

# Health & Human Services and Public Safety Committee Agenda

Tuesday, October 9, 2018, 5:30pm

Room 209, City Hall

*Councilor Belinda Ray, District 1, Chair*

*Councilor Brian Batson, District 3*

*Councilor Pious Ali, At-Large*

1. Announcements
2. Review And Approval Of Minutes From The September 25, 2018 Meeting.

Documents:

[HHS PS MINUTES SEPTEMBER 25 2018 DRAFT.PDF](#)

3. Committee Review Of Staff's NFPA 2018 Standards Including Public Testimony

Documents:

[2018-10-04 CH. 10 CHANGES.PDF](#)  
[2018-10-04 MEMO RE CH. 10 CHANGES.PDF](#)  
[RULES AND PROCEDURE FOR PUBLIC TESTIMONY.PDF](#)

4. City Staff Answers To Committee Questions On Paid Sick Leave.

Documents:

[2018-09-06 MEMO ON PAID SICK LEAVE \(1\).PDF](#)  
[CHART-AND-OVERVIEW-OF-PAID-SICK-TIME-LAWS-IN-THE-US-MAY-2018 \(3\).PDF](#)  
[2018-10-05 SICK LEAVE ORDINANCE \(COMMITTEE REDLINE\).PDF](#)

5. Next Meeting: October 23, 2018

*The meeting can be watched online via livestream: [www.portlandmaine.gov/livestream](http://www.portlandmaine.gov/livestream)*

*Keep up to date with the new shelter design and planning process at the City's and Bayside Neighborhood Association's websites:*

[www.portlandmaine.gov/shelterplanning](http://www.portlandmaine.gov/shelterplanning)

<https://baysideportland.org/category/shelter/>





## Health & Human Services and Public Safety Committee Minutes

Tuesday, September 25, 2018, 5:30pm, Room 24, City Hall

Committee Attendance:

Belinda Ray, Chair (District 1), Brian Batson (District 3), Pious Ali (At-Large)

Councilors in Attendance: Mayor, Ethan Strimling; Jill Duson (At-Large)

City Staff: Director of Health and Human Services, Dawn Stiles; Assistant City Manager, Michael Sauschuck; Director of Public Health, Dr. Kolawole Bankole; Associate Corporation Counsel, Anne Torregrossa; Director of Human Resources, Gina Tapp; Executive Assistant, Adam Harr;

### **AGENDA ITEM 1 – Announcements and Approval of Minutes:**

Chair Ray Announce that City staff will come back with a matrix of possible locations for the proposed Homeless Services Center on the second October meeting or the first November meeting.

Chair Ray proposed the following amendments:

Page 4 of minutes, under "Chair Ray":

3rd bullet point should read:

- In terms of short-term improvements in Bayside, we have been implementing as many short-term improvements as possible over the last 2 1/2 years: new landscaping, additional crosswalks, lighting, police patrols, moving OSS to 24/7 model, enhancing security, creating neighborhood plan, etc.; not sure how much more can be done in the current facility as many have already been implemented

5th bullet point should read:

- Several providers, including Cullen Ryan, have expressed their support for a single shelter model and have said they won't be able to provide services in a scattered site model

Page 5 of minutes:

Third bullet point on page (and first two sub points under that) should read:



- Chair Ray corrected that the committee did indeed focus on one, city-run shelter.
  - The second look at zoning was to expand zoning to allow for smaller shelters run by other entities
  - It was not about the City pursuing smaller scattered sites
  - (other bullets remain the same)

Page 7:

Second bullet should read: "Chair Ray clarified that this committee did not reject residential zones."

Page 8:

Agenda Item 3 - Next Steps

Need to strike sentence/bullet about a workshop on the 24th, as that was never agreed to. The committee decided against a workshop and instead decided to proceed at the committee level without guidance from the full council.

Under "When the Homeless Services Center returns to the committee agenda, amend bullets to read as follows:

When the Homeless Services Center returns to the committee agenda:

- Staff will bring forward a matrix of options for the committee to consider, including:
  - All locations of potential sites for both a single shelter model and a model with up to three smaller shelters.
  - County Way and District Road will be included among sites to be fully vetted.
  - Councilor Batson's fully fleshed out proposal.
  - Financials for each proposed location.
  - Pros and cons of sites/models (beyond financial aspects).
  - As much as possible, the viability of acquiring non-City owned land.
- The committee will use this matrix to consider options and make recommendations to the council. The committee may also create a hierarchy of the options so that if its first recommendation to the Council fails, there will be a second and possibly third choice ready to go.

Councilor Mavodones requested that Chair Ray and City Manager Jennings confirm the outcome of the meeting.

- Chair Ray and City Manager Jennings agreed

Councilor Batson Moved to accept the minutes as amended.

Mayor Strimling asked to revisit agenda Item 2 of the July 17 meeting, Mayor Strimling asked that on the second bullet amend to PTO that covers paid sick time. Chair Ray made a motion to do so, Councilor Batson seconded and the motion passed unanimously.



## **AGENDA ITEM 2 – Paid Sick Time**

Chair Ray explained that the Committee will go through the Memorandum and distributed a spreadsheet demonstrating sick time earned by hours worked at the proposed 0.033 accrual rate.

- Chair Ray requested that the changes in the proposed ordinance be red lined.
  - When saved as a PDF, the tracked changes were not reflected and will be reposted to show the changes.
  - Where the committee left off inside the document will be highlighted to document progress.

### **Memorandum – “Additional information regarding proposed sick leave ordinance”:**

#### **Exemptions for Healthcare Workers and Per Diems**

- Exemptions for healthcare workers in other states:
  - RI exempts licensed nurses who work a Per Diem schedule:
    1. Employed by a healthcare facility;
    2. Without obligation to a regular schedule;
    3. Only works when they indicate available with no obligation to work when availability is not indicated;
    4. Receive a higher rate of pay than an employee in the same position/facility on a regular schedule.
  - The Committee likes the RI Exemptions and to adopt in the ordinance:
    - Healthcare facility must be defined.
    - Limited to nurses, in ME could be someone licensed by the State.
      - Healthcare Professional is defined in the ordinance, but for the purpose of who can sign a doctor's note.
    - Does the committee want to limit to licensed staff (RNs, CNAs, etc.) or all staff including support staff?
      - Chair Ray and Councilor Batson prefer licensed professionals.
      - Councilor Batson would like to define license by license
      - Councilor Ali would like to see what all positions would look like.
      - Are EMTs and Paramedics included?
        - Possibly not as they could be working at fire stations, not health centers.
- If an employee does not receive a higher rate of pay as in (4), are they still exempted?
  - The way it is written in RI, an employee would not be exempted and would accrue sick leave.



- Barron Center does not offer a higher rate.
      - Mayor Strimling would want to keep (4)
    - The committee would like all four points from RI included.
  - Vermont exempts any per diem at a healthcare facility.
  - Washington DC exempts per diems who elect to receive extra pay in lieu of benefits.
- Per Diems
  - At the City
    - Back up as needed extra staff without benefits working positions in:
      - Homeless Shelters as shelter attendants
      - Barron Center
        - Includes healthcare and support staff
        - A minim time commitment (two weekends per month for example) with no set schedule.
      - On-Call Event Staff
      - Election Workers
      - Restaurant Workers
      - Dispatchers in the 911 Center
    - ACA Compliance for benefits analyzed quarterly to offer per diems benefits who over regularly work 30 hours or more a week.
      - Applies to all employers.
    - Chair Ray asked if the City Pays a higher rate to Per Diems; the City does not.
    - Chair Ray asked how many hours Per Diems work in a week; 0 to 50.
      - Benefits would only be offered to Per Diems who worked a weekly average of 30 or more hours in the previous quarter.
  - Per Diems who are on-call and must be available regardless if they are called in are compensated a low hourly rate for being on call but not working; do these hours earn paid sick leave?
    - It is not working time; the proposed ordinance states in number 2, Pg.2 that paid time where no work is done does not accrue sick time.
  - Other Exemption Categories in Other States
    - CT: Temporary and day laborers.
    - Casual Babysitters
    - An exemption if it is mutually agreed upon by the employee and employer if another benefit was conferred in exchange
    - MA: paid sick leave benefit only applies for hours that employees have been scheduled to work.



Does the committee want to exempt per diems altogether or make separate exemptions for healthcare workers? The committee is interested in the RI healthcare exemption and will address exemptions at a future meeting before the next public comment period.

### Maximum Accrual Amount

Currently in the ordinance, the maximum is paid sick time accrued is 48 hours at a rate of one hour for every 40 hours worked.

- Caps in other states
  - Most States cap at 40 hours.
  - Many local jurisdictions cap at 72 hours.
  - CA is capped at 24 but there was a proposal to increase to 40 hours to accommodate recovering from the Flu.
  - OR has comments suggesting 40 hours to match work week.
  - VT employers have to provide 24 hours of leave for the first two years and then 40 hours thereafter
- Tiered System different caps for larger and smaller employers
  - Size
    - Fewer than 10 employees: 24 hours?
    - 10 employees and up: 40?
      - Chair Ray likes 40 over 48
      - Mayor Strimling supports 48 hours
  - Tiers can help smaller businesses afford the benefit
    - Mayor Strimling is cautious of tiers.
      - A sick employee needs the same amount of time for illness regardless the size of the company they work for has fewer than 10 or 10 or more employees.
      - Do tiers create an incentive to create part time employees?
- Can employees be fired for using too many sick days?
  - Yes if using unprotected leave (FMLA and State FMLA and various job protected leaves would not allow an employee to be fired)
  - Some protections in Maine are unpaid (not paid but cannot be fired)
  - In the Ordinance, it said individuals can't be fired for using the benefit
- Chair Ray asked the committee how they feel choosing 48 hours or 40 hours for the maximum accrual amount.
  - Chair Ray likes the 40 hour maximum.
  - Councilor Batson sees 40 as the consensus among the committee and the states compared.



- Is there a public health analysis between 5 and 6 days?
      - The states that chose 48 hours mainly did so for public health reason.
      - Councilor Ali Asked Dr. Bankole about the public health perspective.
        - Seven days is needed to recover from the Flu.
      - Chair Ray reiterated that the committee must be mindful of the affordability of the cost reconciled with the public health ideal.
- Councilor Ali asked the Mayor for data demonstrating that most people do not use the maximum amount of time given.
  - In a study, Eileen Applebaum found most employees do not use the maximum sick time given.
    - What was the average used?
    - Is it near 40 hours (if so does 40 make more sense than 48)?
- Paid vs Unpaid
  - Committee not interested in unpaid.
- Councilor Batson is OK with 48 hours barring adverse economic impacts that cannot be mitigated in other ways.
- Chair Ray's Chart demonstrated someone working:
  - Working 40 hours per week would not accrue 48 hours until a point between week 36 and week 37.
  - 35 hours would not accrue 48 hours until week 42.
  - Someone working 25 hours would never hit 48.
    - Mayors Strimling noted that individuals with shorter work weeks would need to earn less time to take the same number of sick days off as someone working 40 hours per week.

The committee is not ready to decide but will address 40 vs. 48-hour cap in terms of public health, economic impact, and what may pass the full council.

- Chair Ray is leaning towards 40 hours (5 days) minimum.
- Councilor Batson could be ok with 48 hours (6 days) and is looking for more information from a public health perspective.
- Counselor Ali is looking for more data on sick time use.

Chair Ray asked about the accrual rate, the committee unanimously agreed that the accrual rate is 0.033

### **Waiting Period**

- Potentially exempting new businesses in lieu of a tiered system for smaller businesses?
  - MN: new business are exempt from one year after the hire of a business' first employee.



- Probably not an alternative to smaller tiers but a potential element of implementation.
- Must wait 90 days to use
  - Chair Ray and Councilor Batson supports 90 days, Councilor Ali is cautious to be able to include seasonal employees.
    - 90 days is a minimum Benchmark employers can allow tie to be used earlier.
    - Employers have expressed trouble with employees that turn over quickly
  - Mayor Strimling had concerns over a 90 day waiting period:
    - 90 days may exclude seasonal employees
    - People may come to work sick in the first 90 days
    - The hour or time less than a full day earned within 90 days could be used to care for sick family.
- A waiting period based on a minimum number of hours works
  - May help include seasonal workers
  - CT has 680 hours
- How can seasonal employees still be included when waiting periods effectively excludes them.
  - Could a carryover mitigate this?
  - Councilor Ali asked about the City terminated summer camp employees at the end of the season and then rehired the next year
    - 2.C If someone is rehired within 2 months, their accruals shall be reinstated
    - Increasing to within 12 months would catch the seasonal employees
- 90 Day waiting period is waived and hours carry over if someone is rehired to the same employer within one year.
  - Councilor Duson would like a mechanism that freezes the clock
    - Cumulative: working 52 days one season means the first day the next season starts at 53.

### **New Business Exemptions**

Anne will research the definition of new business that would allow an exemption lasting one year from the hire date of the first employee.

- New business that has never existed to exclude franchises/chains?
- Should number of employees be a factor?

### **Exemptions for Employees Covered by a Collective Bargaining Agreement**

- Some construction have this exemption.
- Waived if the Collective Bargaining Agreement specifically details sick time.
  - If unions value other benefits more, they could bargain with it.



- Mayor Strimling does not want an exemption; all employees get the minimum.
- Chair Ray supports not exempting to extend the broad definition of family to union members.
- Can be reconsidered if unions come forward feeling this impedes their ability to negotiate
  - Not likely as unions likely have a higher level and if not would may use this to increase their sick time benefit.
  - Will automatically cover unions without needing to wait for a new contract
  - An employer cannot negotiate the ordinance given benefit without; there must be an exemption
  - Loss of a bargaining chip (if unions value other things like higher wages or more vacation instead)

The committee unanimously agreed not to include exemptions for employees covered by collective bargaining contracts.

### **Babysitters**

- Distinction between babysitter and nanny or childcare worker
  - Need a definition for babysitter?
- Under the table.
- What is the difference between per diem and contractual employees
  - Certain positions at the City are hired by contract with or without benefits written into the contract.
- Definition of Employee excludes those defined under 26MRS663 Chapter 7.

### **Temporary and Day Laborers**

- Doesn't need special consideration.

### **AGENDA ITEM 4 – Next Steps**

#### **PTO exemption language was added:**

This exception applies regardless of how the paid leave is designated, including “sick leave,” “paid time off,” or otherwise, If an employer has a policy that does not distinguish between sick leave and other types of leave, the employer need not track the actual reasons for leave, so long as leave is available for the same purposes and under the same conditions as earned paid sick time under this ordinance.

**Should Paid Sick Time Roll Over?**

Earned paid sick time shall not be forfeited unless paid out to employees however the employers can set a cap (currently rolls over and accrues without cap).

- Maximum accrual of 48 in one year
- Can only take 48 in one year
- Can't erase them (so you could get 1,000 hours in the bank via carry-over but only use so many in a year.)

**Items to revisit from this meeting at a later date:**

- Staggered implementation considered
- 40 vs. 48 Cap
- 90 days
- New Businesses
- Healthcare Exemption
  - Licenses
  - Other Categories
  - Definition of Healthcare Facility
- Language for Implementation

**On October 9<sup>th</sup>:**

Committee will continue through the document, addressing the below items:

- Notification requirements
- Documentation
- Enforcement and the City's role
- Minimum number of hours worked in a year
- Review Uses
- Tipped employees
- Different methods of accrual exemption provided that: X, Y, and Z are met.

Any items that need to be revisited will be decided on as Corporation Counsel is able to answer committee questions.

Councilor Batson made a motion to adjourn, Councilor Batson seconded. The motion passed unanimously. The meeting adjourned at approximately 7:30 PM.

## Chapter 10 FIRE PREVENTION AND PROTECTION\*

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**\*Cross reference(s)**--Civil emergency preparedness, § 2-401 et seq.; buildings and building regulations, Ch. 6; electrical regulations for fire alarms, § 6-41; fireworks in cemeteries, § 7-138; fire protection in day-care facilities, § 8-41; selling toy balloons with flammable gases prohibited, § 17-31; following fire apparatus, § 28-99; crossing fire hose, § 28-100.

**State law reference(s)**--Fire prevention and fire protection, 25 M.R.S.A. § 2351 et seq.; municipal fire protection, 30-A M.R.S.A. § 3151 et seq.  
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- Art. I. NFPA 101: Life Safety Code, §§ 10-1--10-15
- Art. II. NFPA 1: Fire Code, §§ 10-16--10-21
- Art. III. Enforcement and Appeals, §§ 10-22--10-25
- Art. IV. Hydrants, §§ 10-26--10-36
- Art. V. Reserved, §§ 10-37--10-65
- Art. VI. Fire Suppression Systems, §§ 10-66 - 10-90
- Art. VII. Open Burning, §§ 10-91 - 10-99
- Art. VIII. Signaling Systems for the Protection of Life and Property  
§§ 10-100 - 10-107

### ARTICLE I. LIFE SAFETY CODE

#### Sec. 10-1. Adoption of National Fire Protection Association 101: Life Safety Code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, a code known as the National Fire Protection Association (NFPA) 101: Life Safety Code (hereinafter referred to as the "Life Safety Code") recommended by the National Fire Protection Association, being particularly the ~~2018~~2009 edition thereof and the whole thereof, except for such portions as are added, deleted, modified or amended by section 10-3, of which code not less than one (1) copy has been and now is filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the limits of the city.

(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 214-01/02, § 1; Ord. No. 25-10/11, 8-16-

10)

### Sec. 10-2. Definitions.

Wherever the words "authority having jurisdiction" are used in the Life Safety Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

Wherever the word "municipality" or "city" is used in the Life Safety Code, it shall be held to mean the City of Portland.

*Special hazard dwelling unit* shall mean any structure containing twelve (12) or more dwelling units.  
(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. 298-14/15, 7-6-2015)

### Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is added to, amended, modified and deleted in the following respects:

(a) The following provisions shall be added to the Life Safety Code as un-numbered sections, and shall modify or replace any provisions of the Life Safety Code to the contrary:

i. "In addition to the circumstances under which a fire watch may otherwise be required or allowed by the Life Safety Code, in the case of structures posing significant life safety risks that might result in the displacement of person(s), a fire watch ~~not to exceed seven days~~, with specifications and criteria to be set by the authority having jurisdiction, may be ~~instituted~~ required if said watch is approved by the authority having jurisdiction, in consultation with the City Manager, and Corporation Counsel, ~~and the Director of Permitting and Inspections.~~"

ii. Where the Life Safety Code requires that a sprinkler system be installed, but permits a partial sprinkler system, a full sprinkler system shall be required such that the building is protected throughout as required by the applicable

standard.

iii. Notwithstanding any provisions to the contrary, Carbon Monoxide (CO) alarms and/or detection shall be subject to the following requirements:

a. The following shall be protected throughout with CO alarms and/or detectors:

i. Existing residential occupancies; and

ii. All new occupancies, other than industrial occupancies and storage occupancies.

b. All residential occupancies, and all new multiple occupancies containing parking structures shall be protected CO alarms and/or detection shall be installed in accordance with NFPA 720, *Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment*, ~~2015~~<sup>2009</sup> edition, except that:-

i. All new construction must have CO alarms and/or detectors hardwired;

ii. All new CO alarm and/or detector installations, with the exception of new installations in one- or two-family dwellings, must be hardwired; and

iii. The authority having jurisdiction may approve new, alternative CO alarm and/or detector technology as it becomes available, so long as it provides the same amount of protection as required by this Article.

iv. New decks or balconies with access from a common space shall be subject to the following requirements:

a. They shall be reviewed as a new assembly occupancy; and

b. An alarm notification device shall be

installed at the balcony or deck level for occupant notification. The device shall operate upon activation of the fire suppression and/or detection system(s) inside the building.

