take appropriate action in the operation of City departments, in the implementation of the directives of the City Council and in the direction of the work of employees under the City Manager's appointing authority. The City Manager may modify the application of these policies when deemed to be in the best interest of the City.

### **12.203 Severability**

If any provision of this policy, or the application hereof to any person or circumstances, is held invalid this invalidity does not affect other provisions or applications of this policy which can be given effect without the invalid provision or application, and for this purpose the provisions of this policy are severable.

### **12.204 Equal Employment Opportunity**

The City will not discriminate against any applicant or employee because of race, color, age, sex, sexual orientation, gender identity or expression, national origin or ancestry, religion, genetic information, physical or mental disability, workers' compensation history, retaliation or whistleblower status, or any other legally protected category. The City is committed to providing equal employment opportunities (EEO) to all persons in the selection, placement, compensation, access to benefits, training, and advancement of employees.

### **12.205 Recruitment Process**

The City is committed to the recruitment, selection, retention, and promotion of employees based on their relative abilities, knowledge, and skills, with open consideration of all qualified applicants.

The recruitment and selection process for City vacancies will vary with the position. When there is an open position, there will be as wide a search for qualified candidates as is practicable, which may include internal posting, external advertising, open competitive examination, contact with state and other employment offices, and/or contact with special sources of information. The City Manager, Department Head, or designee will fill vacancies with the most qualified employees possible based on relative knowledge, skills, abilities, experience, and overall performance during the selection process and/or during prior service to the City. Applications

will be accepted only for positions for which a posted vacancy exists. Applications for individuals not hired will be retained in a secure file for the minimum period required by law, after which records will be destroyed in a confidential manner.

Employment offers will be in writing and may be conditioned on the applicant passing a background check, employment verification, pre-employment physical exam by a medical provider of the City's choice, a drug and alcohol test, motor vehicle and license record check, or any other lawful pre-employment screenings that are determined by state law to be appropriate for the position. The City will assume the expense of any fee-based examinations.

#### **12.205.1 Personnel Service Commission**

The Personnel Service Commission (PSC) is used in the hiring and promotion of Union positions, also referred to in City Ordinances as the "Competitive Class." The Personnel Service Commission ensures hiring and internal promotion based on competition and merit principles to promote efficient personnel practices. Rules and process pertaining to the PSC can be found in Article 9 of this ordinance.

#### **12.206 Hours of Work**

Department Heads are responsible for ensuring that hourly employees who are considered non-exempt by the Fair Labor Standards Act maintain a true and accurate record of hours worked and that all breaks and lunch periods are taken as required by law. Tracking methods may vary by department but may include electronic or paper format. Supervisors are prohibited from coercing an employee to inaccurately report or not report time worked. An employee who knowingly submits hours they did not work and collects payment for them will be subject to disciplinary action, up to and including termination.

##### **12.206.1 Work Schedule**

It is necessary to have variations in work schedules due to the variety of different services provided by the City. Work schedules may be addressed in CBAs for union employees. Hours of work, starting and quitting time, or scheduled lunch periods may be changed by mutual agreement of the Department Head and department employees, subject to approval by the City Manager. Department operating days and hours are subject to change without the agreement of employees and with the approval of the City Manager. When work schedules change, employees will be provided with as much advance notice as possible.

##### **12.206.2 Attendance and Lateness**

Effective and efficient City operations and service delivery takes cooperation and commitment from all employees. Unnecessary absences and tardiness are disruptive and place an undue burden on fellow employees and supervisors who may have to perform the

extra work, and adversely affect the City's ability to provide necessary services to the public. Employees are expected to be reliable and punctual in reporting to work each day and to complete the full workday. Employees will be at their respective places of work in accordance with the general or departmental regulations.

Absences include all time lost from the work schedule, whether avoidable or unavoidable, voluntary, or involuntary. The City recognizes there are times when unplanned absences are unavoidable. In such instances, employees are responsible for notifying their Department Head or designee as early as possible prior to the start of the workday using normal department procedures. Notification from another employee or relative is not acceptable, except under emergency conditions.

### **12.206.3 Unexcused Leave**

Unexcused leave is any absence from work where the employee has not properly notified or otherwise communicated with their supervisor. Unexcused absences include excessive tardiness, leaving early, or not showing up to work. Unexcused absences may be subject to discipline, including termination.

### **12.206.4 Remote Work**

Working remotely or from home will be considered on a case-by-case basis. The majority of jobs in the City provide in-person services such as operating equipment, managing facilities, and directly assisting the public or other employees. These positions are unable to perform their key functions away from the job site.

Some positions may be able to perform their job from other locations. Remote work can be requested by an employee as part of their regular schedule or on an as-needed basis. Approval is required from the Department Head and the City Manager. Considerations for approval include access to necessary technology and information, ability to respond to communications and their supervisor, impact on the department, and continuity of service to colleagues or the public. City policies remain in effect when working remotely.

## **12.207 Types of Employment**

Employees of the following classifications are subject to all personnel rules and regulations, except where specifically excluded.

### **12.207.1 Regular Full Time**

A regular full-time position is year-round with no predetermined end date and scheduled to a minimum of 30 hours per week. Regular full-time employees are required to work the standard workweek of their respective department. They are eligible for all benefits and rights as described in this policy, except where otherwise provided for in a CBA. They are

eligible to participate in health, dental, vision, life, and income protection. Full time employees are required to participate in the Maine Public Employee Retirement System (MEPERS) in lieu of Social Security.

### **12.207.2 Union Positions**

Union positions are defined in their respective CBAs. Union positions are generally regular, full-time positions within the following departments: Police Department (Officers, Corporals, Sergeants, and Detectives), Fire and Rescue Department (Firefighters/EMTs, Firefighter/AEMTs, Firefighter/Paramedics, and Captains), Cemeteries and Parks (Operator) and Public Works, Wastewater, and the Landfill (Laborers, Truck Drivers, Operators, and Mechanics). Union positions are covered by this policy and may have additional or specialized agreements written into their CBAs/Union Contracts.

### **12.207.3 Part Time**

A regular part-time position is generally year-round in nature with no predetermined end date and is scheduled to work less than 30 hours a week. Part-time employees are not eligible for sick or vacation leave, city-sponsored insurance benefits, or MEPERS retirement. They pay into Social Security. They may be eligible for Maine Earned Paid Leave Act and/or Family Medical Leave.

### **12.207.4 Temporary and Seasonal**

Temporary and Seasonal positions work a standard workweek or less on a regular basis but for a limited period, usually with a predetermined end-date. Extensions may be granted by the City Manager or their designee. Employees in this classification must be rehired for each separate period of employment. Temporary and Seasonal employees are paid for hours worked. They are not eligible for sick or vacation leave, city-sponsored insurance benefits, or MEPERS retirement. They pay into Social Security. They may be eligible for Maine Earned Paid Leave Act and Maine Family Medical Leave.