~~v. New smoke alarm installations must use photoelectric technology.~~

~~Further, in new single or multiple station smoke alarm installations in buildings subject to NFPA 101, Chapter 31, the primary power source must be the building's electrical service and the smoke alarms must be provided with a secondary (standby) power source. Therefore, the following sections shall be deleted:~~

~~Section 31.3.4.5.2~~

~~Section 31.3.4.5.4~~

Notwithstanding any provisions to the contrary, smoke alarms and/or detection shall be subject to the following additional requirements:

a. All smoke alarms and/or detection in new construction or major renovations shall be hardwired with battery backup, shall be interconnected, and shall use photoelectric technology.

b. All smoke alarms and/or detection in new installations, except in existing one- and two-family dwellings shall be hardwired with battery backup and shall use photoelectric technology.

c. All smoke alarms and/or detection in new installations in existing one- and two-family dwellings shall either meet the requirements for new installations above, or shall be 10-year sealed lithium battery alarms using photoelectric technology.

d. The authority having jurisdiction may approve new, alternative smoke alarm and/or detection technology as it becomes available, so long as it provides the same amount of protection as

required by this Article.

vi. Wherever the requirements governing stairs in the Life Safety Code conflict with the Maine Uniform Building and Energy Code adopted pursuant to 10 M.R.S. § 1103 (MUBEC), the provisions in MUBEC shall control. ~~Stair risers, guards, treads, and tread nosing.~~ The maximum height of risers as prescribed in Chapter 24, Section 24.2.5 is modified to permit a maximum 7 ¾" riser for newly constructed stairs in one and two family dwellings only. The minimum height of guards as prescribed in Chapter 24, Section 24.2.5 is modified to permit a minimum guard height of 36" for newly constructed stairs in one and two family dwellings only. The minimum tread depth as prescribed in Chapter 24, Section 24.2.5 shall be amended to permit a 10" tread depth for newly constructed stairs in one and two family dwellings only. Tread nosing as prescribed in Chapter 7, Section 7.2.2.3.5 is modified to permit a nosing at least ¾" but not more than 1 ¼" in depth for newly constructed one and two family dwellings.

(b~~n~~) Inspections. The authority having jurisdiction, upon proper identification, shall have the right to enter at any and all reasonable times for the purpose of inspecting in order to determine compliance with the provision of this Life Safety Code into or upon ~~any of the following premises: any rental unit subject to registration under section 6-151; any premises subject to this article, with the exception of premises subject to Chapter 24 of NFPA 101; any premises when any governmental agency having jurisdiction over a particular premises should request it to do so; or any premises in response to a complaint regarding conditions governed by this Chapter.~~ It shall be a violation of this article for any person either to interfere with or to prevent such inspection.

(a~~c~~) Section ~~3.3.32.83.3.37.8~~ shall be amended to read as follows:

*Historic Building:* A building designated a Landmark or Contributing Building within a local or National Register

historic district, pursuant to Chapter 14, Article IX of the ~~Portland City~~ Code.

- (dj) Section 7.2.2.5.5 shall beis amended as followsto add the following language:

~~7.2.2.5.5 Exit Stair Path Markings.~~ Exit stair path marking shall also be installed for all new high-rise buildings in accordance with 7.2.2.5.5.1 through 7.2.2.5.5.11.

- (ee) Section 9.7.1.1 shall be amended to add the following language:-

~~The authority having jurisdiction shall have power to amend modify the water supply requirements of sections 9.7.1.1(1), 9.7.1.1(2), or 9.7.1.1(3) this section~~ for individual installations where meeting such requirements are impractical, financial reasons not being a consideration, and provided such requirements shall not be less stringent thanthen the minimum water supply requirements for sprinkler systems in the State of Maine.

- (fd) Subsections 12.3.5.3(3) and (4) shall be deleted.

- (g) ~~;~~ and Subsections 13.3.5.3(1) and (2) shall be deleted;  
~~delete.~~

- ~~(e) Unvented fuel fired heaters shall not be used in a bedroom or bathroom or in a manufactured home.~~

- ~~(f) Section 43.6.4.1; delete only the automatic sprinkler requirement for one and two family7 dwelling units undergoing renovations.~~

- ~~(g) Section 39.3.4.4. Fire department notification shall be accomplished in accordance with section 9.6.4.~~

- ~~(k) Annex B, Elevators for Occupant-Controlled Evacuation Prior to Phase I Emergency Recall Operations, is hereby incorporated by reference.~~

- ~~(m) The provisions of the Life Safety Code shall apply to all rental units as that phrase is defined in Portland City Code Chapter 6, §6 151.~~

- ~~(o) Appeals. Appeals shall be governed by Chapter 10, Article III, Enforcement and Appeals, §10-23 of the Portland City Code.~~
- ~~(p) All new buildings shall comply with the authority having jurisdiction's Standards for Building, Stair, Floor, Suite and Room designation system.~~
- ~~(q) Existing buildings shall comply with the authority having jurisdiction's Standards for Building, Stair, Floor, Suite and Room designation system where practicable as determined by the authority having jurisdiction.~~
- ~~(r) Section 4.6.4.3. Rehabilitation projects in buildings or structures shall not be considered historic buildings under the provisions of this Code by this fact alone. The provisions of section 43.10 shall apply to buildings or structures designated or eligible for designation or located within a historic district if deemed necessary by the Department of Planning and Urban Development or as required by Article IX of the Portland City Code or to comply with the Secretary of the Interior Standards for Historic Preservation under federal or state review requirements.~~

(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 214-01/02, Ord. No. 25-10/11, 8-16-10; Ord. No. 215-11/12, 7-2-12; Ord. No. 53-13/14, 10-7-13; Ord. 298-14/15, 7-6-2015; Ord. 127-16/17, 2-22-2017)

~~**Sec. 10-4. Special Hazard Dwelling Units.**~~

~~—(a) The following shall be located on site in special hazard dwelling unit(s) in a fire resistant container and in a location fully accessible by the authority having jurisdiction at all times:~~

- ~~(1) A detailed floor plan depicting the existing conditions of the building and, if available, a full set of building blueprints; and~~
- ~~(2) Sufficient master keys to the building, as determined by the authority having jurisdiction; and~~
- ~~(3) A list of special hazards within the building; and~~
- ~~(4) Emergency contact information and location of any~~

~~occupants requiring special assistance in the event of an emergency; and~~

~~(5) Plans for new special hazard structures shall be filed with the authority having jurisdiction in an approved electronic format.~~

~~(6) An approved sign shall be provided in a location approved by the authority having jurisdiction indicating the current building owner, property management company, or condominium association responsible for the building; and legal mailing address and phone number of said entity.~~

~~(b) Low proximity signage, identifying the number of each dwelling unit by number or letter or both, shall be installed on each access door as follows: The bottom of the sign shall be at least six (6) inches but not more than eight (8) inches above the floor. Letters and numerals shall be retro reflective, three (3) inches high and comply with 7.10.8.2 of the Life Safety Code.~~

~~-(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. No. 215-11/12, 7-2-12)~~

- Sec. 10-5. Reserved.
- Sec. 10-6. Reserved.
- Sec. 10-7. Reserved.
- Sec. 10-8. Reserved.
- Sec. 10-9. Reserved.
- Sec. 10-10. Reserved.
- Sec. 10-11. Reserved.
- Sec. 10-12. Reserved.
- Sec. 10-13. Reserved.
- Sec. 10-14. Reserved.
- Sec. 10-15. Reserved.

## ARTICLE II. FIRE CODE

### Sec. 10-16. Adoption of National Fire Protection Association 1: Fire Code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that a certain code known as the National Fire Protection Association (NFPA) 1: Fire Code (hereinafter referred to as the Fire Code) recommended by the National Fire

Protection Association, being particularly the ~~2018~~<sup>2009</sup> edition thereof and the whole thereof, and except for such portions as are added to, deleted, modified or amended by section 10-18, of which code not less than one (1) copy has been and now is filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the limits of the city.

(Code 1968, § 321.1; Ord. No. 389-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10)

**State law reference(s)**--Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

### **Sec. 10-17. Definitions.**

(a) Wherever the word "municipality" or "city" is used in the Fire Prevention Code, it shall be held to mean the City of Portland.

(b) Wherever the words "authority having jurisdiction" are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

(Code 1968, § 321.2; Ord. No. 389-72, 9-6-72; Ord. No. 564A-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. 298-14/15, 7-6-2015)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

### **Sec. 10-18. Amendments.**

The Fire Prevention Code adopted by section 10-16 is amended, modified and deleted in the following respects:

(a) The following provisions shall be added to the Fire Code as unnumbered sections, and shall amend any provisions of the Fire Code to the contrary:

(i) ~~(d) Section 3.3.114 shall be amended to include the following:~~

"In addition to the circumstances under which a fire watch may otherwise be required or allowed by the Fire Code, ~~in~~ in the case of structures posing significant life safety risks that may result in the displacement of person(s) a fire watch, ~~not to exceed seven (7) days,~~ with specifications and

criteria to be set forth by the authority having jurisdiction, may be instituted if said watch is approved by the authority having jurisdiction, in consultation with the City Manager, and Corporation Counsel, and the Director of Permitting and Inspections."

(ii) (h) All structures with a life safety signaling fire alarm system or fire suppression system shall be provided with a Knox box(es). The number, make and model and location of the box(es) shall be determined and approved by the authority having jurisdiction. All keys required to operate the life safety signaling or fire suppression systems, and building keys, shall be placed within this box.

(b) The following shall be added to section 1.7.7.1:

It shall be a violation of this article for any person either to interfere with or to prevent such inspection.

(ca) Section 1.10 (Board of Appeals) shall be deleted; delete.

(ed) Section 1.12.27 is amended to read deleted and replaced as follows:

"All applications for a permit required by the Fire and Life Safety codes shall be filed electronically with the authority having jurisdiction in the manner, and in such form and detail, as it the authority having jurisdiction shall prescribe. Applications for permits shall be accompanied by such plans and other documentation in an approved electronic format, as required by the authority having jurisdiction.

(e) The introductory sentence to Section 1.12.8 is deleted and replaced as follows:

"In addition to the permits required by the Life Safety Code, the authority having jurisdiction shall have the authority to issue permits for any of the activities identified in Tables 1.12.7(a), (b), (c) and (d) and the operations listed below.

Permits for the following operations and materials, as

described in Tables 1.12.7(a), (b), (c), and (d), shall be required, and shall have the following fees:

<u>Permit Operations and Materials</u>	<u>Fire Prevention Code Section</u>	<u>Permit Fee</u>
<u>Aircraft fuel servicing</u>		<u>See Motor fuel dispensing and refueling</u>
<u>Aircraft refueling vehicles</u>		<u>See Motor fuel dispensing and refueling</u>
<u>Automotive fuel servicing</u>		<u>See Motor fuel dispensing and refueling</u>
<u>Carnivals and fairs</u>		<u>\$141.00 (A)</u>
<u>Commercial rubbish-handling operation (formerly Bulk Waste Storage)</u>	<u>1.12.7</u>	<u>\$174.00 (A)</u>
<u>Cutting and welding operations (Permanent Facilities)</u>	<u>1.12.7</u>	<u>\$65.00 (A)</u>
<u>Display fireworks (also Flame effects and Pyrotechnics before a proximate audience) Display</u>	<u>1.12.7</u>	<u>\$141.00 (B), (C), (D)</u>
<u>Dry-cleaning plants</u>	<u>1.12.7</u>	<u>\$65.00 (A)</u>
<u>Flame effects</u>		<u>See Display fireworks</u>

Flammable <del>or</del> <u>and</u> combustible liquids, (other than motor fuel dispensing)	<del>1.12.7</del>	\$174.00*(A)
Hazardous materials <u>1. Tier I (E)</u> <u>2. Tier II (F)</u> <del>Hazardous Materials</del>	<del>1.12.7</del>	<u>1. \$65.00 (A)</u> <u>2. \$263.00 (A)</u>
Hot work <del>(Temporary)</del>	<del>1.12.7</del>	<del>\$17425.00 (B)</del>
<u>Liquified Petroleum Gasses</u>		<u>\$174.00 (A)</u>
<u>Lumberyards and woodworking plants (formerly Woodworking and Lumber Storage Plants)</u>	<del>1.12.7</del>	<del>\$17409.00 (A)</del>
<u>Marine craft fuel servicing</u>		<u>See Motor fuel dispensing and refueling</u>
<u>Marijuana growing, processing, or extraction facilities</u>		<u>TBD (G)</u>
Motor <del>f</del> <u>Fuel</u> <del>d</del> <u>Dispensing and</u> <del>r</del> <u>Refueling (also</u> <u>Aircraft fuel</u> <u>servicing and</u> <u>vehicles; Automotive</u> <u>fuel servicing; and</u> <u>Marine craft fuel</u> <u>servicing)</u>	<del>1.12.7</del>	\$174.00 (A)
<u>Pyrotechnics before a proximate audience</u>		<u>See Display fireworks</u>

Repair <del>g</del> Garages and <del>s</del> Service <del>s</del> Stations	<del>1.12.7</del>	\$174.00 (A)
<del>Application for</del> Spraying or dipping of <del>F</del> flammable <del>F</del> inishes	<del>1.12.7</del>	\$174.00 (A)

(f) Table 1.12.7(a) shall be amended to add the following:

<u>Operations and Materials</u>	<u>Permit Required</u>	<u>Cross Reference Section Number</u>	<u>Permit Fee</u>
<u>Blasting operations</u> 1) <u>&gt; 50 cu. yds.</u> 2) <u>Utility trench</u> 3) <u>50-300 cu. yds.</u> 4) <u>300+ cu. yds.</u>	<u>For blasting operations.</u>		<u>1)\$50 (B), (D)</u> <u>2)\$50 (B), (D)</u> <u>3)\$100 (B), (D)</u> <u>4)\$500 (B), (D)</u>
Certificate of Fitness for Fire Alarm Service and Installation Company	<u>To engage in the business of fire alarm service and installation</u>	<u><del>1.12.7</del>1.13.1(3)</u>	\$250.00 each
<u>Certificate of fitness for special hazards systems</u>	<u>To engage in the business of special hazards system service and installation</u>	<u>1.13.1(3)</u>	<u>\$250 each</u>

<u>Certificate of fitness for marijuana growing, processing or extraction facilities</u>	<u>TBD</u>	<u>1.13.1(3)</u>	<u>TBD (G)</u>
Fire Alarm Inspections Sticker	<u>Acquisition and application of fire alarm inspection stickers</u>	1.12.7	\$25.00 each
Special Type Dispensing Systems, other than Flammable or Combustible Liquids		<u>1.12.7 Private and Special Laws of 1917, Chapter 160</u>	\$174.00 (A)

(A) Application and license issued through Permitting and Inspections Department after Fire Department review.

(B) Application and license issued directly through the Fire Department.

(C) Equal to fee charged by state.

(D) ~~. In addition to the foregoing, the following must be submitted to the authority having jurisdiction prior to the issuance of the permit: sState license and proof of insurance for blasting permits or fireworks permits; and documentation of code specific fire inspection for any required permit.~~required.

(E) For quantities of hazardous materials at or above the levels specified in Table 1.12.8, but below the levels required to be reported to the State of Maine.

(F) For quantities of hazardous materials at or above the

levels required to be reported to the State of Maine.

(G) No permits may be issued until the City Council adopts licensing for marijuana uses.

~~(A) License from Permitting and Inspections Department required, see: Private and Special Laws of 1917, Chapter 160.~~

~~(B) Imposed by state statutes.~~

~~(C) Building permit required.~~

(g) Section 13.3.1.2-1 is amended to add the following:

"The authority having jurisdiction shall have power to ~~amend~~ modify the water supply requirements of this section ~~13.3.1.2~~ for individual installations where meeting such requirements are impractical, financial reasons not being a consideration, provided such amended requirements shall not be less stringent ~~then~~ than the minimum water supply requirements for sprinkler systems in the State of Maine."

~~(hf)~~ Subsections 13.3.2.5.3(3) and (4) shall be deleted.

(i) Section ~~and~~ 13.3.2.6.3, shall be deleted.

~~(jb)~~ In addition to the requirements of 18.2.3-4, fire department access roads shall comply with the standards set forth in the *City of Portland's Technical and Design Standards and Guidelines, Chapter IV (Public Safety Standards)*.

~~(kj) The following Annexes are incorporated by reference herein:~~

~~(1) Annex I Fire Hydrant Locations and distribution, in addition to the requirements of Annex I, In addition to the requirements of Section 18.3, fire hydrants shall comply with the standards set forth in the City of~~

*Portland's Technical and Design Standards and Guidelines,  
Chapter IV (Public Safety Standards).* ~~;~~ ~~and~~

~~(i) Section 33 is amended as follows:~~

~~(l1) Section 33.1.1 shall be deleted and replaced with the following:~~

~~Storage of more than 100 tires outside shall be in accordance with Chapter 33.~~

~~(m2) The title of Section 33.2.1 shall be deleted and replaced with the following:~~

~~Outside Tire Storage Sites and Piles.~~

~~(n3) Section 33.2.1.1 shall be deleted and replaced with the following:~~

~~Individual outside tire storage piles containing more than 100 tires shall be limited in base area to 2,500 ft<sup>3</sup> (232 m<sup>2</sup>).~~

~~(o4) Section 33.2.1.2 shall be deleted and replaced with the following:~~

~~The dimension of tire storage piles shall not exceed 10 ft (3 m) in height, 30 ft (9 m) in width, and 30 ft (9 m) in length.~~

~~(p5) Section 33.2.2; delete shall be deleted.~~

~~(q6) Section 33.2.2.1 shall be deleted; delete.~~

~~(r7) Section 33.2.2.2 shall be deleted; delete.~~

~~(s8) Section 33.2.2.3 shall be deleted; delete.~~

~~(t9) Section 33.2.2.4 shall be deleted; delete.~~

~~(u2) Annex E0, Fire Fighter Safety Building Marking System is adopted.~~

~~(c) Unvented fuel-fired heaters shall not be installed and/or used in buildings other than one family occupancies.~~

~~Therefore, the following sections shall be deleted:~~

~~Section 20.2.3.5~~  
~~Section 20.2.4.5~~  
~~Section 20.3.2.1~~  
~~Section 20.8.2.6~~  
~~Section 20.9.2.2~~  
~~Section 20.10.2~~  
~~Section 20.11.2~~

(Code 1968, § 321.6; Ord. No. 389-72, 9-6-72; Ord. No. 564A-72, 9-6-72; Ord. No. 117-82, § 1, 8-2-82; Ord. No. 388-92, 5-18-92; Ord. No. 260-96, § 1, 5-20-96; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 228-06/07, 5-21-07; Ord. No. 245-07/08, 5-19-08; Ord. No. 25-10/11, 8-16-10; Order 245-14/15, 6-24-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 253-15/16, 7/1/2016; Ord. 18-17/18, 8-21-2017; Ord. No. 217-17/18, 7-1-2018, Ord. No. 218-17/18, 7-1-2018)

**Sec. 10-19. Storage of explosives and blasting agents prohibited.**

Notwithstanding any provisions to the contrary in the Fire Code, ~~the~~ storage of explosives and blasting agents is hereby prohibited on the mainland.