### **12.207.5 Elected Officials**

An elected official is elected by the citizens of Bath to serve in a particular role, often with a predetermined end-date for their elected term. Elected Officials are not employees, and are differentiated in the City's Charter, Maine Statute Title 30-A, as well as Federal IRS and Fair Labor Standards laws. Some elected positions receive a stipend as compensation. City Councilors are eligible for health, dental, and life insurances through the Maine Municipal Employee Health Trust, under their definition of "elected officials. They must pay the full cost of their selected coverage (premiums are not subsidized by the City).



### **12.207.6 Volunteers, Committee Members, and Board Appointees**

Committee members and board appointees provide an essential service to the Bath community and democratic process. They are considered volunteers. Volunteers are not employees, offer their services without expectation of pay or compensation, and are not entitled to benefits.

### **12.208 Probation**

After being hired or promoted, all employees will have a six-month period of probation as allowed in Maine Statute Title 30-A S. 2701. Union CBAs may extend this period.

The objective of the probationary period is to determine the employee's ability to perform the required work standards and essential functions of their job through a period of observation and review by the Department Head. During the probationary period, an employee may be dismissed, suspended, or otherwise disciplined without cause. Dismissal, suspension, or any other disciplinary action against an employee during the probationary period is not subject to the grievance and arbitration provision of the CBA. Removal will be in writing and will not be subject to review or appeal.

### **12.209 Transfers and Promotions**

Any person will be considered for a position if they have filed an application and meet the requirements for the position. When a promotional examination is given, it will follow the normal rules and regulations for that position's hiring process. Promotions from within a department are preferred if the candidate has the required qualifications for the position, is determined to be the best candidate for the position, and the promotion is in the best interest of the Public, City, and Department. When transferring from one department to another, the employee gives up all rights and privileges pertaining to the position they are vacating and will be entitled to all benefits existing within the department transferred to, based on years of continuous service to the City, or as outlined in the respective CBA.

### **12.210 Layoffs**

When it is necessary to reduce the number of employees in a department, the City Manager will notify the Department Head and state the names of the members to be laid off. Layoff decisions will be made on a basis of seniority and follow any CBA specifications. The City Manager will notify the employees, stating the reason for the layoff and whether it is temporary or permanent.

A temporary layoff is when it is necessary to reduce personnel due to temporary discontinuation of service or a reduction in the volume of work, but where it is expected that within ninety (90) days the work will be resumed. A temporary layoff will not exceed ninety (90) days. When an employee has been laid off on a temporary basis and it is not possible to reemploy them within

ninety (90) days, the City Manager will notify the Department Head that the layoff has been changed from a temporary to permanent status.

A permanent layoff means that a situation where because a service is to be discontinued indefinitely, or where, due to reduced volume of work or revenue, the City is obliged to layoff an employee or employees indefinitely, and where it is expected that the service will not be resumed within ninety (90) days.

When the City Manager proposes to fill a vacancy created by a layoff, either temporary or permanent, or where a position has been abolished and subsequently recreated within two (2) years, the Manager will re-employ the person laid off from the class or position in the reverse order of the layoff; the person laid off last will be re-employed first. The employee will have five (5) working days to notify the Manager whether they will accept the position. Returning employees will have fifteen (15) working days from the date of notice to return to work.

#### **12.211 Disability Accommodations**

The City is committed to complying fully with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Requests for accommodation under the ADA should be submitted in writing to the Human Resources Director. After receiving a request for accommodation, the City will collaborate with the individual based on the advice of the employee's health care provider to determine what (if any) accommodation may be needed. As part of the process, the individual will be asked to provide medical certification from their health care provider regarding the nature of any impairment(s), severity, duration, activities limited by the impairment(s) and the extent to which the impairment(s) limits the individual's ability to perform the essential functions of the position as described in their job description.

After a decision has been made, the Human Resources Director or designee will notify the individual in writing that their requested accommodation has been approved or denied. Details of the accommodation and the anticipated start date, if applicable, will be included. Human Resources will maintain all copies of accommodation requests, supporting medical information and documentation, including denials, in a file separate from employee personnel files.

### **12.212 Grievance Procedure**

The term “grievance” under this section means any dispute between an employee and management concerning the effect, interpretation, application, or claim of breach of violation of City of Bath policies.

If, due to some condition of employment, an employee feels aggrieved, then the employee will have the right, and will be expected to appeal, in writing, within ten (10) working days from the date the alleged grievance occurred, to the Department Head for the purpose of adjusting or resolving the grievance. The Department Head will render a decision, in writing, to all parties, within seven (7) calendar days from the date the grievance was submitted. If the decision of the Department Head does not resolve the grievance to the satisfaction of all parties, a written appeal may be taken to the City Manager, and such appeal must be submitted within seven (7) calendar days from the date the Department Head rendered their decision. The City Manager will render a decision to all parties, in writing, within seven (7) calendar days of their receipt of the appeal. The decision of the City Manager will be final and binding.

## **ARTICLE 3. EMPLOYEE COMPENSATION**

The City is committed to the compensation of employees on an adequate and equitable basis commensurate with wages and benefits for comparable work in similar sized municipalities and the area labor market. The City will strive to maintain a competitive compensation package that will attract and retain well-qualified employees.

### **12.301.1 Pay Plan**

The City Manager will maintain a Pay Plan for regular, non-union employees allocating positions according to the knowledge, skills, abilities, and responsibilities of each position. Pay schedules for Union employees will be designated by their CBAs. Information about the plans can be requested through the City Manager’s Office.

### **12.301.2 Payroll**

Employees are paid on a weekly basis via direct deposit, with the pay week from Friday through Thursday. Deductions are taken out each week, with insurance premiums deducted based on a 4-payweek month. Premiums are paid a month in advance.

### **12.301.3 Overtime**

Positions defined in the FLSA as "non-exempt" employees will be considered hourly positions. These employees will be entitled to overtime pay for hours worked more than forty (40) hours per week, at the rate of one and one-half times the employee's regular rate.

Overtime must have prior authorization from a supervisor. For purposes of overtime eligibility, unless otherwise covered by CBA, "hours worked" will include hours actually worked for the City, paid holidays, and paid leave such as sick and vacation time.

### **12.302 Performance Evaluation**

Performance management is for the benefit of the department and the employee. The purpose is to communicate what an employee is doing well, set goals for what can be done better, and determine actions to achieve those goals.

Departments may develop and utilize their own evaluation forms and processes. These forms and process will be reviewed and approved by the City Manager. Evaluation forms should clearly provide ratings on essential job duties and responsibilities of the position and performance, such as work ethic, punctuality, attendance, communication, efficiency, and accuracy. A standard evaluation form is also available through the City Manager's Office.

Department Heads or designees will complete annual evaluations of employees under their supervision. The City Manager will complete annual evaluations of all Department Heads. Employee evaluations will be kept in personnel files.

Probationary employees will be formally evaluated, in writing, bi-monthly and at the end of their probationary period by the employee's immediate supervisor. A successful evaluation will result in the employee achieving permanent status.