Fireworks to be used in a City of Portland sponsored event may be stored within the City of Portland for up to forty-eight (48) hours with a permit from the authority having jurisdiction.  
(Code 1968, § 321.3; Ord. No. 389-72, 9-6-72; Ord. No. 188-00, §6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. No. 215-11/12, 7-2-12)

**State law reference(s)**--Regulation of explosives, 25 M.R.S.A. § 2441.

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**\*Editor's Note**--Pursuant to Council Order 215-11/12 passed on July 2, 2012 repealed Sections 10-20 and 10-21 in their entirety.  
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**Sec. 10-20. Reserved.**

**Sec. 10-21. Reserved.**

**Sec. 10-21.5. Hazardous materials.**

(a) Where a Tier II hazardous materials ~~reporting permit~~ is required, the following shall also be required in locations approved by the authority having jurisdiction:

- (1) Hazardous Materials Management Cabinet: The cabinet shall be designed for exterior installation and shall contain the Hazardous Materials Management Plan,

Hazardous Materials Inventory Statement, Materials Safety Data Sheet and current valid permit. The cabinet shall also be red and have 2" white reflective letters on the face stating "Hazardous Materials Management Plan"; and

- (2) ~~Knox box: The make, number and model of which shall be approved by the authority having jurisdiction and~~IN addition to the requirements contained elsewhere in this Article, a Knox Box shall contain all the keys necessary for the building, the fire suppression and alarm systems and the Hazardous Materials Management Cabinet; and
- (3) Hazard Identification Signs: These signs shall be installed in accordance with NFPA 704, *Standard System for the Identification of the Hazards of Materials for Emergency Response*, 2007 edition, and be on each side of a structure fronting on a right-of-way.

(Ord. No. 193-97, § 1, 2-3-97; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10)

### **ARTICLE III. ENFORCEMENT AND APPEALS.**

#### **Sec. 10-22. Rules and regulations.**

The authority having jurisdiction may promulgate all reasonable rules and regulations to carry out the purposes and provisions of ~~the Life Safety and/or Fire Code~~this Chapter. Such rules and regulations shall be in writing and shall take effect no less than thirty (30) days following the date of issuance.

(Ord. No. 25-10/11, 8-16-10)

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**\*Editor's note:** A copy of such rules and regulations may be obtained at [Fire Prevention Page of Portland Web Site](#).  
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#### **Sec. 10-22.1. Modifications.**

The authority having jurisdiction shall have power to recommend modification of any of the provisions of ~~the Fire Code and/or the Life Safety Code~~this Chapter, including codes adopted under this Chapter, upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such recommended modification shall be entered upon

the records of the department and a copy signed by the chief of the fire department shall be furnished to the applicant. Such modification shall become effective thirty (30) days from and after the date of the recommendation.

(Code 1968, § 321.7; Ord. No. 389-72, 9-6-72; Ord. No. 564-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10)

### **Sec. 10-23. Appeal.**

Whenever the authority having jurisdiction shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this Chapter, including codes adopted under this Chapter, the Fire Code and/or the Life Safety Code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the authority having jurisdiction to the Board of Appeals within thirtyten (30+) business days from the decision of the authority having jurisdiction. ~~The Board of Appeals may reverse the decision of the authority having jurisdiction and permit exceptions to or variances from the specific provisions of the Fire Code and/or the Life Safety Code in cases where the enforcement of the provisions of the code would result in undue hardship, subject always to the rule that the Board of Appeals shall give due consideration to the purposes of the code in promoting public health, safety and welfare.~~

Where the authority having jurisdiction determines that a violation of this Chapter poses an immediate threat to health and safety, an appeal pursuant to this section shall not stay the obligation to correct that violation.

(Code 1968, § 321.8; Ord. No. 389-72, 9-6-72; Ord. No. 564A-72, 9-6-72; Ord. no. 188-00, § 6, 4-24-00; Ord. No. 214-01/02, § 2, 4-17-02; Ord. No. 25-10/11, 8-16-10; Ord. No. 215-11/12, 7-2-12)

### **Sec. 10-24. Additional permits.**

The authority having jurisdiction shall from time to time determine and recommend to the city council for inclusion in the Fire Code and/or the Life Safety Code any new materials, processes or occupancies for which permits shall be required in addition to those now enumerated therein.

(Code 1968, § 321.9; Ord. No. 389-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10)

### **Sec. 10-25. Violations.**

The authority having jurisdiction is authorized to institute,

or cause to be instituted by the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of Chapter 10.

- (a) Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who shall violate any of the provisions of Chapter 10, including the codes adopted under this Chapter, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively pay a penalty as provided in section 1-15 of the city code and/or as provided under state law. The imposition of any penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
- (b) Notwithstanding anything to the contrary in the foregoing, failure to obtain a permit required under this chapter or failure to correct an unsafe condition after receipt of written notice from the city of the need for such permit or for such correction shall be subject to the following minimum penalties:
  - (1) *First offense:* Five hundred dollar (\$500.00) fine;
  - (2) *Second offense:* One thousand dollar (\$1,000.00) fine;
  - (3) *Third offense:* One thousand five-hundred dollar (\$1,500.00) fine.
- (c) In addition to the foregoing, violators will be required

to pay all unpaid permit fees and the city may enjoin or abate any violation by appropriate action.

(Code 1968, § 321.10; Ord. No. 389-72; Ord. No. 147-75, 2-19-75; Ord. No. 388-92, 5-18-92; Ord. No. 186-93, 12-20-93; Ord. No. 193-97, § 2, 2-3-97; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 20-03/04, 8-18-03; Ord. No. 25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

**Sec. 10-25.1. Posting against occupancy.**

Any structure or portion thereof which is in violation of the provisions of Chapter 10 may be condemned and posted against occupancy by the authority having jurisdiction.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.2. Notice of condemnation and posting; order to vacate.**

The authority having jurisdiction shall give notice in writing to the property owner, operator, tenant-in-charge or property management company of such condemnation and posting, and in the event such property is occupied, it shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.3. Property not to be occupied again.**

No property which has been condemned and posted against occupancy shall again be used until the authority having jurisdiction shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.4. Notices not to be removed; property not to be used or let; exception.**

It shall be a violation of this article for any person to deface or remove any such posted notice without the prior approval of the authority having jurisdiction, and it shall also be a violation of this article for any person to occupy or to let another for occupy any property which has been condemned and posted as provided above without receiving the prior approval of the authority having jurisdiction.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.5. Property to be secured if not improved.**

If the owner, operator, tenant-in-charge or property management company of any property which has been condemned does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this Chapter, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.

If the owner or operator fails to do so within a reasonable amount of time, the City may take all reasonable steps to make the property safe and secure and recoup the costs from the owner or operator, along with a \$500 administrative fee.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.6. Restriction on conveyance of property; exception.**

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the authority having jurisdiction under the provisions of this article unless he or she shall first furnish to the grantee a true copy of any such order and shall at the same time notify the authority having jurisdiction in writing of the intent to so transfer either by delivering the notice to the authority having jurisdiction and receiving a receipt or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the authority having jurisdiction.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.7. Responsibility hereunder may not be transferred.**

No contract or agreement between owner and/or operator and occupant relating to compliance with the terms of this Chapter ~~Ten (10)~~ shall be effective in relieving any person of responsibility for compliance with the provisions of this Chapter ~~Ten (10)~~ as set forth herein.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-25.8. Additional procedures; warning signs.**

(a) In addition to the process set forth above, when the authority having jurisdiction, in its sole discretion, determines that an emergency exists that must be addressed immediately to protect public safety, the authority having jurisdiction shall have

the authority, in person or through agents, to enter onto any property to test or repair fire suppression or alarm systems and their support infrastructure located inside or outside of buildings, including private hydrants, after written notice to the property owner or responsible party including, but not limited to, property management company, tenant in charge of the property or the property owner's designee, sent by first-class mail to the last known address of such person or delivered by hand. The authority having jurisdiction shall then cause the condition to be corrected and to be sent to the person notified a notice of any action taken to correct an unsafe condition and the charges for the work done. The charges shall be payable to the city within thirty (30) days of the date of the notice. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the city and shall be collected pursuant to section 1-16 of this Code.

(b) In addition to the process set forth above, when the authority having jurisdiction, in its sole discretion, determines that (1) violations of this code exist that do not support a posting preventing occupancy, but that do create a serious enough risk to public safety that tenants and prospective tenants should be notified by posting and/or written notice; and (2) that the owner or manager has been duly notified of the violations and failed to correct them within the time allowed, the authority having jurisdiction may have highly visible signs posted on the building which indicates the address of the building, the name, address and telephone number of the owner (as determined on the City's tax rolls) and the fact that the building has such outstanding code violations. The sign may also contain information on future court dates relating to the building, if known. The authority having jurisdiction may also have a written notice containing the same information:

- (1) Delivered to the occupants of each dwelling unit in the building; and/or
- (2) Published in a local newspaper; and/or
- (3) Included on a list, maintained by the fire department and available to the public, of similarly classified buildings.

The cost of posting, delivering or sending notices, or publication in a local newspaper may be charged against the real estate upon which the building was or is located. Any unpaid charges assessed under this section shall be enforceable by lien

for the benefit of the city and shall be collected pursuant to section 1-16 of this Code.

(c) In addition to the process set forth above, when the authority having jurisdiction, in its sole discretion, determines that a vacant or otherwise derelict building may pose a serious and immediate risk to public safety officials, including fire fighters, emergency medical technicians, police officers or the like, who may be responding to an emergency call at such premises, it shall have the authority, in person or through agents, and after providing written notice to the property owner or responsible party (sent by first-class mail to the last known address of such person or delivered by hand), to enter into any such property to post highly visible signs on the building which indicate the address of the building. The name, address and telephone number of the owner (as determined on the City's tax rolls) shall be available at the fire station and the fact that the building is classified by the Fire Department as follows:

A red sign - fireground operations conducted from the outside only due to major interior hazards; or

An orange sign - fireground operations may be conducted from the interior with extreme caution due to interior hazards; or

A green sign - fireground operations may be conducted from the interior and there are minimal hazards inside.

The cost of posting may be charged against the real estate upon which the building was or is located. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the City and shall be collected pursuant to section 1-16 of this Code.

(d) It shall be a violation of this code to remove, obliterate or deface any sign posted pursuant to section (c) above. (Code 1968, § 321.10; Ord. No. 389-72; Ord. No. 147-75, 2-19-75; Ord. No. 388-92, 5-18-92; Ord. No. 186-93, 12-20-93; Ord. No. 193-97, § 2, 2-3-97; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 20-03/04, 8-18-03; Ord. No. 25-10/11, 8-16-10)

#### **Sec. 10-25.9. Reinspection.**

Following the issuance of a notice of violation and an order to correct violations, the authority having jurisdiction will

reinspect once for no fee in order to determine whether the violations have been corrected in compliance with this chapter. If the violations have not been corrected in compliance with this chapter, the violator shall be assessed a fee of one hundred and fifty dollars (\$150.00) for the first reinspection; three hundred dollars (\$300) for the second reinspection; and five hundred dollars (\$500) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property and the assessment and lien shall be collected and enforced pursuant to Section §1-16.

(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 20-03/04, 8-18-03; Ord. No.25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

#### **Sec. 10-25.10. Conflicts.**

In the event of a conflict between the provisions of the Life Safety Code, ~~and/or~~ the Fire Code, and/or this Chapter and any other provisions of any other code including, but not limited to, the City Code of Ordinances, the more restrictive code provisions shall apply.

(Ord. No. 25-10/11, 8-16-10)

#### **ARTICLE IV. HYDRANTS**

##### **Sec. 10-26. Purpose; definition.**

(a) *Purpose.* In order to protect public safety and welfare and ensure a fully operational municipal fire protection system, it is necessary to ensure that private fire hydrants located within the city are properly maintained, are accessible at all times, and are compatible with the municipal water main system. Failure to maintain such private fire hydrants in good operating condition may negatively impact upon the entire water main system and present a public hazard. To avoid such hazard and to protect public safety, it is necessary to regulate the installation, upgrading, access and maintenance of all such private fire hydrants wherever located in the city and regardless of the use of the property upon which they are located.

(b) *Private fire hydrant* as used herein shall mean and include any fire hydrant which is owned, leased, or otherwise under the control of any person other than the Portland Water District and shall include any such hydrant regardless of the use of the property upon which it is located.

(Ord. No. 193-97, § 3, 2-3-97)

**Sec. 10-26.5. Use of Fire Hydrants.**

All unauthorized uses of hydrants may negatively impact the water system and the firefighting capability of the hydrant. No person, other than a person authorized to do so by the fire chief, shall use, open, or otherwise tamper with a public or private fire hydrant and it shall be a violation of this Code for any unauthorized person to so use, open or otherwise tamper with a public or private fire hydrant. It shall further be a violation of this Code for any person to shovel, blow or otherwise move snow or ice onto or around any hydrant, public or private, in such a manner as to decrease or restrict access to such hydrant.

(Ord. No. 193-97, § 1, 2-3-97, Ord. No. 188-00, § 6, 4-24-00)

**Sec. 10-27. New hydrants; upgrade of existing hydrants.**

(a) Any private fire hydrant installed, replaced or upgraded on or after the effective date of this article must meet all of the standards utilized by the Portland Water District at the time of such installation. In addition, such hydrants shall meet the fire flow, marking and location standards adopted by the National Fire Protection Association and in effect at the time of such installation. The owner of the private fire hydrant shall provide certification of meeting such standards upon installation in the same manner as provided in section 10-28(a)(1) below. It shall be a violation of this Code to provide false certification under this article.

(b) Any private fire hydrant installed prior to the effective date of this article which does not meet any of the above standards must be upgraded to meet the current applicable standard or standards utilized by the Portland Water District upon any change in occupancy or use of the property.

(Ord. No. 193-97, § 3, 2-3-97; Ord. No. 25-10/11, 8-16-10)

**Sec. 10-28. Maintenance of fire hydrants.**

(a) The owner of any property upon which a private fire hydrant is located shall maintain, or arrange to have maintained, any such private fire hydrant in compliance with the maintenance program utilized by the Portland Water District, and with the following standards, at a minimum:

- (1) No less than an annual inspection, annual written statement describing the owner's maintenance program and who is responsible for carrying out that program and

annual written certification in regard to fire flow and operability by a person qualified to make such certification, which all shall be sent to the fire chief, with a copy to the Portland Water District;

- (2) Painting to match City Hydrants except that the body shall be red, no less than every five (5) years;
- (3) Repair of any and all damage to the hydrant, within no less than seventy-two (72) hours of actual notice of such damage.

(b) The authority having jurisdiction shall have the right to enter upon adjacent land with men and machines to maintain hydrants, including, but not limited to, the removal of aquatic vegetation and dredging of the water source to ensure acceptable performance of any hydrant.

(Ord. No. 193-97, § 3, 2-3-97; Ord. No. 25-10/11, 8-16-10)

#### **Sec. 10-29. Accessibility.**

(a) The owner of property upon which a private fire hydrant is located shall be responsible for ensuring that said hydrant is accessible for use by the fire department at all times.

(b) *Accessible for use* shall mean and include:

- (1) That no later than March 31, 2001, the owner provides an emergency access lane from a public right-of-way to the hydrant, which access lane meets the standards under articles IV and V of chapter 14 of this Code and the "Section IV: Public Safety Standards" of the Technical and Design Standards as adopted by the Portland Planning Board; a map identifying the location of said lane shall be provided to the fire chief upon request;
- (2) That the owner maintains and repairs the emergency access lane required hereunder, which maintenance and repair shall include snow and ice removal, removal of obstruction and encumbrances, including but not limited to debris, junked vehicles and other refuse, so that the emergency access lane shall remain reasonably passable for firefighting and preventive apparatus and vehicles and other public emergency vehicles of the city;
- (3) That the owner removes snow from the emergency access

lane so that at no time shall the snow accumulate to an average depth in excess of four (4) inches and shall also remove snow from the lane of a depth of less than four (4) inches if subsequent rain, hail or temperatures result in the snow on the lane becoming so frozen as to render the lane impassable by such firefighting and public emergency vehicles; and

- (4) That the owner removes snow in accordance with the Standard for Hydrant Snow Removal of the Portland Fire Department, which shall include removal of snow for no less than forty-eight (48) inches from around the hydrant in all directions, with a minimum forty-eight-inch pathway to the open street or accessway.

(c) In addition to any other remedies provided herein, if the owner shall fail to remove such nonfrozen snow accumulating in excess of four (4) inches in depth within twenty-four (24) hours after the cessation of the storm creating such snow, or if the owner shall fail to remove such ice within twenty-four (24) hours after ice has accumulated or formed to the state as to render the emergency access lane impassable for said purposes, or if the owner shall fail to remove said obstructions and encumbrances on the emergency access lane (that are not the result of precipitation) which render the emergency access lane impassable for said purposes within twenty-four (24) hours after such obstructions and encumbrances arise, then the city shall have the right, but not the obligation, to enter upon the emergency access lane and adjacent land as necessary with men and machines in order to plow and clear, or cause to be plowed and cleared, such snow and ice and to remove said obstructions and encumbrances from the emergency access lane and bill the owner for the expense of the same. The city shall submit its itemized bill for such expenses to the owner which the owner shall pay to the city within sixty (60) days of receipt. The expenses billed to the owner shall include the time spent for travel to and from the property.

(d) Nothing herein is intended, nor shall it be construed to modify, amend or otherwise change any requirement to enter into an emergency access lane agreement pursuant to articles IV or V of chapter 14 of this Code and the standards adopted by the Portland Planning Board nor to modify, amend or otherwise change the requirements of any such executed emergency access lane agreement. (Ord. No. 193-97, § 3, 2-3-97; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10)

~~**Sec. 10-30. Enforcement.**~~

~~This article may be enforced in any manner provided in section 10-25, including without limitation, the provision for emergency entrance onto any property.  
(Ord. No. 193-97, § 3, 2-3-97)~~

~~**\*Editor's Note** Pursuant to Council Order 25-10/11, passed 8-16-10 Section 10-31 Effective Date was repealed in its entirety and replaced with Section 10-31 Rules and Regulations.~~

~~**Sec. 10-31. Rules and regulations.**~~

~~The fire chief may promulgate all reasonable rules and regulations to carry out the purposes and provisions hereof. Such rules and regulations shall be in writing and shall take effect no less than thirty (30) days following the date of issuance.  
(Ord. No. 25-10/11, 8-16-10)~~

~~**\*Editor's Note - - A Copy of such rules and regulations may be obtained at [Fire Prevention Page of Portland Web Site](#).**~~

- Sec. 10-32. Reserved.
- Sec. 10-33. Reserved.
- Sec. 10-34. Reserved.
- Sec. 10-35. Reserved.
- Sec. 10-36. Reserved.

**ARTICLE V. RESERVED.**

- Sec. 10-37. Reserved.
- Sec. 10-38. Reserved.
- Sec. 10-39. Reserved.
- Sec. 10-40. Reserved.
- Sec. 10-41. Reserved.
- Sec. 10-42. Reserved.
- Sec. 10-43. Reserved.
- Sec. 10-44. Reserved.
- Sec. 10-45. Reserved.
- Sec. 10-46. Reserved.

Sec. 10-47. Reserved.  
Sec. 10-48. Reserved.  
Sec. 10-49. Reserved.  
Sec. 10-50. Reserved.  
Sec. 10-51. Reserved.  
Sec. 10-52. Reserved.  
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Sec. 10-56. Reserved.  
Sec. 10-57. Reserved.  
Sec. 10-58. Reserved.  
Sec. 10-59. Reserved.  
Sec. 10-60. Reserved.  
Sec. 10-61. Reserved.  
Sec. 10-62. Reserved.  
Sec. 10-63. Reserved.  
Sec. 10-64. Reserved.  
Sec. 10-65. Reserved.