#### **12.302.1 Merit Increases**

Merit increases may be granted by the City Manager, at the recommendation of a Department Head, and based within the Pay Plan. The Pay Plan may also be utilized to ensure an equitable decision. The procedure for consideration of merit increase is as follows:

- An employee or their Department Head makes a request for a merit increase.
- The Department Head conducts a performance evaluation of the employee and submits a recommendation to the City Manager. A merit increase will only be considered if an evaluation has been conducted in the past 6 months.
- The City Manager reviews the performance evaluation and Pay Plan. Merit increases may be approved or denied, or a lesser amount may be approved, based on the City or Department's budget and the Pay Plan.

### **12.303 Training and Certifications**

Recognizing the mutual benefits derived from professional development and increased work competence, the City will provide job-related educational opportunities for its employees for which provisions have been made in the budget. Department Heads, with support of the City

Manager, will provide their employees with reasonable professional development opportunities, such as in-service training, job-related certifications, and attendance at institutes or conferences. Additional provisions may be agreed to in CBAs.

### **12.304 Travel and Meeting Reimbursements**

Employees who have been authorized by the City Manager or their Department Head to participate in in state or out-of-state conferences, official meetings, training programs, examinations and institutes directly related to the employee's work will be reimbursed for reasonable expenses incurred in connection with such participation including fees, transportation, mileage, tolls, parking, meals, and lodging, after submission of proper documentation of such expenses.

Reimbursement for an employee's use of their personal vehicle for City authorized business will be paid at the appropriate rate indicated in the Internal Revenue Service's Standard Mileage Rate for Business Use. The City will reimburse employees for business travel based on the distance between their workplace and the destination. Reimbursement for parking fees and tolls must be accompanied by receipts. The City will not reimburse employees for parking tickets and/or motor vehicle violations or infractions.

Actual work-related expenses incurred away from the office or job site will be reimbursed only when accompanied by a detailed receipt and when demonstrated to be necessary and incidental to the actual performance of work. There will be no reimbursement for alcoholic beverages, movies, admissions, and personal incidental expenses that may be incurred while traveling for work-related purposes but are not otherwise related to or necessary for the performance of work.

## **ARTICLE 4. EMPLOYEE CONDUCT AND CONFLICTS OF INTEREST**

Employees of the City of Bath are expected to ensure the efficient operation of City business and services to its residents, as well as to create a safe and productive environment for all employees. Employees will exhibit ethical, professional, and respectful conduct. They will avoid actions that reflect poorly on the City. They will comply with all laws, regulations, policies, and procedures that govern City activities, including maintaining licenses and certifications as required for their position.

This section also encompasses sexual harassment, unlawful discrimination, and other types of harassment. The City of Bath takes any accusation of harassment seriously. It is important that staff feel safe from harassment and discrimination at their worksite. If an employee encounters harassment by an employee or a non-employee while at work or at the worksite, they should

utilize the complaint procedure below. Also, the expectation of non-discrimination and harassment between City employees follows in and out of the worksite. Harassment that takes place between employees during off hours may still be illegal if it impacts working conditions for the victim(s).

If you experience or witness discrimination, bullying or harassment between employees or at worksites, follow the Complaint Procedure in Section 12.404.

### **12.401 Discrimination**

Maine Human Rights Act (Title 5 MSRA Chapter 337) protects employees against discrimination for their race, color, national origin, religion, sex (including pregnancy, childbirth, and related medical conditions), physical or mental disability, age, genetic information, sexual orientation, gender identity or gender expression. The law also protects employees from discrimination from a past workers' compensation claim, have made a complaint about or filed a harassment or discrimination claim, or who have whistle-blower status.

Illegal discrimination can be obvious, intentional, covert, or unintentional. It may include conduct based on a victim's protected status that is unwelcome, subjectively abusive to the person affected, and objectively severe enough to create a work environment that a reasonable person would find hostile or abusive. Discriminatory behavior includes biased comments, offensive jokes or images, slurs, epithets, name calling, assaults, threats, intimidation, ridicule, mockery, and insults. It also includes policies or treatment that has an adverse and discriminatory effect on a protected class.

### **12.402 Sexual Harassment**

Maine Human Rights Act (Title 5 MSRA Chapter 337) defines sexual harassment as unwelcome advances, touching, requests for sexual favors, or verbal or physical conduct that is sexual in nature. It is illegal when it involves a term or condition of employment, if submission to or rejection of the advancements is the basis for employment decisions, has the purpose of interfering with an individual's performance, or creates an intimidating, hostile, or offensive work environment.

Actions and behaviors can be considered sexual harassment if they are construed as degrading or if they undermine the employment relationship. Sexual harassment can include comments, actions, materials, and images that are sexually suggestive; about sexuality or sexual experience, preferences, or orientation; about a group or individual's sex, gender, or perceived sex or gender; and unwelcome sexual attention. Physical conduct and assaults that are sexual in nature may lead to criminal charges as well as grounds for discipline.

### **12.403 Bullying and Harassment**

The City will not tolerate bullying or harassment. Workplace bullying is against the City's policy and can result in discipline up to and including termination, based on the severity of the situation. Making unfounded claims against someone could be slanderous or construed as bullying. Bullying is illegal when it discriminates against a person's protected status.

Bullying or other harassment is a pattern of incidents involving written, verbal, or electronic communications; physical acts or gestures; or any combination thereof, directed at another employee or group of employees which intimidates, degrades, or humiliates. Such behavior may be covert, overt, or both. It includes: repeated actions by an individual or group intending to intimidate, harass, degrade, disrespect, or offend; abuse of authority; ignoring, showing hostility, or denying an employee access to needed information or resources; and using confidential information to humiliate an employee.

### **12.404 Internal Complaint Procedure**

If you experience or witness sexual harassment or discrimination of a protected class, bring it to the immediate attention of either 1) your Department Head, 2) the Human Resources Director, or 3) the City Manager. Employees also have the right to file a complaint with the Maine Human Rights Commission and/or the U.S. EEOC.

Employees who observe or have information related to unlawful or unethical conduct of City business, misuse of official authority which harms the public interest, or any activity that calls the integrity of the City into question will report this information to their supervisor or the City manager. Employees may report violations without fear of retaliation. Departments may establish additional regulations to supplement this policy regarding the conduct of its employees. In the case of a conflict between this and department policies, the more restrictive provision will apply.

All complaints to the City will be investigated promptly and fairly. Each employee will be requested, but not required, to put their complaint in writing. All information will be kept confidential and only discussed with those who need to investigate or resolve the complaint. The City Manager will review and determine the resolution or discipline of situations related to conduct and conflicts of interest as needed. After a review of the situation, the City Manager has the right to implement a written plan to mitigate potential or current conflicts to do what is best for the City, relevant department, and employees.

Employees and supervisors who engage in harassment of any kind will be thoroughly investigated and subject to discipline up to and including termination. Depending on conduct or accusations, they may also be subject to criminal charges or complaints with the Maine Human

Rights Commission (MHRC) or the Equal Employment Opportunity Commission (EEOC). Any of these entities have the right to make judgements involving fines or other legal penalties.

#### **12.404.1 Reporting Policy and Anti-Retaliation**

Under the law, employees who report or complain about unlawful harassment or discrimination, or who participate in an investigation regarding these claims, may not be retaliated against. If an employee feels there is retaliation, utilize the Internal Complaint Procedure above.

#### **12.405 Workplace Violence**

It is against City policy to engage in violence or the threat of violence by its employees, customers, and the public and/or anyone who conducts business with the City. The City will maintain a safe work environment free from intimidation, threats, physical attacks, harassment, domestic violence, property crimes, or any other violent attacks. This includes but is not limited to intimidating, threatening or hostile behaviors, physical abuse, vandalism, use of weapons, or any other act, which in management's opinion, is inappropriate to the workplace. In addition, bizarre or offensive comments regarding violent events and/or behavior will not be tolerated.

Threats or concerns of this nature should be reported to the Department Head and the City Manager. Acts that are or may be illegal (including physical attacks, theft, vandalism, stalking) should also be reported to the Police Department.

#### **12.406 Off-Duty Conduct**

The City respects its employees' right to privacy regarding activities and conduct outside the workplace and regular working hours. However, violations of the City's policies regarding inappropriate behavior such as harassment, misuse of city equipment, or other unethical conduct that reflects negatively on the City may be cause for discipline or termination. Off-duty conduct of employees that is illegal may be cause for discipline or termination if the conduct impacts the employee's ability to meet the essential functions and other requirements of their job. Similarly, the conduct or consequences that directly affect working conditions, required licenses, normal business operations, or the reputation of the City may be cause for discipline or termination.

#### **12.407 Secondary Employment**

Employees will not be engaged in additional employment or enterprise that conflicts with their duties, functions, and responsibilities with the City. All full-time City employees who engage in secondary employment will do so only with the understanding and acceptance that their primary duty, obligation and responsibility is to the City. They are not allowed to solicit clients or customers at work.



A conflict of interest exists when an employee's personal relationship or financial interest influences their responsibility to act in the best interest of the City. A conflict of interest may make it difficult for an employee to perform their work objectively and effectively and in the best interest of the City. Employees are expected to treat everyone they serve with impartiality and respect and are prohibited from using their official position for personal profit or the profit of friends and family.

Outside employment which involves reviews or permits by the City as part of its regulatory or reviewing authority requires that employees disclose to their customers their status as a City employee, and to indicate their work for the customer is independent of the City of Bath except for necessary reviews or permits. Outside employment is prohibited if it has the potential to interfere with the proper, safe, and effective, and timely performance of the duties of the employee's position with the City. Any sales to the City that involve an employee's secondary business must go through a public bid process. Employees authorized to make purchases may not have any direct or indirect financial interest in any contract with the City.

Notify your Department Head regarding any secondary employment that could result in a conflict or the appearance of a conflict. When necessary, the City Manager may review the situation and propose a memorandum of understanding to mitigate potential conflicts.

#### **12.408 Employee Relationships**

The City discourages the employment of individuals who work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family. "Direct or indirect supervision" includes the authority to assign and evaluate work, grant benefits such as vacation leave, hear grievances and/or discipline an employee, or the authority to review such situations. "Immediate family" will include spouse, domestic partner, parents, children, siblings, grandparents, and grandchildren whether by heritage or law. The provisions of this section also apply when a relationship is formed after the date of hire, such as marriage or domestic partnership.

The City prohibits officers or employees of the City from using their official position to advance, advocate, hire, or promote the employment of their immediate family in any position. No officer or employee of the City will be involved with the hiring process for any position if it involves a member of their immediate family. Employees must disclose to the City Manager any employment relationship that may be conflict of interest.

The City respects the private relationships of its employees. However, the City prohibits supervisory employees from becoming romantically or physically involved with employees in their direct or indirect supervision. The intent is to avoid actual or potential conflicts, favoritism,

sexual harassment, and other adverse impacts on the work environment that may result from romantic and/or physical relationships within the workplace. Any romantic, physical relationship that adversely impacts either the employee's ability to perform their job or the general productivity and environment of the workplace may be addressed by reassignment and/or discipline, up to and including termination from employment.

#### **12.409 Political Activity**

City employees may not hold elected municipal office or serve as volunteer members on municipal boards, commissions, or committees with the City of Bath. Some employees are required to be on boards or committees as part of their job duties. If elected to a political office that is incompatible with duties of employment, the employee will terminate employment with the City prior to assuming the elected office.

No person will seek or attempt to use any political endorsement in connection with any appointment, disciplinary action, demotion, or removal from City employment. City employees will refrain from using influence in any way for or against a candidate for an elective office in the City government, such as City Council. This is not construed to prevent City employees from exercising their rights as private citizens in becoming or continuing to be members of political organizations, expressing views on political matters, or voting with complete freedom in any election.

#### **12.410 Bribes, Influence, and Gifts**

No employee will directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable in consideration for, or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in a position in any City department.

City personnel will not solicit a gift or accept a significant gift from any vendor or prospective vendor. A significant gift is defined as any item, service, favor, monies, credits, or discounts not available to others which could influence purchasing and sale decisions. Acceptance of social invitations to occasional business meals, entertainment, and hospitality will be subject to prudent judgement as to whether the invitation places or appears to place the City personnel under any obligations. Questions about the value of a gift or the appropriateness of an invitation should be referred to the City Manager and/or City Attorney. City personnel are obligated to disclose any potential conflicts of interest and/or must recuse themselves from participating.

#### **12.411 Use of City Resources**

Employees will use City vehicles, equipment, tools, supplies, and other municipal property for City work, and not for personal use. The Police Department and Fire and Rescue Department may create department-specific policies regarding the use of City vehicles.

#### **12.412 Dress Code**

The appearance of employees affects the way that members of the public view City government. It is important for employees to project an air of professionalism both in their dress and in their manner. Members of the public expect the people who work for them to be neatly groomed and appropriately dressed for a work environment. This policy relies to a great extent on the good judgment of employees. If a question arises about the appropriateness of an item of clothing, these should be resolved by employees and their supervisors or Department Heads. The City Manager's Office will provide guidance to employees and managers about the appropriateness of work attire. If a Department Head finds clothing to be unacceptable, an employee will be sent home to change into appropriate attire.

#### **12.413 Pets**

The City of Bath is responsible for assuring the health and safety of all employees. A pet may be allowed in the office if its health and behavior are acceptable within an office setting, and if it does not adversely affect office operations. A pet owner must first obtain written permission from their immediate supervisor.

Requests involving service animals should be referred to the City Manager's Office. An employee who requires the help of a service animal as defined by the Maine Human Rights Act will be permitted to bring their service animal to the office, provided that the animal's presence does not create a danger to others and does not impose an undue hardship for the organization.