#### ARTICLE VI. FIRE SUPPRESSION SYSTEMS.

##### Sec. 10-66. Purpose; definitions.

(a) *Purpose.* In order to protect public safety and welfare and ensure fully operational fire suppression systems for the protection of life and property, it is necessary to ensure that such systems are correctly designed, installed and maintained.

(b) For the purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

*Supervised* means a system having supervisory attachments installed and monitored for integrity by an approved ~~private~~ central-supervising station.

(Ord. No. 25-10/11, 8-16-10)

##### Sec. 10-67. Supervision.

Where another section of this chapter requires a fire suppression system to be *supervised*, it shall be monitored by an

approved ~~private~~centralsupervising station for supervisory, trouble, and alarm signals.

Where a fire suppression system is installed in a building having a fire alarm system, it shall be supervised by the fire alarm system.

(Ord. No. 25-10/11, 8-16-10)

~~**Sec. 10-68. Rules and regulations.**~~

~~The fire chief may promulgate all reasonable rules and regulations to carry out the purposes and provisions hereof. Such rules and regulations shall be in writing and shall take effect no less than thirty (30) days following the date of issuance.~~

(Ord. No. 25-10/11, 8-16-10)

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\*Editor's Note - - A Copy of such rules and regulations may be obtained at [Fire Prevention Page of Portland Web Site.](#)  
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- Sec. 10-69. Reserved.
- Sec. 10-70. Reserved.
- Sec. 10-71. Reserved.
- Sec. 10-72. Reserved.
- Sec. 10-73. Reserved.
- Sec. 10-74. Reserved.
- Sec. 10-75. Reserved.
- Sec. 10-76. Reserved.
- Sec. 10-77. Reserved.
- Sec. 10-78. Reserved.
- Sec. 10-79. Reserved.
- Sec. 10-80. Reserved.
- Sec. 10-81. Reserved.
- Sec. 10-82. Reserved.
- Sec. 10-83. Reserved.
- Sec. 10-84. Reserved.
- Sec. 10-85. Reserved.
- Sec. 10-86. Reserved.
- Sec. 10-87. Reserved.
- Sec. 10-88. Reserved.
- Sec. 10-89. Reserved.
- Sec. 10-90. Reserved.

**ARTICLE VII. OPEN BURNING**

**Sec. 10-91. Incineration of solid waste prohibited.**

Except for licensed disposal of hazardous or infectious wastes and for the operation of public solid waste disposal facilities designated pursuant to section 12-102, it shall be unlawful for any person to burn or incinerate any solid waste within the City of Portland.

(Ord. No. 25-10/11, 8-16-10)

**Sec. 10-92. Campfires in the City of Portland**

Camp fires are permitted within the City of Portland with a valid burning permit. All such campfires shall comply with all State laws, this Chapter, and all rules and regulations promulgated pursuant to this Chapter for recreational outdoor fires. Any such burning permit may be cancelled for cause.

(Ord. No. 25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

**Sec. 10-93. Rules and regulations.**

The fire chief may promulgate all reasonable rules and regulations to carry out the purposes and provisions hereof. Such rules and regulations shall be in writing and shall take effect no less than thirty (30) days following the date of issuance.

(Ord. No. 25-10/11, 8-16-10)

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\*Editor's Note - - A Copy of such rules and regulations may be obtained at [Fire Prevention Page of Portland Web Site](#).  
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**Sec. 10-94. Violations.**

In addition to the process established by section 10-25, this article may also be enforced by the police chief, or his or her designee.

(Ord. No. 25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

**Sec. 10-95. Outdoor fireplaces.**

(a) No permit shall be required to burn in a fixed outdoor fireplace that has been installed and is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and National Fire Protection Association 211

(~~20162010~~); Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

(b) No permit shall be required to burn in a recreational fire appliance that is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and the manufacturer's instructions. This paragraph shall not apply to the use of an open fire ring.

(c) All outdoor fireplaces and recreational fire appliances allowed under this section must be set back at least fifteen (15) feet from all structures, combustible material, and adjacent property lines.

(Ord. No. 215-11/12, 7-2-12; Ord. 127-16/17, 2-22-2017)

**Sec. 10-96. Reserved.**  
**Sec. 10-97. Reserved.**  
**Sec. 10-98. Reserved.**  
**Sec. 10-99. Reserved.**

#### **ARTICLE VIII. SIGNALING SYSTEMS FOR THE PROTECTION OF LIFE AND PROPERTY.**

##### **Sec. 10-100. Purpose; definitions.**

(a) Purpose. In order to protect public safety and welfare and ensure fully operational signaling systems for the protection of life and property, it is necessary to ensure that such systems are correctly designed, installed and maintained.

(b) For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

*Alarm number* means any number assigned by the fire chief to a building which is connected by a fire alarm system to an approved ~~private-central~~supervising station.

*Alarm user* means an owner of any building, or part thereof, that has a master box alarm system or an approved ~~private-central~~supervising station, or an agent of the owner who is responsible for the building.

*Approved ~~private-central~~supervising station* means any privately operated message monitoring service which is approved by Underwriters' Laboratories, Incorporated, and

approved by the authority having jurisdiction.

*Dispatch Center* (also known as the public safety answering point "PSAP") means any place utilized by the City of Portland for the receipt, monitoring or dispatching of alarms.

*False alarm* means any signal emitted from an approved ~~private-central~~supervising station or master box alarm system that is not in response to heat, smoke or fire requiring an immediate response by the fire department. "False alarm" includes any signal emitted by a negligently activated alarm system, or by an alarm system deliberately activated when an immediate response by the fire department is not required, or by a malfunctioning alarm system. However, "false alarm" does not include any signal emitted by an alarm system activated by unusually severe weather conditions, or other cause beyond the control of the alarm user. In case of any dispute, it shall be the burden of the alarm user to demonstrate to the satisfaction of the fire chief that an alarm signal was not a "false alarm."

*Fire chief* means the chief of the City of Portland fire department or his authorized representative or designee.

*Master box alarm system* means any mechanism or device approved by the authority having jurisdiction, including protective signaling systems, designed for the detection of heat, smoke or fire requiring an immediate response by the fire department and which automatically emits a signal to the dispatch center.

*Person* means any individual, firm or corporation.

(Ord. No. 25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

### **Sec. 10-101. Certain master box connections required.**

The following buildings, as classified by the NFPA 101 Life Safety Code, ~~2009-2018~~ edition, shall be connected by AES master box alarm system to the dispatch center where another section of this code requires such buildings to have a fire alarm system:

(a) *New and existing structures including the following:*

(1) ~~Places of assembly~~Assembly occupancy;

- (2) Educational facilities including post-secondary;
- (3) Day-care facilities, excluding day-care homes;
- (4) Health care facilities;
- (5) Ambulatory health care facilities;
- ~~(6) Nursing homes;~~
- ~~(67)~~ Large residential board and care facilities;
- ~~(78)~~ Detention and correctional occupancies;
- ~~(89)~~ Hotels, ~~motels~~ and dormitories;
- ~~(10)~~ Apartments for the elderly;
- ~~(911)~~ Mercantile occupancies;
- ~~(1012)~~ Industrial occupancies;
- ~~(1113)~~ High-rise buildings.

(b) *New buildings including the following:*

- (1) Residential occupancies (20 or more units).

(c) The following buildings shall be connected by AES master box alarm system to ~~either the dispatch center or an approved private central station:~~

- (1) Buildings containing high hazard contents;
- (2) Special structures as determined by the fire chief authority having jurisdiction.

New buildings shall be connected to a City-approved wireless Master Box Alarm System prior to the issuance of any certificate of occupancy. ~~Prior to January 1, 2017, all buildings required to be connected by Master Box Alarm System shall convert their existing mechanical Master Box Alarm System to a City of Portland approved wireless Master Box Alarm System.~~

Each master box alarm system shall be installed, maintained,

inspected and tested in accordance with all applicable codes and regulations. Each alarm user shall, prior to occupancy, produce satisfactory evidence of compliance with this paragraph to the fire chief.

(Ord. No. 25-10/11, 8-16-10; Ord. 99-15/16, 11/16/2015)

**Sec. 10-102. Master box connections to the dispatch center.**

(a) *New connections.* No buildings, other than those listed in section 10-67 of this article and those which, if new, would be required to connect under subsection (b) hereof shall, after the effective date hereof, be permitted to connect by master box alarm system to the dispatch center. Any person eligible to make a connection hereunder may apply to the fire chief on a form to be devised by him for such purpose. Said application shall contain insurance and indemnification requirements as determined by the fire chief. Applications shall be acted upon when complete, provided, however, that nothing herein shall require the fire chief to approve any application or to provide or maintain sufficient capacity for such connections as may otherwise be eligible hereunder. No connection shall be made without prior payment of the new connection and annual maintenance fees prescribed in this section, and unless the fire chief first finds that the building to be connected and the alarm system meet all applicable codes and regulations. All connections shall be made by the alarm user under the direction and supervision of the fire chief and at the alarm user's expense, except that final connection to the dispatch center shall be made by the fire chief.

(b) *Existing connections.* Any alarm user having an existing connection by master box alarm system to the dispatch center, whether or not connecting a building listed in section 10-67 of this article, shall, within thirty (30) days of written notice by the authority having jurisdiction, elect, in writing whether or not to retain the connection. Any alarm user electing to retain a connection shall simultaneously therewith pay the annual maintenance fee prescribed in this section. Any alarm user electing not to retain a connection, and any alarm user failing to make an election, shall forthwith be notified in writing by the fire chief of the impending disconnection of the alarm system, which shall be disconnected by the fire chief as soon thereafter as practicable.

(c) *Connection and maintenance fees.* The following fees shall apply to each fire alarm system connected to the dispatch center:

- (1) New connection fee . . . . . \$500.00

- (2) Annual maintenance fee . . . . 225.00  
  
    Except that for each  
    additional alarm system  
    at the same location . . . . . 100.00
  
- (3) Conversion of mechanical  
    Master Box Alarm System to  
    Wireless Mater Box Alarm  
    System . . . . . 275.00

First-time payments of the annual maintenance fee shall be prorated over the number of months, including any fraction thereof, remaining between the date of payment and the following June thirtieth, provided, however, that in no case shall the fee be reduced to less than half. The annual maintenance fee shall thereafter be due and payable in full on July first. If payment is not made within thirty (30) days thereafter, the alarm user shall forthwith be notified in writing by the fire chief of the impending disconnection of the alarm system, which shall be disconnected by the fire chief as soon thereafter as practicable. Any unpaid charges assessed under this section shall be enforceable by lien against the property serviced by the alarm and shall be collected pursuant to section 1-16 of this Code.

(d) *Reconnections.* Any fire alarm system disconnected pursuant to subsection (b) of this section shall not be reconnected without prior payment of the annual maintenance fee prescribed in this section and a reconnection fee of one-hundred dollars (\$100.00), except that if reconnection is not made within thirty (30) days after disconnection, the reconnection fee shall be the same as the new connection fee prescribed in this section. Any alarm system disconnected at the request of the alarm user for purposes of inspection, testing or repair shall be reconnected up to three (3) times in any year at no additional charge, after which, however, the alarm system shall not be reconnected without prior payment of a reconnection fee of one-hundred dollars (\$100.00).

(Ord. No. 25-10/11, 8-16-10; Ord. 99-15/16, 11-16-2015)

~~Sec. 10-103. Central station alarm number assignments.~~

~~(a) *New assignments.* Any approved private central station may apply to the fire chief on a form to be devised by him for new alarm number assignments, whether or not for buildings listed in~~

~~section 2.5-26 of this article. Said application shall contain insurance and indemnification requirements as determined by the fire chief. Applications shall be acted upon as completed and received, provided, however, that nothing herein shall require the fire chief to approve any application or to provide or maintain sufficient capacity for such assignments. No assignment shall be made without prior payment of the new assignment and annual maintenance fees prescribed in this section, and unless the fire chief first finds that the central station meets all applicable operating requirements.~~

~~— (b) Existing assignments. Any approved private central station having existing alarm number assignments, whether or not for buildings listed in section 2.5-26 of this article, shall, within thirty (30) days of written notice by the fire chief, elect in writing whether or not to retain any or all of the assignments. Any central station electing to retain any assignment shall simultaneously therewith pay the annual maintenance fee prescribed in this section. Any central station electing not to retain any assignment, and any central station failing to make an election, shall forthwith be notified in writing by the fire chief of the impending recall of the alarm number, which shall be recalled as soon thereafter as practicable.~~

~~— (c) Assignment and maintenance fees. The following fees shall apply to each approved private central station alarm number assignment:~~

~~(1) New assignment fee . . . . . \$100.00~~

~~(2) Annual maintenance fee . . . . . \$50.00~~

~~First time payments of the annual maintenance fee shall be prorated over the number of months, including any fraction thereof, remaining between the date of the payment and the following June thirtieth, provided, however, that in no case shall the fee be reduced to less than half. The annual maintenance fee shall thereafter be due and payable in full on July first. If payment is not made within thirty (30) days thereafter, the central station shall forthwith be notified in writing by the fire chief of the impending recall of the alarm number, which shall be recalled as soon thereafter as practicable.~~

~~— (d) Reassignments. Any alarm number recalled pursuant to subsection (b) or (c) of this section shall not be reassigned to the central station without prior payment of the maintenance fee~~

~~prescribed in this section and a reassignment fee of fifty dollars (\$50.00), except that if reassignment is not made within thirty (30) days after recall, the reassignment fee shall be the same as the new assignment fee prescribed in this section.  
(Ord. No. 25-10/11, 8-16-10)~~

**Sec. 10-104. False alarm penalties.**

(a) *Third response.* Once a third false alarm at a building within any twelve-month period has been identified by the fire chief or his/her designee, the fire chief shall give written notice of the false alarm to the alarm user ~~within ten (10) business days, and the alarm user shall file a written report with the chief within five (5) days thereafter stating the cause of the false alarm, if known, and describing corrective action taken, if any.~~

(b) *Fourth, fifth and sixth responses.* For the fourth, fifth and sixth false alarms at a building within any twelve-month period, the alarm user shall, upon demand, pay a penalty of two hundred dollars (\$200.00) per instance and shall, in the case of any equipment failure, file with the fire chief within three (3) days of notice to do so a signed statement by a qualified private alarm agent that the alarm system has been inspected and is in proper working order. In the case of human error or other cause, the alarm user shall file a written report with the fire chief describing corrective action taken, if any.

(c) *Seventh and subsequent responses.* For the seventh and subsequent false alarms at a building within any twelve-month period, the alarm user shall, upon demand, pay a penalty of three hundred and fifty dollars (\$350.00).

(d) *Written notice deemed complete.* Written notice by the fire chief shall be complete upon leaving such notice at or in the property at the time of response by the fire department or by mailing such notice ~~within ten (10) business days~~ by first class mail.

(Ord. No. 25-10/11, 8-16-10; Ord. No. 105-10/11, 12-20-10; Ord. 127-16/17, 2-22-2017)

**Sec. 10-105. Inspections by fire chief; evidence by the property owner.**

(a) The fire chief may inspect or cause to be inspected any alarm system or any building protected thereby at all reasonable times to ensure compliance with the provisions of this article.

(b) At the time of annual maintenance fee payment, the property owner shall provide to the fire chief evidence from a certified alarm testing or servicing company that the fire alarms servicing any building for which such alarms are required are in proper working order.

(c) ~~On or before December 31, 2010, e~~Each fire alarm system in the City of Portland shall have a fire alarm inspection sticker affixed to the fire alarm annunciator or the fire alarm control panel if there is no fire alarm annunciator. Fire alarm inspection stickers shall be obtained from the Fire Department. Only companies approved and registered with the Fire Department shall be permitted to obtain fire alarm inspection stickers.

(Ord. No. 25-10/11, 8-16-10)

#### ~~Sec. 10-106. Rules and regulations.~~

~~The fire chief may promulgate all reasonable rules and regulations to carry out the purposes and provisions hereof. Such rules and regulations shall be in writing and shall take effect no less than thirty (30) days following the date of issuance.~~  
(Ord. No. 25-10/11, 8-16-10)

~~-----  
Editor's Note: A copy of such rules and regulations may be obtained at  
Fire Prevention Page of Portland Web Site.~~

#### ~~----- Sec. 10-107. Violations.~~

In addition to the process set forth in section 10-25, when the chief of the fire department, in his or her sole discretion, determines that the property owner has failed to take action to correct a faulty fire alarm system within four (4) hours of being notified of its deficiency, the chief shall have the authority, in person or through agents, to enter onto any property to have fire protection equipment repaired. The fire chief shall cause the condition to be corrected and shall send a notice of any action taken to correct an unsafe condition and the charges for the work done to the owner or the owner's authorized representative. The charges shall be payable to the city within thirty (30) days of the date of the notice. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the city and shall

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Fire Prevention and Protection  
Chapter 10  
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be collected pursuant to section 1-16 of this Portland City Code.  
(Ord. No. 25-10/11, 8-16-10; Ord. 127-16/17, 2-22-2017)

## MEMORANDUM

**TO:** Health and Human Services Committee  
**CC:** Fire Chief Keith Gautreau  
**FROM:** Anne Torregrossa, Associate Corporation Counsel  
**DATE:** October 5, 2018  
**RE:** Changes to Chapter 10 to adopt NFPA 2018 Codes

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As part of Chapter 10 of the Code of Ordinances, the City has adopted the model codes by the National Fire Protection Association (NFPA), specifically the *Life Safety Code* (NFPA 101), and the *Fire Code* (NFPA 1). Currently, the City has adopted the 2009 versions of both NFPA 101 and 1, and staff is proposing to update these to the 2018 versions of both codes. It bears noting that the State Fire Marshal's Office is also working on updating to the 2018 codes, but has not yet done so.

Both NFPA 101 and 1 update some of the fire and life safety requirements. However, NFPA 1 also includes a new chapter (Chapter 38) that governs growing and processing of marijuana, including fire protection systems, ventilation, fumigation, equipment verification, and other requirements. Once adopted, this will provide an excellent starting point for ensuring that marijuana growing and processing operations are done safely. We will bring copies of that new chapter for the Committee review.

In addition to the updated NFPA codes, we are also proposing some updates to the rest of Chapter 10. A summary of the key changes in each article is included below, along with a brief explanation of the reasoning for those changes. At this Committee's meeting on October 9, 2018, Chief Gautreau will explain more about the proposed changes.

In addition to substantive changes, I did a lot of reorganizing of the Chapter to make sure that the provisions were clearer and more usable. The redline document attached *does not* show all of that reorganization because that made it incredibly difficult to read and identify substantive changes. Instead, the attached document only shows language changes, deletions, and additions. I will bring several copies of the full redlined version (including reorganizations) to the meeting in case any of the Committee members would find it helpful.

**ARTICLE I. LIFE SAFETY CODE  
(NFPA 101)**

*New or Retained Sections*

- 10-3(a)(ii)** NEW. This provision will require that an individual install a full sprinkler system, where the NFPA codes might otherwise permit a partial sprinkler system. In part, this will address a discrepancy where the State Fire Marshal's Office will not grant a sprinkler permit for a partial sprinkler system.
- 10-3(a)(iii)** UPDATED. Clarifies current requirements for CO alarms, and aligns them with the requirements for smoke alarms. This requires all new CO alarms to be hardwired, other than in one- and two-family dwellings. Also updates to the 2015 NFPA code that governs CO alarms.
- 10-3(a)(iv)** NEW. This provision ensures that balconies, decks, and similar spaces that serve multiple units or businesses are sufficiently protected. This does not apply to single-unit balconies or decks. This clarifies the City's existing interpretation of the NFPA codes.
- 10-3(a)(v)** UPDATED. Clarifies requirements for smoke alarms, and aligns them with the requirements for smoke alarms.
- 10-3(a)(vi)** UPDATED. The City is required to adopt and follow the state-adopted building code (MUBEC). The provisions governing stairs in the Life Safety Code currently conflict with the MUBEC requirements, and this makes it clear that MUBEC controls.
- 10-3(b)** UPDATED. Aligns language to remain consistent with Housing Safety and Code Officer ability to inspect. Also aligns with inspection rights under NFPA 1 and state law.