Dogs must always be leashed or under voice command. Animals should be in the physical presence of the owner, in the owner's office, or in the space around the owner's desk at all times. An employee who brings an animal to the office is completely and solely liable for any injuries or any damage to personal property caused by the animal. Any repair or cleaning/maintenance costs incurred by an animal will be charged in full to the owner. The City may, at its discretion, require animal owners to maintain a liability insurance policy covering damage or injuries caused by the animal while at the office. The City may specify minimum coverage amounts under such a policy and may require the owner to pay for such coverage. The City will not be liable for the loss of, or injury to, any animal brought to the office.

## **ARTICLE 5. SAFETY**

The City of Bath takes safety seriously. We strive to ensure proper training, provide safe equipment, and respond effectively to safety complaints. All employees will conduct themselves in a professional manner to assure the safety of all persons and property affected by their actions. This includes activities and behaviors at worksites and at any locations where work is taking place.

Each employee of the City will be required to know, to understand and to follow the safety regulations which apply to the work they are performing for the City. Employees will notify the City, through appropriate supervisors, of any unsafe working condition(s) encountered on the job. If the working conditions pose an imminent danger to an employee's health, then the employee should review the situation with their supervisor immediately. There are certain tasks performed by City personnel during emergency situations to protect the public's welfare (i.e., police and fire protection, natural disasters, chemical leaks, etc.). Personnel required to respond to such situations will be trained to a response level appropriate for the hazard level.

### **12.501 Safety Committee**

The City has a combined management/labor Safety Committee comprised of salaried and hourly employees representing the City's various departments. The Committee meets at least every other month and more frequently if necessary. The Committee membership will consist of Department Heads, or one member of each department appointed by the Department Head. If a member cannot attend due to unusual circumstances, the Department Head is required to assign an alternate. The City Manager will appoint a Safety Committee Chair.

The Committee's duties include the review of accident investigations, monitoring of losses, and the development and/or review of safety policies, safety equipment, etc. The Committee also has the authority to make recommendations on safety policies, training methods, and safety equipment and to discuss unsafe conditions, practices, or equipment. The Committee may also coordinate or recommend informational training programs, such as, poster programs, safety contests and training programs, which can help promote safer operations.

Minutes of Safety Committee meetings are distributed to all Committee members and are made available for any City employee on request. Recommendations developed by this Committee will be presented to the City Manager for their review and consideration. The primary function of the committee is to guide the various City departments toward the singular goal of a coordinated Citywide loss prevention program. The Committee does not have the authority to directly overrule decisions made by the supervisory management.

### **12.502 Safety Policies**

In addition to a Citywide Safety policy, there are several safety-related policies that apply to all City of Bath employees and are regularly reviewed by the Safety Committee. This includes and is not limited to: Blood Borne Pathogens; Ergonomics; Hazard Communication; and Slips, Trips, and Falls.

Departments also have their own safety policies and trainings, which are managed by that department and specific to the type of work done by each department or position. This may include and is not limited to topics such as: operating equipment, confined spaces, motor vehicles and driving, hazardous materials, lockout tagout, traffic control, hearing conservation, and respiratory protection.

### **12.503 Safety Training**

Employees will attend all required safety trainings. Management will provide safety training for all operations and tasks as well as the proper use of safety equipment needed to perform such tasks. Training will be accomplished through supervisors, qualified City employees, outside consultants, or training firms. Written documentation will be kept on file at each department. The documentation should include the title, time and date, a short description of the training, instructor, and a sign-in sheet. Required training should be scheduled as determined by the City and as required by State and Federal law. The Safety Committee, Department Heads, and risk management representatives will jointly create a yearly plan for periodic training sessions for each department.

### **12.504 Substance Use**

The City of Bath is committed to providing a safe and productive work environment and to fostering the well-being and health of its employees. Use of intoxicating substances and substances that inhibit the mental or physical abilities of an employee are prohibited at the worksite and during working hours. Employees who violate this policy may be subject to discipline including termination of employment.

The City is serious about the need to maintain a safe and productive working environment for employees by prohibiting substance use at work. It also recognizes that substance use can be a challenge for employees outside of work. The City provides an Employee Assistance Program to all employees and their families, which can assist with challenges that arise from alcohol and substance use. If an employee has concerns about themselves, or about a supervisor or colleague, they should bring it to the attention of the Department Head and/or the Human Resources Director.

#### **12.504.1 Smoking and Tobacco**

There is no smoking in City buildings and on City property in accordance with the Maine Laws and Rules related to Secondhand Smoke. Smoking is prohibited within 20 feet of entryways, doorways, vents, and in any location where smoke could circulate back into an enclosed area. This law regulates smoking and vaping including cigarettes, pipes, cigars, and vapor pens or vaporizers. When smoking in designated areas, employees must dispose of cigarette butts and ignition sources in approved non-combustible containers.

#### **12.504.2 Alcohol**

It is a violation of City policy for any employee to drink alcohol on the job or report to work under the influence of alcohol. This will result in disciplinary action up to and including termination and could also lead to criminal charges if the employee has put the public or other employees at risk due to driving or using mechanical equipment while under the influence of alcohol.

#### **12.504.3 Drugs and Controlled Substances**

It is a violation of City policy for any employee to possess, sell, trade, or offer for sale illegal drugs, report to work under the influence of illegal drugs, or use prescription drugs illegally at the work site or during their working hours. This will result in disciplinary action up to and including termination and could also lead to criminal charges if the employee has put the public or other employees at risk due to driving or using mechanical equipment while under the influence of drugs.

#### **12.504.4 Cannabis**

Employees will not possess, smoke, ingest or be under the influence of cannabis in the workplace, on or within any City property, or at any time during which the employee is working, expected to work, and/or on duty. The prohibitions in this paragraph apply to all cannabis usage, medicinal and recreational.

The City abides by the Maine Medical Use of Cannabis Act and will not discriminate against an employee or applicant solely based on their status as a qualifying patient or primary caregiver. However, the City may refuse to employ any person who uses cannabis if doing so would cause the City to be in violation of federal law or to lose a federal contract or funding. Pursuant to the Maine Medical Use of Cannabis Act, the City prohibits smoking cannabis on all City property, including public transportation, and prohibits possession and use of cannabis unless otherwise expressly permitted by the Maine Medical Use of Cannabis Act.

#### **12.504.5 Other Forms of Intoxication**

Any employee under a doctor's care and required to take prescribed medication that may affect his ability to safely perform their normal duties, may report for work with the prior approval of their supervisor and be assigned alternative work duties.

#### **12.505 CDL Testing**

Some City positions are required to maintain a Commercial Driver's License (CDL). CDLs are guided by federal law, and employees are subject to drug and alcohol testing pre-employment, post-accident, when there is reasonable suspicion, after returning from a substance abuse program, and randomly. Testing includes alcohol, amphetamines, cocaine, opiates, phencyclidine (PCP), and cannabis. Refer to your department's Drug and Alcohol testing policy for more information.

### **ARTICLE 6. EMPLOYEE LEAVE**

Regular full-time employees, both Union and Non-Union, are eligible for the employee leave options in this section. Union positions may have additional or specialized agreements for holidays and leave written into their CBAs that take precedence over this section. Part-time, temporary, and seasonal employees may be eligible for some leave benefits, depending on the type of leave needed and the circumstances.

#### **12.601 Holidays**

City administrative offices will be closed on public holidays, as established under State and Federal law. Holiday time is administered by the City Manager and non-union employees will be notified annually regarding dates of paid and floating holidays. Holidays for Union employees are addressed in their CBAs.

#### **12.602 Vacation**

Each employee of permanent standing will be awarded vacation time with pay for personal use including vacations, emergencies, family needs, extended bereavement or sick leave, or any other reason. Vacation is accrued monthly, and available after the first month of employment.

Vacation accrual will increase with length of employment with the City, in accordance with the following schedule:

- Employment to 5 years – 3 weeks/year
- 6 to 10 years – 3.5 weeks/year
- 11 to 15 years – 4 weeks/year
- 16 to 20 years – 4.5 weeks/year
- 20+ years – 5 weeks/year

Unused vacation leave may be carried forward up to the amount accrued during the preceding year. Accrued vacation leaves will be paid to employees after separation from service or to their beneficiary or estate upon death. Department Heads or their designees will approve vacation time according to the operational needs of the department, and as much as possible, with the employee's wishes. Holidays that fall within an employee's period of vacation leave will be paid as holiday time. Vacation leave, official leaves of absence, or absence from duty for which sick leave is paid will not constitute a break in the employee's service record. Employees working and supervising special shifts or hours will be subject to the same standards that apply to the employees they supervise at the discretion of the City Manager.

### **12.603 Sick Leave**

Sick leave can be used for medical appointments, illness, and injury. Sick leave for full-time permanent employees is earned at the rate of one (1) day per month. Sick leave may accumulate up to 960 hours. Forty hours of sick leave may be granted to an employee to care for a member of the employee's immediate family. Additional time may be used at the discretion of the Department Head. Sick leave is not paid out at the end of employment.

The employee will follow the protocols set forth by their department for notification of absence, request for sick leave, and expected time out of work. Supervisors may require a certificate from a medical provider certifying that the condition of the employee justifies the absence. Absences longer than 3 days for serious, chronic, or recurring health issues may be eligible for unpaid, job protected leave under the state and/or federal Family Medical Leave Acts (see section below).

#### **12.603.1 Sick Leave Pools**

The City has a non-union sick leave pool. After a non-union employee has accrued the maximum 960 hours, additional earned hours will be credited to the City's non-union sick leave pool. Any non-union employee who, because of serious or extended illness or other extenuating circumstances, is without sick leave, may request sick leave from this pool. The leave will be drawn at the discretion of the City Manager. Union sick pools are addressed in CBAs.

### **12.604 Family Medical Leave**

The City of Bath is covered by both Maine and Federal Family Medical Leave laws. Both laws provide unpaid, job protected leave to employees, and have different rules for eligibility and length of leave. For employees eligible for both types of FML, the City of Bath runs them concurrently along with available paid leave. To be eligible for Family Medical Leave through City of Bath, a person must be employed by the City of Bath and have worked for at least 12



consecutive months, and request leave for a qualified reason. The City retains the ability to transfer the employee to a temporary alternative position that better accommodates the situation.

Family Medical Leave covers:

- a serious health condition of the employee, birth or adoption, or caring for a dependent with a serious health condition.
- donation of an organ for a human organ transplant (Maine FML only)
- death or serious health condition of a dependent if that individual is a member of the military and dies or incurs the health condition while on active duty.

Employees are required to give at least 30 days' notice of the intended leave, unless prevented by medical emergency. The City of Bath will require certification from a physician and other documentation before approving the leave. Family Medical Leave is unpaid, but employees will be required to take accrued sick and vacation time congruently with FMLA. Medical insurance through the City will continue during FMLA. If on unpaid leave, employees will be required to pay their portion of the premium.

#### **12.604.1 Extended Leave**

An extension of Family Medical Leave beyond 12 weeks can be requested. Requests must be made to the Department Head, with notice to the Human Resource Director. Approval of extended FMLA may be granted by the City Manager and is dependent on review of the City's needs and circumstances of the medical situation.

#### **12.605 Leave for Victims of Violence**

Pursuant to Maine law (26 MRSA. 850), the City will grant an employee's request for leave if they (or their child, parent or spouse) is a victim of violence, assault, sexual assault or stalking or any act that would support an order for protection under Title 19-A M.R.S.A., c. 101, and the employee needs the time to prepare for and attend court proceedings, receive medical treatment, or obtain necessary services to remedy crisis. This is unpaid protected leave, but the employee may use their accrued paid leave.

#### **12.606 Bereavement Leave**

Paid leave for bereavement is available for employees for up to 3 working days for an absence caused by the death of an immediate family member. Immediate family is a spouse, domestic partner, parents, children, siblings, grandparents, and grandchildren by heritage or law. One working day is allowed for other relatives. Additional time for bereavement leave may be granted at the discretion of the City Manager.

### **12.607 Maine Earned Paid Leave**

The Maine Earned Paid Leave Act (26 MRSA 637) provides paid leave to employees. Leave can be used for personal illness or injury, care for an immediate family member with an illness or injury, emergencies, or vacation.

#### **12.607.1 Earned Paid Leave for Full-Time Probationary and Permanent Employees**

Full-time probationary and full-time permanent employees do not get additional earned paid leave under this law. They accrue paid leave as sick and vacation at a greater rate than the law requires.

#### **12.607.2 Earned Paid Leave for Seasonal, Temporary, and Part-Time Employees**

Seasonal, temporary, and part-time employees accrue 1 hour for each 40 hours worked and may begin taking accrued leave 120 days after employment. Leave can be taken in 1-hour increments. Leave for sickness and emergencies requires notice as soon as possible. Vacation must be requested 4 weeks in advance and may be denied by the supervisor if the time off negatively impacts the department's work schedule. Use of leave is at the Department Head's discretion, but requests will not be unreasonably denied. A maximum of up to 40 hours of leave may be carried over from the previous year if temporary staff are re-hired. MEPLA leave is not paid out at the end of employment.

### **12.608 Court Leave**

City employees called for jury service will receive their regular salary from the City during jury service, minus the amount received for serving on a jury. Any employee summonsed as a witness on the behalf of any local, county, state, or national government will be granted court leave, and will receive their regular salary from the City during such service less the amount received for serving as a witness. If an employee is summoned for non-governmental purposes, payment of regular wages will be at the discretion of the City Manager.

### **12.609 Military Leave**

Military leave will be granted in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other applicable laws.

## **ARTICLE 7. EMPLOYEE BENEFITS**

Regular full-time employees, both Union and Non-Union, are eligible for all benefits and rights listed below. Full time employees are required to participate in the Maine Public Employee Retirement System (MEPERS) in lieu of Social Security. Union positions may have additional or specialized agreements written into their CBAs.