*Deleted Sections*

- 10-3(e)** DELETED. The provisions for unvented fuel fired heaters are adequately addressed in the Life Safety Code.
- 10-3(f)** DELETED. Deleting this section will bring the City back into conformity with the suggested provisions of the Life Safety Code to require that a one- or two-family dwelling be sprinkled whenever there is a major renovation (more than 50%). This is consistent with the City's policy that one- and two-family homes must be sprinkled.

- 10-3(g)** DELETED. The provisions for Fire Department notification are adequately addressed in the Life Safety Code.
- 10-3(k)** DELETED. Annex B, governing elevators, has been incorporated directly into the Life Safety Code, and separate adoption is no longer necessary.
- 10-3(m)** DELETED. The language providing that the Life Safety Code applies to rental units is superfluous, as the Code applies to all residential dwellings, regardless of whether they are rented or not.
- 10-3(o)** DELETED. The appeals language is duplicative. The appeals provisions in § 10-23 control.
- 10-3(p)** DELETED. These requirements are addressed in Fire Department Rules, which the Chief has the authority to promulgate under § 10-22.
- 10-3(q)** DELETED. These requirements are addressed in Fire Department Rules, which the Chief has the authority to promulgate under § 10-22.
- 10-3(r)** DELETED. This section is adequately addressed with the clarified definition of historic buildings and the Life Safety Code provisions that apply to renovations.
- 10-4** DELETED. The Fire Department no longer requires this information, and much of it is already collected through the rental housing registration and business licensing. Low proximity signage, is more appropriately addressed in Fire Department Rules, which the Chief has the authority to promulgate under § 10-22.

**ARTICLE II. FIRE CODE  
(NFPA 1)**

*New or Retained Sections*

**10-18(b)** NEW. The language about refusal to allow inspections mirrors the language that currently applies for inspections under NFPA 101 and state statute.

- 10-18(e), (f)** Permits are impacted as follows:
- Aircraft fuel servicing – CLARIFIED. Currently part of Motor Fuel permit and will remain, language for clarification of standards.
  - Aircraft refueling vehicles – CLARIFIED. Currently part of Motor Fuel permit and will remain, language for clarification of standards.
  - Automotive fuel servicing – CLARIFIED. Currently part of Motor Fuel permit and will remain, language for clarification of standards
  - Carnivals and fairs – NEW fee to cover events that would not otherwise receive a permit or life safety review. Suggested permit fee is \$141.00 to track similar permits.
  - Commercial rubbish-handling operation – CLARIFIED.
  - Cutting and welding operations – CLARIFIED.
  - Display fireworks – CLARIFIED.
  - Drycleaning plants – CLARIFIED.
  - Flame effects – CLARIFIED. Currently part of Display fireworks and will remain.
  - Flammable and combustible liquids – CLARIFIED.
  - Hazardous materials – CLARIFIED. Current fee schedule differentiates between Tier I and Tier II, the changes simply clarify the distinction between the two.
  - Hot works – UPDATED. Currently, hot works permits are supposed to be pulled each time someone engages in hot works operations (per day). Compliance with this scheme is fairly low, meaning that there is little accountability for proper hot works procedures. Staff proposes to make this an annual fee and to update the fee schedule to reflect this.
  - Liquified Petroleum Gasses – NEW. This would be a new permit, although the City has historically had one permit issued. Staff proposes a \$174.00 permit fee to be consistent with other fees.
  - Lumberyards – CLARIFIED.
  - Marine craft fuel servicing – CLARIFIED. Currently part of Motor Fuel permit and will remain,
  - Marijuana growing, processing, or extraction facilities – NEW. This is simply a placeholder once the Council finalizes the licensing and inspection requirements for new marijuana facilities. No permits can be issued until the Council adopts a full licensing scheme.
  - Motor fuel dispensing – CLARIFIED.

- Pyrotechnics – CLARIFIED. Currently part of display fireworks, and will remain.
- Repair garages – CLARIFIED.
- Spraying or dipping of flammable finishes – CLARIFIED.
- Blasting operations – MOVED. This is currently administered through the site plan process. This update simply ensures that all fire permits are in the same location for ease of reference.
- Certificate of fitness for alarm companies – CLARIFIED. A definition for when the permit is required was added.
- Certificate of fitness for special hazards systems – NEW. Currently, there are no state or local requirements for technicians working on special hazards systems (hoods, etc.). This would ensure that anyone inspecting and certifying these systems is qualified to do so.
- Certificate of fitness for marijuana facilities – NEW. This is simply a placeholder once the Council finalizes the licensing and inspection requirements for new marijuana facilities. No permits can be issued until the Council adopts a full licensing scheme.
- Fire alarm inspection sticker – CLARIFIED. A definition for when the permit is required was added.

#### *Deleted Sections*

**10-18(e)** DELETED. The provisions for unvented fuel fired heaters are adequately addressed in the Fire Code.

### **ARTICLE III. ENFORCEMENT AND APPEALS**

**10-23** UPDATED. This updates the appeal provisions to align them with the appeal rights under Chapter 6 (housing and building), including increasing the appeal period from 10 days to 30 days. It also removes the authority of the Zoning Board of Appeals to allow exceptions to Chapter 10 requirements where it would impose an undue hardship. There are currently no standards for what an undue hardship would qualify for an exception, and the Zoning Board of Appeals may not have the technical expertise to evaluate the impacts on fire and life safety.

For violations that pose an immediate threat to health and safety, it would be problematic to allow a 30-day appeal period during which the violations remain outstanding. This language adds a provision that an appeal does not excuse the obligation to remedy such violations.

**10-25.5** UPDATED. The added language allows the Fire Department to secure a building, after notice to the owner and an opportunity to correct. It also allows the Fire Department to collect a \$500 administrative fee for doing so. This language mirrors that in Chapter 6 allowing the building authority to secure properties in the same manner and collect the same fee.

**10-25.9** UPDATED. The added language provides for progressively increasing reinspection fees where violations have not been corrected. This mirrors the escalating reinspection fees provided in Chapter 6 for the building authority.

**ARTICLE IV. HYDRANTS**

**10-30** DELETE. This is duplicative of § 10-25.

**10-31** DELETE. This is duplicative of § 10-22.

**ARTICLE VI. FIRE SUPPRESSION SYSTEMS**

**10-68** DELETE. This is duplicative of § 10-22.

**ARTICLE VI. FIRE SUPPRESSION SYSTEMS**

**10-101(a)(6)** DELETED. Nursing homes are covered under other occupancies and need not be separately listed.

**10-101(a)(10)** DELETED. There is no definition or threshold for apartments for the elderly, and most apartments would be covered under other occupancies already required to have a master box.

**10-103** DELETED. This section is now obsolete as we no longer allow central station monitoring companies to be assigned alarm assignments with the dispatch center.

**10-104** UPDATED. The time requirements for the Chief's notice and the owner's response has been deleted, but the requirement for a warning in writing has been retained. These timeframes are difficult to track, and owners often have notification on scene anyway.

**10-106** DELETE. This is duplicative of § 10-22.

## Rules & Procedure for Public Testimony

Council committees use the City Council rules for public testimony. You can find the complete rules in the *Rules of Procedure for the City Council, Rule 31. Procedure for Addressing Council*. This document is available on the City Website:

<http://www.portlandmaine.gov/DocumentCenter/View/1184>

Below is a summary of the main points:

- If you wish to speak, please raise your hand or line up.
- When you are recognized by the Chair, you will have up to three (3) minutes to offer your comments. Please begin by stating your name and where you live.
- While someone is speaking, others in attendance will not interrupt.
- There should be no expressions approval or disapproval (applause, snapping, boos, hissing).
- Remarks shall be confined to the merits of the pending item.
- The Chair may limit or cut off any commentary that is not germane or that is scurrilous, abusive, or not in accord with good order and decorum.
- Any person who shall continue to violate these rules, after warning by the Chair, may be ejected for the remainder of the meeting then in progress.

## MEMORANDUM

**TO:** Health and Human Services and Public Safety Committee; Mayor Strimling

**FROM:** Gina Tapp, Brendan O'Connell, Anne Torregrossa

**DATE:** September 6, 2018

**RE:** Additional information regarding proposed paid sick leave ordinance

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At the last committee meeting considering the proposed paid sick leave ordinance, the Committee made some revisions to the proposed ordinance and asked for additional information. The most recent red-lined version of the ordinance is attached, and the answers to the Committee's questions are below.

### **I. Exemptions for Health Care Workers**

The Committee requested some examples of language from other jurisdictions exempting health care workers from paid sick leave.

#### *A. Rhode Island*

Rhode Island has an exemption for, "Any employee licensed to practice nursing pursuant to chapter 34 of title 5 is not subject to the provisions of this chapter if the employee:

- (1) Is employed by a health care facility;
- (2) Is under no obligation to work a regular schedule;
- (3) Works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and
- (4) Receives higher pay than that paid to an employee of the same health care facility performing the same job on a regular schedule."

#### *B. Vermont*

The definition of employee in the Vermont legislation does not include, "An employee of a health care facility . . . if the employee only works on a per diem or intermittent basis." Health care facility is defined as:

all persons or institutions, including mobile facilities, whether public or private, proprietary or not for profit, which offer diagnosis, treatment, inpatient, or ambulatory care to two or more unrelated persons, and the buildings in which those services are offered. The term shall not apply to any institution operated by religious groups relying solely on spiritual means through prayer for healing, but shall include:

- (A) hospitals, including general hospitals, mental hospitals, chronic disease facilities, birthing centers, maternity hospitals, and psychiatric facilities including any hospital conducted, maintained, or operated by the State of Vermont, or its subdivisions, or a duly authorized agency thereof;

(B) nursing homes, health maintenance organizations, home health agencies, outpatient diagnostic or therapy programs, kidney disease treatment centers, mental health agencies or centers, diagnostic imaging facilities, independent diagnostic laboratories, cardiac catheterization laboratories, radiation therapy facilities, or any inpatient or ambulatory surgical, diagnostic, or treatment center.

It also includes “a residential care home, nursing home, assisted living residence, home for persons who are terminally ill, or therapeutic community residence” that is required to be licensed by the state.

C. *Washington D.C.*

Washington D.C.’s definition of employee does not include, “a healthcare worker who choose[s] to participate in a premium pay program.” Premium pay program means “a plan offered by an employer pursuant to which an employee may elect to receive extra pay in lieu of benefits.” Healthcare worker is not defined.

## **II. Maximum Amounts of Sick Leave Use and/or Accrual per Year**

The Committee asked for legislative history from other jurisdictions showing the rationale for jurisdictions’ caps on the amount of sick leave an employee could accrue and/or use. The majority of jurisdictions cap the amount of paid sick time that can be used in any given year at 40 hours. The notable exception is California, where the state caps it at 24 hours, but many local jurisdictions cap the amount at 72 hours. Some jurisdictions have varied caps, depending on the number of employees.

Unfortunately, the available legislative history in most jurisdictions does not delve into the specifics of the number of hours chosen. However, the following information might be relevant to the Committee’s decisions.

- *California* – California currently allows an employer to cap the amount of paid sick time a worker can use each year at 24 hours or 3 days. Legislation earlier this year proposed to increase that to 40 hours or 5 days. Testimony in support of this increase cited to CDC information that employees with the severe flu needed at least one week to recover. Opponents cited to increased costs. This proposal died in committee.
- *Oregon* – A few commenters suggested changing the accruals to equal to 40 hours of sick leave a year to match a standard work week.
- *Vermont* – The Vermont bill provides for a phased-in approach, where employers have to provide 24 hours of leave for the first two years and then 40 hours thereafter. The legislature did extend these deadlines during the legislative process to allow businesses “flexibility.”

### **III. Wait Time to be Eligible for Paid Sick Leave**

The most common waiting period for an employee to be allowed to take any accrued sick leave is 90 days, although Vermont has a waiting period of one year, Connecticut has a waiting period of 680 hours, and Rhode Island has a waiting period of 150 days.

Again, there is not much legislative history reflecting specifically on this waiting period. The only commentary I found was from a business owner in Oregon who suggested a 180 minimum work period to match the state family medical leave act and to allow for temporary and seasonal help without being subject to the law.

### **IV. Exemptions for Employees Covered by Collective Bargaining Agreements**

The exemptions for employees covered by a CBA vary widely from jurisdiction to jurisdiction. Some do not have any exemption, some exempt only those in the construction industry covered by a CBA, some provide an exemption for employees covered by a CBA only where that CBA explicitly waives the members' rights under the relevant paid sick leave law, and a few exempt all employees covered by a CBA.

It appears that the logic behind these exemptions is giving unions the ability to determine the value of paid sick leave in the context of negotiations. If it makes sense to bargain away paid sick time in exchange for a benefit that is perceived as more valuable, then some laws give unions that flexibility. Reflecting this notion, one commenter from Oregon testified that the legislature should "make it so that essentially any collective bargaining agreement that address sick leave or paid time off in any manner make those employees exempt from the bill. Union members need to be able to negotiate their benefit packages with minimum interference from the government"

### **V. City Examples of Per Diem Employees**

The City uses per diem and on call employees in the following positions:

- Shelter attendants - We schedule per diem staff ahead of time on an "as needed" basis, depending on projected numbers and sites to cover), and call them in to work when spots (shifts) are open. If a per diem employee calls out sick, they try to replace them with another per diem employee, unless that shift would leave to overtime, in which case they then call in a regular, full-time Shelter Attendant. Per diem employees are not paid for any hours they lost due to being out sick.
- Registered Nurses and Certified Nursing Assistants – Per diem RNs and CNAs help supplement our regular nursing staff at the Barron Center. If a regular employee calls out sick, they call in one of the per diem employees. There is a minimum obligation for the per diem staff to be available to work for two weekend shifts per month. If a per

diem employee calls in sick after being scheduled to work a shift, they go back to the list of per diem employees and try to fill the shift. The per diem employee who called in sick does not get paid for the hours they lost due to being out sick.

- Event Staff – We use on call event staff as cashiers and concession workers. Most of these positions are on-call status, as event schedules vary.
- Election Workers – Election workers are considered on call and are only used as needed.
- Restaurant Employees – Many of our restaurant employees are on call, and their shifts vary from week to week.
- Barron Center Support Team Workers – We have some on-call support team workers in housekeeping and in the kitchen who supplement the regular, full-time support team workers as needed to fill vacancies, vacations, sick days, etc.
- Dispatchers – We have a few on call dispatchers who fill in for full time dispatchers, as needed.

Many of our per diem, seasonal, and on-call employees often work these non-scheduled, "work when you can" types of schedules because they are either 1) already work another regular job, and the job with the City is just to supplement their income, or 2) they are students or retired and only want to work a very light schedule, and on their terms (i.e., when they want to work). For our Shelter Attendants, we see that most of our regular hires come from our per diem pool, which shows us that in that work setting, a foot in the door is usually to come on as a per diem employee, then eventually get hired on as a regular employee.

## **VI. Impact to the City if Recreation and Child Care Workers Were Exempt**

The City does employ a large number of non-permanent employees in our Parks & Recreation programs. They are more seasonal, on-call, and contractual employees. If these categories of workers continued to be exempt from required paid sick leave the cost increases expected to result from the ordinance (approximately \$42k within the Parks and Recreation Department per Finance Department memo as updated 6/22/18) would not be incurred. The risk of revenue loss in recreational programs where replacement staff is not always guaranteed would also be reduced. Seasonal, on-call and contractual employees are not provided with any sick leave benefits currently, so an exemption moving forward would be a continuation of existing practice. If an on-call employee cannot work a shift, they simply refuse that shift (without no explanation or doctor's note required) and the City would move on to the next employee on the on-call list.

## **VII. City's Treatment of Seasonal Camp Workers**

The City's seasonal, summer camp workers are terminated each year at the end of their season then re-hire them the following year at the start of their season.

## **VIII. Examples of Per Diem Employees at Other Employers in Portland**

Most healthcare facilities rely on per diem employees to fill shifts. Child care facilities also routinely use per diem employees, and the school systems use substitute teachers on a per diem basis.

### Overview of Paid Sick Time Laws in the United States

In the United States, 9 states, 30 cities, 2 counties, and Washington D.C. have paid sick time laws on the books. This document provides an overview and comparison of these 42 laws, with the exceptions of the paid sick time laws recently passed in Maryland and in Austin, Texas.<sup>1</sup> We are currently developing a digital, user-friendly version of this chart that will cover all 42 laws. In the meantime, information about Maryland and Austin’s laws can be found in Section IV of this document (“Additional Paid Sick Time Laws”).

Section I provides a comparison of paid sick time laws that are—or will soon be—in effect at the statewide level (with the exception of Maryland’s law), as well as Washington D.C.’s law.

Section II provides a comparison of the seven local paid sick time laws that are—or will soon be—in effect in California.

Section III provides a comparison of paid sick time laws that are—or will soon be—in effect at the county and city level, with the exceptions of Austin, Texas, and the seven California cities in Section II.

Section IV provides a brief overview of the paid sick time laws in Maryland and Austin, Texas, and additional paid sick time laws that are narrower than the ones covered in this chart.

#### I. Statewide and Washington D.C.’s Paid Sick Time Laws

	Connecticut	California <sup>2</sup>	Massachusetts	Oregon <sup>3</sup>	Washington D.C.	Vermont <sup>4</sup>	Arizona	Washington State <sup>5</sup>	Rhode Island <sup>6</sup>
<b>Who is covered?</b>	Hourly workers in certain “service” occupations in Connecticut are covered, if they work for a business with 50 or more workers. For the full list of which professions are covered “service” occupations, go to <a href="http://www.ctdol.state.ct.us/vgwkstnd/SickLeaveLaw.htm">www.ctdol.state.ct.us/vgwkstnd/SickLeaveLaw.htm</a> and look at the definition of “service worker” (Sec. 31-57r(7)). Certain manufacturers and non-profit organizations are exempted, as are temporary and day laborers.	Workers employed in California for 30 or more days a year after commencement of employment are covered. Flight deck/cabin crews subject to Railway Labor Act with comparable paid time off are exempted. Workers who provide in-home supportive care are exempted until July 1, 2018, at which point they will be able to accrue paid sick time (subject to specific usage and carryover provisions). <sup>2</sup>	Workers employed in Massachusetts are covered. Workers employed by cities and towns are only covered if the law is accepted by vote or appropriation as provided in the State Constitution.	Workers employed in Oregon are covered. Independent contractors, certain work study students, certain railroad workers, and individuals employed by their parent, spouse, or child are exempted.	Workers employed by an employer within Washington, D.C are covered. The following individuals are exempted: independent contractors; students; health care workers choosing to participate in a premium pay program; unpaid volunteers engaged in the activities of an educational, charitable, religious, or nonprofit organization; and casual babysitters.	Workers employed by an employer in Vermont for an average of no less than 18 hours per week during a year are covered. The following individuals are exempted: workers under 18 years of age; workers employed for 20 or fewer weeks in a year in a job scheduled to last 20 or fewer weeks; certain State workers excluded from the State classified service; certain employees who work on a per diem or intermittent basis at a health care or long-term care facility; certain per diem or intermittent workers who only work when indicating availability, have no obligation to accept the work, and have no expectation of continued employment; certain substitute educators for a school district or supervisory district/union if under no obligation to work a regular schedule or period of long-term (30 or more consecutive school days) substitute coverage; and certain sole proprietors/partner owners of an unincorporated business.	Workers employed by an employer in Arizona are covered. State government workers, but not local government workers, are exempted. Individuals employed by a parent or a sibling and individuals performing babysitting services in the employer’s home on a casual basis are also exempted.	Workers employed by an employer in Washington are covered. Workers exempt from the state minimum wage law are also exempt from the paid sick time law. See <a href="http://www.lni.wa.gov/workplacerghts/files/policies/esa1.pdf">http://www.lni.wa.gov/workplacerghts/files/policies/esa1.pdf</a> for a detailed list of exemptions.	Workers employed in Rhode Island are covered. Independent contractors, subcontractors, work study participants, apprenticeships and interns; certain employees licensed to practice nursing, and state and municipal workers are exempted. Workers exempt from the state minimum wage law are also exempt from the paid sick time law. See <a href="http://webserver.rilin.state.ri.us/statutes/TITLE28/28-12/28-12-2.HTM">http://webserver.rilin.state.ri.us/statutes/TITLE28/28-12/28-12-2.HTM</a> for a detailed list of exemptions.
<b>Can sick time be used to care for loved ones?</b>	Yes: children and spouses	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or domestic partner; and siblings	Yes: children; spouses; parents; or parents of a spouse	Yes: children; spouses; same-sex domestic partners; parents; parents of a spouse or same-sex domestic partner; grandparents; and grandchildren	Yes: children; grandchildren; spouses of children; siblings; spouses of siblings; parents; parents of a spouse/domestic partner; spouses; registered domestic partners; and a person with whom the worker has a committed (mutual, familial) relationship and has shared a mutual residence for at least the preceding 12 months	Yes: children; parents; parents-in-law; grandparents; spouses; grandchildren; and siblings	Yes: children; parents; parents of a spouse or registered domestic partner; spouses; registered domestic partners; grandparents, grandchildren, or siblings (of the employee or the employee’s spouse/registered domestic partner); and any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship	Yes: children; parents; parents of a spouse or registered domestic partner; spouses; registered domestic partners; grandparents; grandchildren; and siblings	Yes: children; parents; spouses; parents-in-law; grandparents; grandchildren; domestic partners (broadly defined); siblings; care recipients; and members of the worker’s household. A “care recipient” is any person for whom the worker is responsible for providing or arranging health or safety related care.
<b>How is “child” defined?</b>	Biological, foster, or adopted children, stepchildren, legal wards, or the child of a worker standing in loco parentis to the child. The child must be under 18 or incapable of self-care because of a mental/physical disability.	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, a legal ward, or a child of a person who has assumed the responsibilities of parenthood	Biological, adopted, or foster child, or a child of a worker standing in loco parentis to the child. According to current regulations in Oregon, this definition of child also includes a stepchild or the child of a same-sex domestic partner.	Biological children, foster children, grandchildren, or a child who lives with the worker and for whom the worker permanently assumes and discharges parental responsibility	Undefined. The law specifically covers care of a child or foster child.	Biological, adopted or foster children, stepchildren or legal wards, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor	Biological, adopted, or foster children, stepchildren, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status	Biological, adopted, or foster child, stepchild, legal ward, a child of a domestic partner, or a child of a worker standing in loco parentis to the child



the work and family legal center

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	Connecticut	California <sup>2</sup>	Massachusetts	Oregon <sup>3</sup>	Washington D.C.	Vermont <sup>4</sup>	Arizona	Washington State <sup>5</sup>	Rhode Island <sup>6</sup>
Can sick time be used for specific “safe time” purposes (related to domestic violence, sexual assault, or stalking)? (See endnote 16.)	Yes, but only when the worker is the victim	Yes, but only when the worker is the victim	Yes, but only when the worker or the worker’s dependent child is the victim	Yes, but only when the worker or the worker’s minor child or dependent is the victim	Yes, when the worker or the worker’s family member is the victim	Yes, when the worker or the worker’s family member is the victim	Yes, when the worker or the worker’s family member is the victim	Yes, when the worker or the worker’s family member (for safe time purposes: a child, spouse, parent, parent-in-law, grandparent, or person with whom the worker has a dating relationship) is the victim	Yes, when the worker or the worker’s family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member’s death? (See endnote 17.)	No.	No.	No.	Yes: 1) to bond with a newborn, newly adopted, or newly placed foster child under age 18; or 2) to deal with the death of a family member (including to attend the funeral, grieve, make arrangements).	No.	No.	No.	No.	No
Can sick time be used when a worker’s place of work or child’s school/place of care is closed by public health officials for a public health emergency?	No.	No.	No.	Yes.	No.	Yes, for public health or safety reasons.	Yes.	Yes, when closed for any health-related reasons (not only public health emergencies).	Yes
Rate at which workers earn paid sick time?	1 hour for every 40 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 30 hours worked or 1 and 1/3 hours for every 40 hours worked (for both paid and unpaid sick time, as described below)	In businesses with 24 or fewer workers: 1 hour for every 87 hours worked. In businesses with 25-99 workers (and workers in a restaurant or bar with 1-99 workers who regularly receive tips to supplement a base wage below the minimum wage): 1 hour for every 43 hours worked. In businesses with 100 or more workers: 1 hour for every 37 hours worked	1 hour for every 52 hours worked	1 hour for every 30 hours worked	1 hour for every 40 hours worked	1 hour for every 35 hours worked (for both paid and unpaid sick time, as described below)
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a <i>minimum</i> requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Up to 40 hours of paid sick time a year	Employers may cap the amount of paid sick time a worker <i>earns</i> at 48 hours or 6 days. Employers may also cap the amount of paid sick time a worker can <i>use each year</i> at 24 hours or 3 days.	Workers in businesses with 11 or more workers: up to 40 hours of paid sick time a year. Workers in businesses with fewer than 11 workers: up to 40 hours of <i>unpaid</i> sick time a year	<b>Larger businesses:</b> Workers in businesses with at least 10 or more workers: up to 40 hours of paid sick time a year  <b>Employers located in Portland:</b> If a business is located in Portland (including maintaining any office, store, restaurant, or establishment in the city) and has at least 6 workers anywhere in Oregon, workers have the right to earn up to 40 hours of paid sick time a year.  <b>Smaller businesses:</b> Workers in businesses with fewer than 10 workers (or fewer than 6 workers if the business is located in Portland): up to 40 hours of <i>unpaid</i> sick time a year.  <b>Special rule for some home care workers:</b> Certain home care workers who are hired directly by the client but whose compensation is funded in whole or part by payments from the State, county, or a public agency must receive up to 40 hours of paid time off a year (including but not limited to sick time).	Workers in businesses with 24 or fewer workers: up to 24 hours a year. Workers in businesses with 25-99 workers (and workers in a restaurant or bar with 1-99 workers who regularly receive tips to supplement a base wage below the minimum wage): up to 40 hours a year. Workers in businesses with 100 or more workers: up to 56 hours a year. The number of workers is determined by the average monthly number of full-time equivalents in the prior year.	<b>From 1/1/2017 to 12/31/2018:</b> Up to 24 hours a year.  <b>After 12/31/2018:</b> Up to 40 hours a year.  Note: new businesses will not be subject to the paid sick time law for a period of one year after hiring their first worker.	Workers in businesses with 15 or more workers: 40 hours. Workers in businesses with fewer than 15 workers: 24 hours.	No explicit cap on how much sick time can be earned or used in a year. However, as described below, employers are not required to allow a worker to carry over more than 40 hours of unused paid sick time a year.	In 2018, workers in businesses with 18 or more workers can earn up to 24 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 24 hours of <i>unpaid</i> sick time. In 2019, workers in businesses with 18 or more workers can earn up to 32 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 32 hours of <i>unpaid</i> sick time. Each year after 2019, workers in businesses with 18 or more workers can earn up to 40 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 40 hours of <i>unpaid</i> sick time.

	Connecticut	California <sup>2</sup>	Massachusetts	Oregon <sup>3</sup>	Washington D.C.	Vermont <sup>4</sup>	Arizona	Washington State <sup>5</sup>	Rhode Island <sup>6</sup>
<b>When do workers begin to earn paid sick time?</b>	At the commencement of employment, but workers aren't entitled to use paid sick time until the 680th hour of employment.	At the commencement of employment, but workers aren't entitled to use paid sick time until the 90 <sup>th</sup> day of employment. As noted earlier, the law covers a worker when the worker, on or after July 1, 2015, works in California for more than 30 days within a year from the commencement of employment.	At the date of hire, but workers aren't entitled to use sick time until the 90th calendar day following commencement of employment.	At the commencement of employment or January 1, 2016, whichever is later. For a worker employed on the law's effective date of January 1, 2016, earned sick time may be used as it is earned. For workers who begin employment after the effective date of January 1, 2016, workers aren't entitled to use earned sick time until the 91st calendar day of employment with the employer.	At the commencement of employment, but workers aren't entitled to use paid sick time until after 90 days of service with his or her employer.	At the commencement of employment or when their employer becomes covered by the law, whichever is later, but workers can be required to wait up to 1 year before using their accrued paid sick time. See endnote 4 on page 6 for more.	At the commencement of employment or July 1, 2017, whichever is later. Earned paid sick time can be used as it is accrued, except that an employer may require a worker hired after July 1, 2017, to wait until the 90th calendar day after commencing employment before using accrued earned paid sick time.	Although not specified, reads as if accrual begins at the commencement of employment. Workers are entitled to use accrued paid sick time beginning on the 90th calendar day after the commencement of employment.	At the commencement of employment or July 1, 2018, whichever is later (for both paid and unpaid sick time). However, workers aren't entitled to use sick time until after 90 days of employment. Temporary workers are entitled to use sick time beginning on the 180th calendar day following commencement of their employment. Seasonal workers are entitled to use sick time beginning on the 150th calendar day following commencement of their employment.
<b>Does unused sick time carry forward to the subsequent year?</b>	Workers are entitled to carry forward up to 40 hours of unused paid sick time, but employers are not required to allow use of more than 40 hours of paid sick time a year.	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow use of more than 24 hours (or three days) of paid sick time per year. Carry forward is not required if the full amount of paid sick time (24 hours, or three days) is provided at the beginning of each year.	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren't required to allow use of more than 40 hours of sick time a year. Per regulations, employers may choose to pay out workers up to 40 hours of unused sick time at the end of the year. If an employer pays out a worker for 16 hours or more of unused sick time, they must provide 16 hours of unpaid sick time up front in the new year; if they pay out less than 16 hours, they shall provide an equivalent amount of unpaid sick time up front in the new year. In either case, this unpaid sick time is replaced by paid sick time as the worker earns it.	Workers are entitled to carry forward up to 40 hours of unused sick time. An employer may adopt a policy: limiting the amount of sick time that can be earned to no more than 80 hours; or limiting use of sick time to no more than 40 hours a year. Carry forward is not required if the following elements are met: 1) the worker and the employer <i>mutually</i> agree not to carry forward the time; 2) the employer credits the worker with an amount of sick time that meets the law's requirements up front at the start of the subsequent year; <i>and</i> 3) if the employer has 10 or more workers in OR, the employer pays the worker for all unused paid sick time at the end of the year in which it is earned.	Per regulations, workers can carry forward unused paid sick time, but employers aren't required to allow use of more than: 56 hours of paid sick time a year (for businesses with 100 or more workers); 40 hours of paid sick time a year (for businesses with at least 25 and fewer than 100 workers—this presumably will also be the rule for tipped workers in a restaurant or bar with 1-99 workers); or 24 hours of paid sick time a year (for business with fewer than 25 workers).	Workers are entitled to carry forward unused paid sick time and shall continue to accrue paid sick time, but employers aren't required to allow use of more than 24 hours (from 1/1/2017 to 12/31/2018) or 40 hours (after 12/31/2018) a year. However, employers are not required to carry it forward if they choose to pay a worker for unused paid sick time at the end of the year. If an employer offers a paid time off (PTO) policy or is party to a CBA that provides at least the full amount of PTO required by the paid sick time law at the beginning of each year and it can be used for the law's purposes at any time during the year, it shall not carry forward.	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow annual accrual or use of more than: 40 hours of paid sick time a year (for businesses with 15 or more workers); or 24 hours of paid sick time a year (for businesses with fewer than 15 workers). In lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay a worker for unused paid sick time at the end of a year and provide the worker with an amount of paid sick time that meets or exceeds the law's requirements that is available for the worker's immediate use at the beginning of the subsequent year.	Workers are entitled to carry forward unused paid sick time, except that an employer is not required to allow a worker to carry over paid sick time in excess of 40 hours.	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow use of more than 24 hours of paid sick time in 2018, 32 hours of paid sick time in 2019, and 40 hours of paid sick time each year after 2019. In lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay a worker for unused paid sick time at the end of a year and provide the worker with an amount of paid sick time that meets or exceeds the law's requirements that is available for the worker's immediate use at the beginning of the subsequent year.
<b>Private Right of Action to go to Court?</b>	No	The State Labor Commissioner or Attorney General may bring a civil action in Court against an employer or person violating the article. The law does not explicitly address whether a worker may bring a civil action in Court.	Yes, after filing with the Attorney General	Yes	Yes	Yes	Yes	Yes	Yes
<b>Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)? (See endnote 18.)</b>	No specific language regarding waivers or exemptions for workers covered by a CBA	Construction industry workers covered by a CBA providing certain wage/hour/working conditions <b>and</b> expressly waiving the law's provisions in clear and unambiguous terms are exempted. Otherwise, workers covered by a CBA providing for comparable paid time off <b>and</b> certain wage/hour/working conditions are exempted.	No specific language regarding waivers or exemptions for workers covered by a CBA	The law exempts workers whose terms and conditions of employment are covered by a CBA <b>if</b> their employment-related benefits are provided by a joint multi-employer-employee trust or benefit plan <b>and</b> they are employed through a hiring hall or similar referral system operated by the labor organization or third party.	The law's paid sick time requirements won't apply to workers in the building/construction industry covered by a CBA that expressly waives the requirements in clear and unambiguous terms. Otherwise, the law's paid sick time requirements can't be waived in the written terms of a CBA for less than 3 paid leave days.	No specific waivers or exemptions for workers covered by a CBA	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.	No specific waivers or exemptions for workers covered by a CBA	No (although the law exempts construction workers covered by a CBA until July 1, 2018, that is the same day the law goes into effect)
<b>What Agency or Official Enforces the Law?</b>	The Connecticut Department of Labor	The California Labor Commissioner's Office, also known as the California Division of Labor Standards Enforcement (DLSE)	The Massachusetts Attorney General	The Oregon Bureau of Labor and Industries	Washington D.C. Department of Employment Services	Vermont Department of Labor	Industrial Commission of Arizona	Washington Department of Labor and Industries	The Rhode Island Department of Labor and Training
<b>For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are</b>	Not explicitly addressed in the paid sick time law	Yes. The CA law does not preempt or limit other laws/policies that provide greater	Not explicitly addressed in the paid sick time law	No. The Oregon law preempts—or prohibits—cities from passing their own paid sick time laws.	N/A	Not explicitly addressed in the paid sick time law	Yes (under litigation)	Yes	No. The Rhode Island law preempts—or prohibits—cities from requiring employers to



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broader than the state law?	earning or use of paid sick time. Therefore, the more expansive San Francisco, Oakland, San Diego, Emeryville, Santa Monica, Los Angeles, and Berkeley paid sick time laws will still apply to workers covered by those laws, and other cities in CA may continue to pass broader paid sick time laws.	However, in response to Portland's more generous paid sick time law (in effect when the state bill was passed), the statewide paid sick time law requires that employers located in Portland with at least 6 workers (anywhere in Oregon) must provide paid sick time to their workers.	provide sick time benefits in excess of those required by the state law.
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Local Paid Sick Time Laws in California							
	San Francisco	Oakland	Emeryville	Santa Monica	San Diego <sup>7</sup>	Los Angeles	Berkeley <sup>8</sup>
<b>Who is covered?</b>	Workers employed within the geographic boundaries of San Francisco are covered.	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Oakland and who are entitled to minimum wage under California law are covered.	Workers who, in a calendar week, perform at least 2 hours of work within the geographic boundaries of Emeryville and who are entitled to minimum wage under California law are covered.	Workers who, in a calendar week, perform at least 2 hours of work within the geographic boundaries of Santa Monica and who are entitled to minimum wage under California law are covered. Government and school district employees are exempted.	Workers who, in at least one calendar week of the year, perform at least 2 hours of work within San Diego are covered. Independent contractors, certain workers authorized under State law to be paid less than the minimum wage, certain providers of in-home supportive services under State law, workers employed under a publicly subsidized summer or short-term youth employment program, or any student employee, camp or program counselor of an organized camp under State law are exempted.	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Los Angeles and who are entitled to minimum wage under California law are covered. To be entitled to paid sick time, workers must also work in Los Angeles—on or after July 1, 2016—for the same employer for 30 days or more within a year from the commencement of employment.	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Berkeley and who are either entitled to minimum wage under California law.
<b>Can paid sick time be used to care for loved ones?</b>	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; siblings; and if a worker has no spouse/domestic partner, a designated person of the worker's choice. As of January 1, 2017, the parents of a spouse/domestic partner will also be covered.	Yes: children; parents; grandchildren; grand-parents; spouses; registered domestic partners; siblings; and, if a worker has no spouse/domestic partner, a designated person of worker's choice	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or domestic partner; siblings; and, if a worker has no spouse/domestic partner, a designated person of the worker's choice. Paid sick time can also be used to care for a guide dog, signal dog, or service dog of the worker or worker's family member or designated partner.	Yes: children; parents; grand-children; grand-parents; spouses; registered domestic partners; parents of a spouse or domestic partner; and siblings	Yes: children; parents; grandchildren; grandparents; spouses; domestic partners (registered under state/local law or with the internal registry of at least one partner's employer); parents of a spouse/domestic partner; and siblings	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or domestic partner; siblings; and any individual related by blood or affinity whose close association with the worker is the equivalent of a family relationship	Yes: children; parents; grandchildren; grand-parents; spouses; registered domestic partners; siblings; and, if a worker has no spouse/domestic partner, a designated person of worker's choice
<b>How is "child" defined?</b>	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child; stepchild; child of a domestic partner; legal ward; or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child
<b>Can paid sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)? (See endnote 16.)</b>	Yes, but only as of January 1, 2017, and only when the worker is the victim.	No, not beyond what is provided under the State's paid sick time law.	No, not beyond what is provided under the State's paid sick time law.	Yes, but only when the worker is the victim.	Yes, when the worker or the worker's family member is the victim.	Yes, but only when the worker is the victim.	No, not beyond what is provided under the State's paid sick time law.
<b>Can paid sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?</b>	No.	No.	No.	No.	Yes.	No.	No.
<b>Rate at which workers earn paid sick time?</b>	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked
<b>Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a <i>minimum</i> requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)</b>	Workers in businesses with 10 or more workers: up to 72 hours. Workers in businesses with fewer than 10 workers: up to 40 hours <sup>9</sup>	Workers in businesses with 10 or more workers: up to 72 hours. Workers in businesses with fewer than 10 workers: up to 40 hours <sup>9</sup>	Workers in businesses with more than 55 workers: up to 72 hours. Workers in businesses with 55 or fewer workers: up to 48 hours <sup>9</sup>	Workers in businesses with 26 or more workers: up to 40 hours (from 1/1/2017 to 12/31/2017) or 72 hours (after 12/31/2017) a year. Workers in businesses with 25 or fewer workers: up to 32 hours (from 1/1/2017 to 12/31/2017) or 40 hours (after 12/31/2017) a year.	Employers may cap the amount of paid sick time a worker <i>earns</i> at 80 hours. Employers may also cap the amount of paid sick time a worker can <i>use each year</i> at 40 hours.	Up to 48 hours a year	Workers in businesses with 25 or more workers: up to 72 hours. Workers in businesses with fewer than 25 workers: up to 48 hours