Information about these benefits can be found by contacting the Human Resources Director in the City Manager's Office. If you experience any major life changes such as marriage, divorce, birth, adoption, or death, contact the Human Resource Director to review your benefits and beneficiaries.

#### **12.701 Health insurance**

The City's optional health insurance plan is with the Maine Municipal Employees Health Trust (MMEHT). The City pays 85% of the health insurance monthly premium, and the employee pays 15%. Employees' portion of their premium will be deducted weekly from their paycheck. This plan is accompanied by a Health Reimbursement Arrangement (HRA).

When an employee chooses coverage by a different entity or chooses a lesser level of coverage through the City than that for which they are eligible, they can request a "Buy-back". The City will compensate the employee with 25% of what the City saved on health premiums by not covering the employee or their dependents. The Buy-back request must be made annually, and the City compensates employees quarterly. This "Buy-back" is considered earned compensation and taxed accordingly.

#### **12.702 Dental Insurance**

MMEHT provides an optional dental insurance plan which covers preventative, basic, and major dental care. The employee pays 100% of the monthly premium, and the amount will be deducted weekly from their paycheck.

#### **12.703 Vision Insurance**

MMEHT provides an optional vision insurance plan which provides discounted prices on contact lenses, eyeglass frames, lenses, and lens upgrades. The employee pays 100% of the monthly premium, and the amount will be deducted weekly from their paycheck.

#### **12.704 Flexible Spending Account (FSA)/ Section 125 Plan**

This is an optional plan, where an employee can have money deducted pre-tax from their wages into accounts dedicated to medical or dependent care. Employees can choose how much to put in the account annually up to a pre-set maximum determined by the IRS.

##### **12.704.1 Medical FSA**

A Medical FSA is used to pay for certain types of out-of-pocket medical expenses as determined by the IRS. When an employee deposits money into a medical FSA, they can use those pre-tax funds to pay for eligible medical expenses. If you are enrolled in the City's health plan, the City will put \$100 into your FSA for your use.

### **12.704.2 Dependent Care FSA**

A Dependent Care FSA is an account that can be used to pay for the daily care of an eligible child or adult dependent as defined by the IRS. This allows an employee to use those pre-tax funds for eligible childcare expenses that enable the employee and their spouse to be gainfully employed.

## **12.705 Life Insurance**

The City offers optional life insurance from multiple vendors:

### **12.705.1 Maine Municipal Employees Health Trust**

MMEHT provides life insurance. Basic insurance at 1x annual salary is provided at no charge if the employee has medical coverage with MMEHT. Supplemental coverage gives options of one, two, or three times the employee's annual salary. Dependent insurance is also available.

### **12.705.2 Maine Public Employees Retirement System Life Insurance**

Basic coverage is equal to your annual gross compensation rounded up to the next one thousand dollars. Supplemental coverage is available at one, two or three times your basic coverage. Dependent insurance is also available.

### **12.705.3 Additional Term and Universal Life Policies**

Policies available through Colonial Life and AFLAC are optional and entirely employee paid. Rates are set by the respective company, and premiums can be deducted directly from the employee's paycheck.

## **12.706 Supplemental Insurances**

AFLAC or Colonial Life Insurances are optional and entirely employee paid. Enrollment is handled by the respective company and premiums can be deducted directly from the employee's paycheck.

## **12.707 Retirement**

Full time city employees are enrolled in the Maine Public Employee Retirement System (Maine PERS) instead of Social Security. Vestment in the MainePERS system is 5 years. Before vestment, employees are entitled to your personal contributions. After vestment, they are eligible for a retirement benefit or their own contributions. Maine PERS is a Defined Benefit Plan and determines retirement compensation with a formula based on the three highest years of earnings, your creditable years of service, and age at retirement. City contribution percentages are dictated by State law.

Public Safety employees as defined by MEPERS (Police, Fire and Rescue) are enrolled in the “3C Special Plan” which provides 66.6% averaged salary of the three highest earning years and a no age-limit retirement after 25 years of service. All other full-time employees are enrolled in the “2C Special Plan” which provides 50% averaged salary of the three highest earning years and a no age-limit retirement after 25 years of service. Employees who don’t meet the requirements of the plan (such as leaving before 25 years) retire following guidelines of the MEPERS “Regular Plan.”

#### **12.708 457 Deferred Compensation Plan**

A 457 Deferred Compensation Plan is a supplemental retirement savings program that allows you to make contributions on a pre-tax basis. This benefit is offered to employees via two 457 plans: Mission Square and MaineSTART.

#### **12.709 Workers’ Compensation**

The City of Bath provides workers’ compensation coverage for all employees. Workers’ compensation benefits are governed by State law and the City provides such benefits as are mandated under the Maine Workers’ Compensation Act of 1992. The City will follow all state and federal laws and the procedures and policies directed by the workers’ compensation insurer. An employee may elect in writing to use their accumulated paid leave to pay for or offset the cost of benefit deductions and union dues.

If a work-related injury results in an absence of three or more days from work, employees will be placed on Family Medical Leave for the duration of the absence, until they return to work with or without restrictions.

#### **12.710 Income Protection Plan/Short Term Disability**

The Income Protection Plan (IPP) is the City’s Short Term Disability plan through MMEHT. If an employee becomes disabled as the result of a non-work-related illness or injury, he/she may be eligible to receive IPP benefits for up to 52 weeks per period of disability. This insurance is voluntary and totally employee paid.

#### **12.711 Long Term Disability**

Long-term Disability is provided through the Maine Public Employee Retirement System (Maine PERS). There is mandatory participation in this program and costs are included in MPERS contributions.

### **12.712 Employee Assistance Program**

MMEHT provides an Employee Assistance Program (EAP). Employment assistance is designed as a means of helping employees access resources and seek the necessary treatment to alleviate a variety of problems affecting job performance and personal well-being. The service is confidential, in accordance with federal and state law, and professional ethical standards. EAP covers all employees and the household family members of all employees.

### **12.713 Wellness Program**

The City of Bath provides several options to encourage employees to be healthy and maintain their physical fitness. The City's Wellness Committee arranges classes and events throughout the year for optional employee participation. The committee is made up of employees who volunteer to support, organize, and communicate wellness initiatives.

## **ARTICLE 8. EMPLOYEE DISCIPLINE**

All employees – full-time, part-time, regular, temporary, union, and non-union, can be subject to disciplinary action outlined in this section. CBAs may have additional process and timelines, especially for Grievance Procedures. No disciplinary action of any nature will be taken without just cause.

### **12.801 Grounds for Discipline**

Whenever, in the supervisor's judgment, employee performance, attitude, work habits, or personal conduct is unsatisfactory, the supervisor shall inform the employee promptly and specifically of such lapses.

Supervisors should avoid waiting for a scheduled performance evaluation to discuss deficiencies and should provide counsel and assistance to employees with the goal of correcting the work or behavior. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. Supervisors may utilize various tools to assist employees in improving their performance, including assigning additional training, implementing performance improvement plans, etc.

### **12.802 Disciplinary Actions**

The City generally follows the principles of progressive discipline; however, Department Heads may determine the appropriate level of discipline. The action taken will be at a level appropriate to deal with the particular incident; any local, state, and federal laws, rules and/or guidelines; and the employee's past disciplinary record. In instances where the work performance or conduct justifying discipline is of a serious nature, the City Manager will have the authority to suspend without pay for more than three (3) days or discharge an employee. The City reserves the right to

use non-progressive discipline and bypass any or all these steps and proceed directly to greater discipline, up to and including termination from employment, even for first offenses.

**Verbal reprimand:** A verbal communication from the Department Head to the employee indicating the cause for the reprimand, the fact that the communication constitutes a verbal reprimand, and, if appropriate, corrective action that needs to be taken by the employee. A written confirmation of the oral reprimand will be placed in the employee's personnel file and, if so, will clearly indicate that it refers to a verbal reprimand. A copy of such will be provided to the employee.

**Written reprimand:** A communication from the Department Head to the employee indicating the cause for the reprimand, the fact that the communication constitutes a written reprimand, and, if appropriate, corrective action that needs to be taken by the employee. This will be placed in the employee's personnel file and a copy will be provided to the employee.

**Suspension:** A period during which the employee will not be permitted at the job site. Notice of suspension indicating the cause, the duration of the suspension, and its effective date, will be placed in the employee's personnel file with a copy to the employee.

**Disciplinary Probation:** A period, not to exceed one year, during which the employee will be considered a probationary employee to the extent of any other new hire. Any further disciplinary action during this period will be cause for discharge. The cause of the disciplinary probation will be noted together with its effective dates and will be placed in the employee's personnel file with a copy to the employee.

**Discharge:** Termination of employment with the City. This decision will be made by the City Manager after review of the situation.

### **12.803 Documentation**

All discipline, including verbal warnings, must be documented appropriately. All final disciplinary notices will specify the action taken, the reason(s) therefore, and the extent and duration of the penalty. This notice will be given to the employee at the time of the disciplinary action. Final written decisions of discipline are considered public records; therefore, details of a workplace investigation should be placed in a confidential file and should not be included on the notice of final discipline.

### **12.804 Appeals**

In the case of any disciplinary action, the employee will have the right to file an appeal with the City Manager in writing within ten (10) days of the determination of disciplinary action. The

employee will be entitled to a conference with the City Manager and to present such evidence and witnesses at that conference as they deem appropriate. The City Manager will have full power to affirm, modify, or reverse the disciplinary determination.

### **12.805 Paid Administrative Leave**

An employee recommended for an unpaid suspension or termination by their Department Head may be initially placed on paid administrative leave. The Department Head will forward the recommendation to the Human Resources Director and City Manager. The City Manager will give notice to the employee of the recommendation and conduct a hearing to provide the employee with an opportunity to be heard before any disciplinary decision is made to impose unpaid suspension or termination of employment.

### **12.806 Pre-Disciplinary Hearing**

A pre-disciplinary hearing to ensure due process will be held before any discipline involving unpaid suspension or discharge from employment. This is an opportunity for the employee to present additional information and refute any factual mistakes. The employee will be notified of the time and location of the scheduled hearing. The hearing will include the Department Head, Human Resources Director, and City Manager or designees. After the hearing, the City Manager will decide whether to suspend or terminate employment. The employee will be notified of the decision in writing.

## **ARTICLE 9. PERSONNEL SERVICE COMMISSION**

### **12.901 Purpose**

The duty and purpose of the Personnel Service Commission is to assist Department Heads in the process of interviewing and recommending candidates who apply for Union positions. Selection of City employees is based on competition and merit principles to promote efficient personnel practices in the public interests and to prevent unlawful discrimination in City personnel administration. Hiring processes and Commission assistance may vary based on the needs of each department.

Personnel Service Commission assists with all Unionized positions now existing, or hereafter created, in the Police Department, Fire and Rescue Department, Public Works Department, Landfill Division, and Wastewater Treatment Facility, and Cemetery and Parks Division. Non-union positions, elected officials, and volunteers are exempt from PSC processes.

### **12.902 Commission Appointment**

The City Council will appoint three members to the Personnel Service Commission. Members must be residents of the City of Bath. Commission members serve without pay. Commission



members will be sworn in by the City Clerk, a Notary Public, or a Justice of the Peace. If sworn in by a Notary or Justice, a certificate of swearing in will be filed with the Clerk's Office. Each member will serve a three-year term, with terms expiring on December 31. Members will be appointed to staggered terms so that one term of office expires each year.

### **12.903 Member Limitations and Commission Vacancies**

If there is a vacancy on the commission, the Council will appoint a registered voter of the City, who is not an employee or elected official, to serve for the unexpired term. Commission members are not eligible for appointment or hiring to any full-time staff position of the City of Bath. Members may run for elected office or be appointed to other boards or commissions. The council may remove a member from the Commission for the good of the public, after giving notice to the member and providing an opportunity for the member to be heard.

### **12.904 Commission Organization**

At the first meeting of each calendar year, the Personnel Service Commission will elect a Chair, and notify the City Manager and City Clerk of the selection. Meetings may be called at any time by the Chair, City Manager, or two (2) members of the Commission. Two members constitute a quorum of the Commission. The Commission will determine its methods of rules and procedure.

### **12.905 General Duties of the Commission**

The Commission will assist departments to ensure the following:

- The City of Bath is an Equal Opportunity employer. The City will not discriminate against any applicant or employee based on race, color, age, sex, sexual orientation, gender identity or expression, national origin or ancestry, religion, genetic information, physical or mental disability, workers' compensation history, retaliation or whistleblower status, or any other legally protected category. The City is committed to providing equal employment opportunities (EEO) to all persons in the selection, placement, compensation, access to benefits, training, and advancement of employees.
- Any person will be considered for a position if they have filed an application and meet the requirements for the position.
- The City will post job opportunities publicly in multiple media sources which may include publications, websites, electronic job boards, and/or social media.
- The post will include the title, purpose, necessary qualifications, and pay for the position. It will also inform applicants how to apply for the position. Union contracts may require a job to be preliminarily posted within the department for a period before notifying the public.
- All examinations will be practical for the job, and designed to fairly test the knowledge, skills, abilities, and general suitability for the position for which an applicant is applying. Examinations may consist of any combination of interviews, essays, written tests, oral tests, fitness tests, or demonstration of skills.

- Vacancies in higher union positions will first be posted within the department before notifying the public. When a promotional examination is given, it will follow the normal rules and regulations for that position's hiring process. Promotions from within a department are preferred if the candidate has the required qualifications for the position, is determined to be the best candidate for the position, and the promotion is in the best interest of the Public, City, and Department.
- Department hiring processes and Commission involvement will be determined by the Department Administration, with approval of the Commission and the City Manager.
- The final decision to hire an applicant will be made by the Department Head, with approval from the City Manager.