	San Francisco	Oakland	Emeryville	Santa Monica	San Diego <sup>7</sup>	Los Angeles	Berkeley <sup>8</sup>
<b>When do workers begin to earn paid sick time?</b>	90 calendar days after the commencement of employment. For workers hired on or after January 1, 2017, paid sick time begins to accrue at the commencement of employment, but workers aren't entitled to use paid sick time until the 90 <sup>th</sup> day of employment.	On the first day of employment, but workers aren't entitled to use paid sick time until after 90 calendar days of employment.	Although not explicitly stated in the law and future regulations may address it, paid sick time will likely be earned in the same manner as the State's paid sick time law: workers begin to earn paid sick time at the commencement of employment, but aren't entitled to use paid sick time until the 90th day of employment.	At the commencement of a worker's employment with the employer, but workers aren't entitled to use paid sick time until after the first 90 days of employment (or sooner if provided for in the employer's policies).	At the commencement of employment or July 11, 2016, whichever is later, but workers aren't entitled to use paid sick time until 90 calendar days following the commencement of employment or on July 11, 2016, whichever is later.	On the first day of employment or July 1, 2016, whichever is later. A worker is entitled to <i>use</i> paid sick time beginning on the 90th day of employment or July 1, 2016, whichever is later. As noted earlier, the law covers a worker when the worker, on or after July 1, 2016, works in Los Angeles for the same employer for 30 days or more within a year from the commencement of employment.	On the first day of employment or October 1, 2017, whichever is later, but workers aren't entitled to use paid sick time until 90 calendar days after commencement of employment.
<b>Does unused paid sick time carry forward to the subsequent year?</b>	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with 10 or more workers) or 40 hours of unused paid sick time (in businesses with fewer than 10 workers), but employers are not required to allow workers to earn more than these 72-hour or 40-hour caps.	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with 10 or more workers) or 40 hours of unused paid sick time (in businesses with fewer than 10 workers), but employers are not required to allow workers to earn more than these 72-hour or 40-hour caps.	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with more than 55 workers) or 48 hours of unused paid sick time (in businesses with 55 or fewer workers), but employers are not required to allow workers to earn more than these 72-hour or 48-hour caps.	Workers are entitled to carry forward unused paid sick time to the following year, until their paid sick time reaches the annual caps described in the chart on the prior page (depending on business size and year). Carry forward is not required if the full amount of paid sick time required by the law is received by the worker at the beginning of each year (calendar year, fiscal year, or year of employment).	Workers are entitled to carry forward unused paid sick time. An employer may satisfy the law's carry-over provisions if the employer provides a worker with at least 40 hours of paid sick time at the beginning of each benefit year, regardless of whether the employee is full-time, part-time, or temporary.	Workers are entitled to carry forward unused paid sick time to the following year, but employers may cap it at 72 hours.	Workers are entitled to carry forward unused paid sick time. However, employers with fewer than 25 workers may limit <i>use</i> of paid sick time to 48 hours per year; larger employers may not limit the <i>use</i> of paid sick time (only the <i>accrual</i> , or amount <i>earned</i> , as described earlier).
<b>Private Right of Action to go to Court?</b>	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
<b>Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)? (See endnote 18.)</b>	Workers covered by a CBA may waive all or part of the law to the extent that the CBA sets forth the waiver in clear and unambiguous terms.	Workers covered by a CBA may waive all or part of the law to the extent that the CBA sets forth the waiver in clear and unambiguous terms.	All or any portion of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms showing that the parties intend the waiver.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.	No specific language regarding waivers or exemptions for workers covered by a CBA.	No specific language regarding waivers or exemptions for workers covered by a CBA.	Workers covered by a CBA may waive all or part of the law to the extent that the CBA sets forth the waiver in clear and unambiguous terms.
<b>What Agency or Official Enforces the Law?</b>	San Francisco Office of Labor Standards Enforcement	No particular agency specified in the law. The Contracts and Compliance Division of the City Administrator's Office has been authorized to take complaints.	No specific agency authorized. The City itself has authority under the law to issue rules and regulations, as well as to enforce the law through administrative citations and/or remedies.	The Santa Monica Finance Director is authorized to adopt administrative regulations consistent with the law.	San Diego's Office of the City Treasurer (although the Mayor may designate another office/department under the Mayor's authority)	Los Angeles Office of Wage Standards (within the Department of Public Works' Bureau of Contract Administration)	No particular agency specified in the law (although the separate minimum wage law passed at the same time will be enforced by the Berkeley Department of Finance or other city department/agency as designated by the City by resolution).

### III. County and City Paid Sick Time Laws (Other than the Local California Laws in Section II)

	Montgomery County, Maryland	Cook County <i>and</i> Chicago, IL <sup>9</sup>	Seattle, WA	New York City, NY <sup>10</sup>	Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield <i>and</i> Morristown, NJ <sup>11</sup>	Tacoma, WA <sup>12</sup>	Spokane, WA <sup>13</sup>	Philadelphia, PA	Pittsburgh, PA <sup>14</sup>	Minneapolis, MN	Saint Paul, MN <sup>15</sup>
<b>Who is covered?</b>	Workers employed in Montgomery County are covered, but they must regularly work more than 8 hours each week. Independent contractors are exempted. Workers are also exempted if <i>all</i> of the following apply: 1) they don't have a regular work schedule with the employer; 2) they contact the employer for work assignments and are scheduled to work those assignments within 48 hours later; 3) they have no obligation to work for the employer if they don't contact the employer for assignments; <b>and</b> 4) they're not employed by a temporary	<b>Cook County:</b> Workers in Cook County who work at least 80 hours for an employer within any 120-day period are covered. Workers employed by a unit of local government are exempted. <sup>5</sup>  <b>Chicago:</b> Workers in Chicago who work at least 80 hours for an employer within any 120-day period are covered. Minors, certain public/city agency employees, and participants of certain subsidized temporary youth and/or transitional employment programs are exempted. <sup>14</sup>	Workers employed by a business with more than 4 workers, if they perform more than 240 hours of work in Seattle within a calendar year, are covered. Work-study students are exempted.	Workers who have worked within NYC for more than 80 hours in a calendar year are covered. Domestic workers will receive some paid sick time. Work-study students, certain hourly speech/physical/occupational therapists, independent contractors, and government employees are exempted.	Workers employed in the relevant city (Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield, or Morristown) for at least 80 hours in a year are covered. Workers employed by any government or a New Jersey School District or Board of Education are exempted. In Newark and Jersey City, workers employed by Rutgers and its subdivisions are exempted.	Workers employed in Tacoma are covered, as long as there is a reasonable expectation that they will perform work in Tacoma for more than 80 hours within a benefit year. Independent contractors, single-person businesses, and Federal government workers are exempted.	Workers employed in Spokane for more than 240 hours a year are covered. Work-study students (under a state/federal program), those employed by certain firms engaged in construction work, seasonal workers (expected employment of less than 1 year and which is intermittent/recurring annually), independent contractors, domestic workers (those individuals employed as a domestic servant in a private home by an employer with less than 2 employees regularly employed 40 or more hours per week; or a person employed to do gardening, maintenance, or repair at the	Workers employed in Philadelphia for at least 40 hours in a calendar year are covered. The following workers are exempted: independent contractors; seasonal workers (hired for a temporary period of not more than 16 weeks a year); adjunct professors; interns (students working for the institution where enrolled); workers hired for a term of less than 6 months; and health care professionals who only work when indicating they are available and have no obligation to work when they do not indicate availability.	Workers employed in Pittsburgh are covered. Independent contractors and seasonal workers (those hired for a temporary period of not more than 16 weeks and given written notification at time of hire that employment is limited to beginning/end of seasonal dates as determined by employer) are exempted.	Workers who perform work for an employer within Minneapolis for at least 80 hours in a year for that employer are covered. Independent contractors are exempted.	Workers who perform work for an employer within Saint Paul for at least 80 hours in a year for that employer are covered. Independent contractors are exempted.

	placement agency.						employer's private home), and government workers are exempted.				
	<b>Montgomery County, Maryland</b>	<b>Cook County and Chicago, IL<sup>9</sup></b>	<b>Seattle, WA</b>	<b>New York City, NY<sup>10</sup></b>	<b>Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield and Morristown, NJ<sup>11</sup></b>	<b>Tacoma, WA<sup>12</sup></b>	<b>Spokane, WA<sup>13</sup></b>	<b>Philadelphia, PA</b>	<b>Pittsburgh, PA<sup>14</sup></b>	<b>Minneapolis, MN</b>	<b>Saint Paul, MN<sup>15</sup></b>
<b>Can sick time be used to care for loved ones?</b>	Yes: children; parents and legal guardians of the worker; spouses; grandparents; the spouse of a grandparent; grandchildren; siblings; and the spouse of a sibling	Yes: children; legal guardians or wards; spouses; domestic partners (including parties to a civil union); parents; parents of a spouse or domestic partner; grandparents; grandchildren; siblings; or any other individual related by blood or whose close association with the worker is the equivalent of a family relationship	Yes: children; parents; parents-in-law; grandparents; spouses; and registered domestic partners	Yes: children; spouses; registered domestic partners; parents; grandchildren; grandparents; siblings; and the children or parents of a spouse or domestic partner. Beginning on May 5, 2018, sick time can also be used to care for any other individual related by blood or whose close association with the worker is the equivalent of a family relationship.	Yes: children; parents; parents of a spouse or domestic/civil union partner; spouses; domestic/civil union partners; grandchildren; grandparents; the spouse or domestic/civil union partner of a grandparent; and siblings	Yes: children; parents; grandparents; grandchildren; siblings; spouses; and domestic partners (local or state registries)	Yes: spouses; domestic partners; children; grandchildren; parents; and grandparents	Yes: children; parents; parents-in-law; spouses; grandparents; the spouse of a grandparent; grandchildren; siblings; the spouse of a sibling; and a life partner (a long-term committed relationship between two unmarried individuals of the same sex or gender identity who meet certain, specified requirements)	Yes: children; parents; parents of a spouse or domestic partner; spouses; domestic partners; grandchildren; grandparents; the spouse or domestic partner of a grandparent; siblings; and any individual for whom the worker received oral permission from the employer to care for at the time of the worker's request to make use of sick time	Yes: children; parents; parents-in-law; spouses; registered domestic partners; grandchildren; grandparents; siblings; and members of the worker's household	Yes: children; parents; parents-in-law; spouses; registered domestic partners; grandchildren; grandparents; siblings; and any individual related by blood or affinity whose close association with the worker is the equivalent of a family relationship
<b>How is "child" defined?</b>	Biological, adopted, or foster child; stepchild; child for whom the worker has legal or physical custody or guardianship; child for whom the worker is the primary caregiver	Biological, foster, or adopted children, stepchildren, legal guardians or wards, or a child to whom the worker stands in loco parentis	Biological, adopted or foster children, stepchildren, legal wards, or the child of a worker standing in loco parentis. The child must be under 18 or 18 years of age and older but incapable of self-care because of a mental/physical disability	Biological, adopted, or foster children, legal wards, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster children, stepchildren, legal wards, children of a domestic partner or civil union partner, child of a worker standing in loco parentis to the child	Biological, adopted or foster children, stepchildren, legal wards, or a child to whom the worker stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.	Children who are under 18 years of age, or 18 or older but incapable of self-care because of a mental/physical disability	Biological, adopted or foster children, stepchildren, legal wards, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, legal ward, or child of a worker standing in loco parentis to the child	Biological, adopted, or foster child, stepchild, guardian, or ward	Biological, adopted, or foster child, or a stepchild.
<b>Are specific "safe time" purposes included? (See endnote 16.)</b>	Yes, when the worker or the worker's family member is the victim	Yes, when the worker or the worker's family member is the victim	Yes, when the worker or the worker's family member is the victim	Yes, beginning on May 5, 2018, when the worker or the worker's family member is the victim	No	Yes, when the worker or the worker's family member (for safe time purposes, also includes a parent-in-law or a person with whom the worker has a dating relationship, per Washington State law) is the victim.	Yes, when the worker or worker's family member (child, spouse, parent, parent-in-law, grandparent, or person with whom the worker has a dating relationship) is the victim	Yes, when the worker or the worker's family member is the victim	No	Yes, when the worker or the worker's family member is the victim	Yes, when the worker or the worker's family member is the victim
<b>Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?</b>	Yes.	Yes.	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes. Also includes need to care for family member whose school/place of care is closed due to inclement weather, loss of power/heating/water, or other unexpected closure.	Yes. Also includes need to care for family member whose school/place of care is closed due to inclement weather, loss of power/heating/ water, or other unexpected closure.
<b>Can sick time be used under the law to bond with a new child and/or deal with a family member's death? (See endnote 17.)</b>	No.	If a worker is subject to the federal Family and Medical Leave Act (FMLA), s/he may carry forward up to 40 hours of unused paid sick time to be used for leave covered by the FMLA, which includes bonding with a new child (as well as certain military family needs). Paid sick time can't be used to deal with a family member's death.	No	No	No	Paid sick time can be used to deal with a family member's death.	Paid sick time can be used to deal with a family member's death.	No	No	No	No
<b>Rate at which workers earn paid sick time?</b>	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 40 hours worked	In businesses with 250 or more workers, 1 hour for every 30 hours worked. In businesses with more than 4 and fewer than 250 workers, 1 hour for every 40 hours worked	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 30 hours worked	1 hour for every 40 hours worked	1 hour for every 30 hours worked	1 hour for every 40 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 35 hours worked	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 30 hours worked

	Montgomery County, Maryland	Cook County <i>and</i> Chicago, IL <sup>9</sup>	Seattle, WA	New York City, NY <sup>10</sup>	Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield <i>and</i> Morristown, NJ <sup>11</sup>	Tacoma, WA <sup>12</sup>	Spokane, WA <sup>13</sup>	Philadelphia, PA	Pittsburgh, PA <sup>14</sup>	Minneapolis, MN	Saint Paul, MN <sup>15</sup>
<b>Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)</b>	Workers in businesses with 5 or more workers: up to 56 hours a year. Workers in businesses with fewer than 5 workers: up to 32 hours of <i>paid</i> sick time and 24 hours of <i>unpaid</i> sick time.	Up to 40 hours a year	There is no limit on how much workers can <i>earn</i> , but workers can only <i>use</i> the following amounts of paid sick time a year: <b>Tier 1</b> (workers in businesses with more than 4 but fewer than 50 full-time workers or full-time equivalents—FTEs): up to 40 hours. <b>Tier 2</b> (workers in businesses with 50 to fewer than 250 full-time workers or FTEs): up to 56 hours. <b>Tier 3</b> (workers in businesses with 250 or more full-time workers or FTEs): up to 72 hours, or up to 108 hours if the employer has a universal paid time off policy.	Workers in businesses with 5 or more workers: up to 40 hours a year. Workers in businesses with fewer than 5 workers up to 40 hours of <i>unpaid</i> sick time a year. All workers in certain chain businesses or franchises will be counted together to determine size.	Workers in businesses with 10 or more workers (and all child care, home health care, and food service workers, regardless of the size of their employer): up to 40 hours a year. Workers in businesses with fewer than 10 workers: up to 24 hours a year.	No explicit cap on how much sick time can be earned or used in a year. However, as described below, employers are not required to allow a worker to carry over more than 40 hours of unused paid sick time a year.	There is no explicit limit on how much workers can <i>earn</i> , but workers can only <i>use</i> the following amounts of earned paid sick time a year: Workers in businesses with 10 or more workers: up to 40 hours a year. Workers in businesses with fewer than 10 workers: up to 24 hours	Workers in businesses with 10 or more workers: up to 40 hours a year. Workers in businesses with fewer than 10 workers: up to 24 hours of <i>unpaid</i> sick time a year. Certain chain establishments must provide paid sick time regardless of the number of workers in an establishment.	Workers in businesses with 15 or more workers: up to 40 hours a year. Workers in businesses with fewer than 15 workers: up to 24 hours a year, <i>although in the first year after the law goes into effect, this time will be unpaid</i> (thereafter it will be 24 hours of <i>paid</i> sick time a year for workers in these small businesses).	Workers in businesses with 6 or more workers: up to 48 hours a year. Workers in businesses with 5 or fewer workers: up to 48 hours of <i>unpaid</i> sick time a year. New employers, other than certain chain businesses, only have to provide <i>unpaid</i> sick time in their first 12 months after hiring their first worker (this “new business” provision only applies for 5 years after the law’s effective date).	Up to 48 hours a year. New employers only have to provide <i>unpaid</i> sick time in their first 6 months after hiring their first worker (this “new business” provision only applies until January 1, 2023).
<b>When do workers begin to earn paid sick time?</b>	At the commencement of employment, or October 1, 2016, whichever is later, but workers can be required to wait 90 days before using their sick time.	On the first calendar day after the worker commences employment or July 1, 2017, whichever is later, but workers can be required to wait to use accrued paid sick time for up to 180 calendar days after commencement of employment.	At the commencement of employment, but workers aren’t entitled to use paid sick time until the 180th calendar day after employment commenced.	At the commencement of employment, but workers aren’t entitled to use sick time until the 120th calendar day following commencement of employment.	On the first day of employment, but workers aren’t entitled to use paid sick time until the 90th calendar day of employment (except Plainfield, which is the 100th calendar day of employment).	At the commencement of employment, but workers aren’t entitled to use paid sick time until the 90th calendar day after employment commenced.	On the first day of employment, but employers can require workers to wait up to 90 days after employment begins before using paid sick time.	At the commencement of employment, but workers aren’t entitled to use sick time until after 90 calendar days of employment.	At the commencement of employment or the law’s effective date, whichever is later, but workers aren’t entitled to use sick time until the 90th calendar day after employment commenced.	At the commencement of employment or the law’s effective date, whichever is later, but workers aren’t entitled to use sick time until the 90th calendar day after commencement of employment.	At the commencement of employment or the law’s effective date, whichever is later, but workers aren’t entitled to use sick time until the 90th calendar day after commencement of employment.
<b>Does unused sick time carry forward to the subsequent year?</b>	Workers are entitled to carry forward up to 56 hours of unused sick time and <i>may use up to 80 hours of sick time a year when they have sick time that is carried forward</i> . However, employers are not required to allow carry forward if, at the beginning of the new year, they award the full amount of sick time that the worker would earn over that year.	Workers are entitled to carry forward half of their unused paid sick time, up to a maximum of 20 hours, but employers aren’t required to allow use of more than 40 hours of paid sick time a year. However, as described earlier in this chart, workers subject to the FMLA may carry forward up to 40 hours of unused paid sick time for FMLA purposes.	Workers are entitled to carry forward the following amount of unused paid sick time: <b>Tier 1</b> : up to 40 hours; <b>Tier 2</b> : up to 56 hours; <b>Tier 3</b> : up to 72 hours (or up to 108 hours if the employer has a universal paid time off policy). Employers aren’t required to allow <i>use</i> of more time in a year than as outlined above, according to business size.	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren’t required to allow use of more than 40 hours of sick time a year. Carry forward is not required if a worker is paid for unused sick time at the end of the year <i>and</i> the employer provides the worker with an amount of paid sick time that meets or exceeds the law’s requirement on the first day of the subsequent year.	Workers are entitled to carry forward up to 40 hours of unused paid sick time, but employers aren’t required to allow use of more than 40 hours of paid sick time a year. In all of these cities <i>except Jersey City</i> , carry forward is not required if a worker is paid for any unused sick time at the end of the year in which it is earned.	Workers are entitled to carry forward 40 hours of unused paid sick time to the following benefit year.	Workers are entitled to carry forward up to 24 hours of unused paid sick time to the following year	Workers are entitled to carry forward unused sick time, but employers are not required to allow use of more than 40 hours of sick time per year. Carry forward isn’t required if the employer chooses to provide at least 40 hours of sick time at the beginning of each calendar year.	Workers are entitled to carry forward unused sick time, but employers aren’t required to allow use of more than 40 hours of paid sick time a year (for businesses with 15 or more workers) or more than 24 hours of sick time a year (for businesses with fewer workers). Carry forward is not required if the employer provides the worker with an amount of paid sick time that meets or exceeds the law’s requirement on the first day of the subsequent year.	Workers are entitled to carry forward unused sick time and shall continue to accrue sick time <i>up to a total of 80 hours at any time</i> . There is otherwise no limit on how much earned sick time can be used in a year.	Workers are entitled to carry forward unused paid sick time and shall continue to accrue paid sick time up to a total of 80 hours at any time. There is otherwise no explicit limit on how much paid sick time can be used in a year. Carry forward is not required if the employer provides at least 48 hours of paid sick time following the initial 90 days of employment during the first year and at least 80 hours beginning each subsequent year.
<b>Are there waivers/exemptions for workers covered by a valid Collective Bargaining Agreement (CBA) or bargaining unit? (See endnote 18.)</b>	No specific language regarding waivers or exemptions for workers covered by a CBA	Workers in the construction industry covered by a CBA are exempt. After July 1, 2017, the law’s effective date, the law’s requirements may be waived in a CBA if the waiver is set forth in clear and unambiguous terms.	The law’s provisions won’t apply to any workers covered by a CBA to the extent that the CBA expressly waives the requirements in clear and unambiguous terms.	The law’s provisions won’t apply to workers in the construction or grocery industry covered by CBA if the law’s provisions are expressly waived in the CBA. The law’s provisions won’t apply to other workers covered by a CBA if the provisions are expressly waived in the CBA <i>and</i> the CBA provides a comparable benefit.	Members of a construction union covered by a CBA are exempt. Otherwise, all or any part of the law’s requirements do not apply to workers covered by a CBA to the extent that the CBA expressly waives the requirements in clear and unambiguous terms.	The law’s provisions won’t apply to any workers covered by a CBA to the extent that the CBA expressly waives the requirements in clear and unambiguous terms.	No specific language regarding waivers or exemptions for workers covered by a CBA.	The law’s provisions do not apply to workers covered by a bona fide CBA.	Members of a construction union covered by a collective bargaining unit are exempt.	An employer may opt to satisfy the law for construction employees by paying at least the State prevailing wage <i>or</i> the rate required in an applicable registered apprenticeship agreement (regardless of whether working on private or public projects).	An employer may opt to satisfy the law for construction employees by paying at least the State prevailing wage <i>or</i> the rate required in an applicable registered apprenticeship agreement (regardless of whether working on private or public projects).
<b>Private Right of Action to go to Court?</b>	No	Yes	No	No	Yes	No	Possibly. The law requires the City Council and the Administration to jointly determine enforcement procedures, which must be in effect by October 1, 2016.	Yes. Can go directly to court in the first 120 days after May 13, 2015, the law’s effective date. After that, workers may go to Court only after receiving a final decision from the agency or 180 days after filing a complaint, whichever is earlier.	No	No	Yes



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	Montgomery County, Maryland	Cook County <i>and</i> Chicago, IL <sup>9</sup>	Seattle, WA	New York City, NY <sup>10</sup>	Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield <i>and</i> Morristown, NJ <sup>11</sup>	Tacoma, WA <sup>12</sup>	Spokane, WA <sup>13</sup>	Philadelphia, PA	Pittsburgh, PA <sup>14</sup>	Minneapolis, MN	Saint Paul, MN <sup>15</sup>
<b>What Agency or Official Enforces the Bill?</b>	County Office of Human Rights. The County Executive may also delegate enforcement to a legally authorized State agency.	Cook County: Cook County Commission on Human Rights  Chicago: Chicago Department of Business Affairs and Consumer Protection	Seattle Office for Civil Rights	New York City Department of Consumer Affairs	Newark: Newark Department of Child and Family Well-Being  Passaic: Passaic Department of Human Services, Division of Health  Irvington: Irvington Department of Neighborhood Services  Plainfield: Plainfield Department of Administration and Finance, Division of Health & Social Services  Morristown: Morristown Department of Administration  The laws in: <u>East Orange</u> , <u>Paterson</u> , <u>Trenton</u> , <u>Montclair</u> , <u>Bloomfield</u> , <u>Jersey City</u> , and <u>Elizabeth</u> are enforced by the relevant city's Municipal Department of Health and Human Services	The Finance Director or his or her designee	City of Spokane Contract and Business Standards Compliance Office	The Philadelphia Managing Director's Office	The Office of the City Controller or a Department or entity designated by the Mayor's Office	Minneapolis Department of Civil Rights	Saint Paul Department of Human Rights and Equal Economic Opportunity

<sup>1</sup> Please note that this chart does not provide an exhaustive overview of these state, county, and city paid sick time laws, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker's specific circumstances or category of employment (such as welfare participants, for example). City paid sick time laws cannot cover state government workers, and neither city nor state paid sick time laws are able to cover federal government workers.

<sup>2</sup> California's statewide paid sick time law took effect in July 2015. On April 4, 2016, the Governor signed into law minimum wage legislation that also expanded the existing paid sick time law to cover providers of in-home supportive care, beginning July 1, 2018. For these newly covered domestic workers, paid sick time usage and carry forward will differ from what is described in this chart, and the law directs a workgroup to issue guidance in 2017; officials are also likely to issue related regulations prior to July 1, 2018. **The California statewide law explicitly states that it establishes minimum requirements on sick time and does not preempt or limit other laws or policies that provide for more favorable paid sick time rights to workers. Therefore, the more expansive San Francisco, Oakland, Emeryville, Santa Monica, Los Angeles, San Diego, and Berkeley paid sick time laws will still apply to workers covered by those laws, and other cities or counties in California may continue to pass broader paid sick time laws.**

<sup>3</sup> Oregon's Legislature passed a statewide paid sick time law on June 12, 2015, and the law went into effect on January 1, 2016. The law preempts—or prohibits—local governments from passing paid sick time laws. As a result, Eugene's paid sick time law—passed in July 2014 and originally scheduled to go into effect on July 1, 2015—did not take effect. On the other hand, Portland passed a paid sick time law in March 2013, and it went into effect on January 1, 2014, prior to passage of the statewide law. Although Oregon's paid sick time law blocked localities from passing paid sick time laws and preempted Portland's law, the Portland law influenced a key provision of the statewide law. As described in this chart, the employer size threshold for providing paid sick time is lower for employers who are located in Portland (including maintenance of any office, store, restaurant, or establishment in the city). As described in the chart, an employer located in Portland that employs at least six workers anywhere in Oregon must provide its workers with paid sick time, and smaller employers located in Portland must provide unpaid sick time. For employers who are not located in Portland, the size threshold for providing paid sick time is 10 or more workers (with smaller employers providing unpaid sick time). Eugene and Portland have been removed from this comparison chart.

<sup>4</sup> On February 17, 2016, the Vermont Legislature provided final passage of a paid sick time bill, and the Governor signed it into law on March 9, 2016. With the exception of provisions around small business planning/implementation assistance and a business survey that took effect earlier, Vermont's paid sick time law became effective for employers with more than 5 workers (employed for an average of no less than 30 hours per week) on January 1, 2017; these employers could have required workers who existed on January 1, 2017 to wait up to December 31, 2017 before *using* paid sick time accrued during this first year. An employer with 5 or fewer workers (employed for an average of no less than 30 hours per week) became subject to the paid sick time law on January 1, 2018; these employers may require workers who existed on January 1, 2018 to wait up to December 31, 2018 before *using* paid sick time accrued during this first year. Also, as described in the chart, new businesses will not be subject to the paid sick time law for a period of one year after hiring their first worker.

<sup>5</sup> Washington State voters overwhelmingly approved a paid sick time law on November 8, 2016. The law took effect on January 1, 2017, and the right to begin earning paid sick time began on January 1, 2018. **The statewide law in Washington explicitly states that it establishes minimum requirements on sick time and does not preempt or limit other laws or policies that provide for greater accrual or use of paid sick time. Therefore, the local paid sick time laws in Seattle, Spokane, Tacoma, and SeaTac (described in part IV below) remain in effect, and other localities in Washington may continue to pass broader paid sick time laws.**

<sup>6</sup> Rhode Island's Legislature passed a statewide paid sick and safe time bill on September 19, 2017, and the Governor signed it into law on September 28, 2017. Workers will begin earning paid sick and safe time on July 1, 2018.

<sup>7</sup> In July 2014, the San Diego City Council passed a paid sick time and minimum wage ordinance and then voted to override the mayor's veto of the ordinance on August 18, 2014. However, opponents collected signatures to put the paid sick time and minimum wage ordinance to a vote in a June 2016 referendum, and the law was delayed from going into effect. On June 7, 2016, voters in San Diego approved the paid sick time and minimum wage ordinance. The law went into effect on July 11, 2016. An implementing ordinance that made some amendments was passed by the Council and later approved by the Mayor on August 3, 2016. The implementing ordinance took effect on September 2, 2016.

<sup>8</sup> On August 31, 2016, the Berkeley City Council unanimously passed a paid sick time ordinance, which was signed by the Mayor the following day. As described in greater detail in the chart, workers will begin earning paid sick time under the Berkeley law beginning on October 1, 2017.

<sup>9</sup> The Chicago City Council unanimously adopted a paid sick time law, with the Mayor's support, on June 22, 2016. In addition to the description of covered workers in the chart, note that the Chicago law exempts certain categories of short-term, temporary, or irregularly employed individuals who are not subject to the city's minimum wage law—and who likely would not be employed for long enough to earn and then use sick time under the law (for example, certain day/temporary laborers, certain seasonal camp counselors, and certain learners as designated by the State Department of Labor). Also, workers who, in any 2-week period, perform fewer than 2 hours of work while physically present within Chicago are exempted. Following the passage of Chicago's law, the Cook County Board of Commissioners approved a paid sick time law on October 5, 2016. In addition to the information in the chart, please note as well that the following workers are not covered by the Cook County Law: workers who, in any 2-week period, perform fewer than 2 hours of work while physically present within Cook County; and workers who are employed in municipalities within Cook County that have opted out of the law.

<sup>10</sup> On October 17, 2017, the New York City Council passed an ordinance amending its sick time law to 1) allow workers to use earned sick time for "safe time" purposes (see endnote 16, below), when the worker or the worker's family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking; and 2) allow workers to use earned sick time (and safe time) to care for any individual whose close association with the worker is the equivalent of a family relationship. The Mayor signed the ordinance into law on November 6, 2017. It will take effect on May 5, 2018.

<sup>11</sup> All of the local paid sick time laws in New Jersey are now in effect. In December 2015, the city of New Brunswick passed a narrower paid sick and safe time law that departs from the more comprehensive laws in the other 11 New Jersey cities listed in the chart. In covered businesses with 10 or more workers: full-time workers (averaging 35 hours/week) are entitled to earn up to 40 hours of paid sick/safe time per year, while part-time workers (averaging 20-35 hours/week) are entitled to earn up to 24 hours. In covered businesses with more than 5 full-time equivalent workers but fewer than 10 workers, workers are entitled to earn up to 24 hours a week. However, the law excludes all workers employed for an average of less than 20 hours per week. The law also exempts all government and board of education workers, independent contractors, individuals who work from home, and certain "per diem" hospital workers who work on a flexible, "as needed" basis to cover for other absent hospital workers. The New Brunswick law is now in effect. For more, go to: <http://thecityofnewbrunswick.org/planninganddevelopment/paid-sick-safe-time-in-new-brunswick/>

<sup>12</sup> On September 26, 2017, the Tacoma City Council adopted an ordinance amending its paid sick time law to align with the minimum requirements of Washington State's paid sick time law, which took effect on January 1, 2018.

<sup>13</sup> On January 11, 2016, the Spokane City Council passed a paid sick time law by a vote of 6-1. The Council then passed the bill into law over the Mayor's veto on January 25, 2016. However, businesses that received their first business registration in Spokane after the enactment of the law—but before the law's effective date of January 1, 2017—are not subject to the law until 1 year after the date of their first business registration.

<sup>14</sup> On August 3, 2015, the Pittsburgh City Council passed a paid sick time law by a vote of 7-1. Although lower courts ruled against the law *based on a unique provision in Pennsylvania law*, the city is in the process of appealing the decision to the state's Supreme Court.

<sup>15</sup> On September 7, 2016, the Saint Paul City Council unanimously passed a paid sick time ordinance. For employers with 24 or more workers, the law became effective July 1, 2017. For employers with 23 or fewer workers, the law became effective January 1, 2018.

<sup>16</sup> "Safe time" refers to time off for purposes related to domestic violence, sexual assault or stalking (like the need for time off to obtain protective orders, relocate, etc.). Note that a victim of domestic violence, sexual abuse, or stalking can use sick time to attend to medical/preventive health issues like any other worker, and workers may use sick time related to the medical/preventive health issues of a family member. Also, some of these laws may only cover safe time if the domestic violence, sexual assault and/or stalking occurs between certain individuals (such as family members, household members, dating relationships, etc.).

<sup>17</sup> Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.

<sup>18</sup> All of these paid sick time laws include language making it clear that these laws establish a minimum requirement and employees can receive greater paid sick time rights through a contract, CBA, employment benefit plan, policy, standard, or other agreement.

#### IV. Additional Paid Sick Time Laws

On February 16, 2018, the City Council in Austin, Texas voted to pass a paid sick time ordinance covering private sector employees. On March 1, 2018, the City Council passed a resolution to effectively expand the ordinance to cover all City employees as well. Workers who have worked within the City of Austin for at least 80 hours in a calendar year are covered. Independent contractors and unpaid interns are exempted. Beginning on October 1, 2018, individuals who work for employers with more than 15 employees can earn up to 64 hours of paid sick time per year, while individuals who work for employers with 6 to 15 employees can earn up to 48 hours of paid sick time per year. Beginning on October 1, 2020, individuals who work for employers with 5 or fewer employees can also earn up to 48 hours of paid sick time per year. Sick time is accrued at a rate of 1 hour of paid sick time for every 30 hours worked. New employees can be required to wait 60 days before *using* sick time, if the employer establishes that the employee's term of employment is at least one year. However, workers can begin *accruing* paid sick time upon the commencement of their employment or on the applicable effective date, whichever is later. Workers can carry over to the following year unused earned sick time up to the applicable yearly cap. Earned sick time can be used to care for family members including an employee's spouse, child, parent, or any other individual related by blood or whose close association with the employee is the equivalent of a family relationship. Earned sick time can also be used for "safe time" purposes when the worker or the worker's family member is a victim of domestic violence, sexual assault, or stalking. Workers do not have a private right of action to file a lawsuit in court to redress violations of the law.

On January 12, 2018, the Maryland Legislature voted to override Governor Hogan's veto of a paid sick time bill passed by the Legislature in 2017. The right to begin earning paid sick time began on February 11, 2018. Workers who work for employers with at least 15 employees can earn up to 40 hours of paid sick time per year, at a rate of 1 hour of sick time for every 30 hours worked. Those who work for employers with fewer than 15 employees can earn the same amount of *unpaid*, job-protected sick time at the same rate. New employees can be required to wait 106 days before *using* sick time, though they begin accruing it as soon as they start working. Workers are entitled to carry forward up to 40 hours of unused sick time to the following year, but employers are allowed to cap the total amount of earned sick time accrued at 64 hours per year. Likewise, employers aren't required to allow use of more than 64 hours of sick time per year. Workers do not have a private right of action to file a civil action in court to redress violations of the law (although they may file a civil action to enforce an order issued by the enforcement agency). Earned sick time can be used to care for family members including children, parents, parents-in-law, legal guardians, spouses, grandparents, siblings, and any individual who acted as a parent or stood *in loco parentis* to the employee or the employee's spouse when the employee or the employee's spouse was a minor. Earned sick time can also be used for maternity or paternity leave, or for "safe time" purposes when the worker or the worker's family member is a victim of domestic violence, sexual assault, or stalking. All Maryland workers are covered except for the following: agricultural workers; realtors; workers under the age of 18; workers employed by a temporary services agency to provide temporary staffing services to another person; workers directly employed by an employment agency to provide part-time or temporary services to another person; workers that regularly work less than 12 hours per week; workers in the construction industry covered by a collective bargaining agreement waiving sick and safe leave in clear and unambiguous terms; workers that are on-call in the health or human services industry that can reject or accept a shift, not guaranteed to be called for work, and not employed by a temporary staffing agency.

In November 2013, voters in SeaTac, Washington passed a law that gives certain hospitality and transportation workers a variety of new labor rights, including the right to earn paid sick time (at a rate of 1 hour for every 40 hours worked). Covered employers are required to pay eligible workers a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time. The law also raises the minimum wage for these workers, gives them a right to keep their tips, and requires hospitality and transportation employers to offer additional hours to part-time workers before they may hire new part-time staff.

In November 2012, the voters of Long Beach, California approved a measure to guarantee a living wage and paid sick time to certain hotel workers in the city. Under the law, hotels with 100 or more rooms are required to pay workers a minimum of \$13 an hour (adjusted for increases in the federal minimum wage or cost of living) and allow workers to earn a minimum of 5 paid sick days a year.

For more detailed information on the sick time laws and bills described in this document, see:

- A Better Balance's website at <http://www.abetterbalance.org/web/ourissues/sickleave>
- Connecticut: <http://www.ctdol.state.ct.us/wgwkstnd/SickLeave.htm>
- California: <http://www.dir.ca.gov/DLSE/ab1522.html>
- Massachusetts: <http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/earned-sick-time/>
- Oregon: <http://www.oregon.gov/BOLI/TA/pages/index.aspx>
- Washington D.C.: <http://does.dc.gov/service/wage-and-hour-compliance>
- San Francisco: <http://sfgsa.org/index.aspx?page=419>
- Oakland: <http://www2.oaklandnet.com/government/o/CityAdministration/d/MinimumWage/index.htm>
- Seattle: <http://www.seattle.gov/laborstandards/paid-sick-and-safe-time>
- New York City: <http://www.nyc.gov/PaidSickLeave> and A Better Balance's website: <http://www.abetterbalance.org/web/nycpaysick>
- Newark: <http://www.ci.newark.nj.us/government/departments/health-and-community-wellness/paid-sick-leave/>
- East Orange: <http://eastorange-nj.gov/earned-sick-time/>
- Trenton: <http://www.trentonnj.org/trentonpaysickleave>
- Montclair: [http://www.montclairnjsa.org/index.php?option=com\\_content&view=category&layout=blog&id=341&Itemid=880](http://www.montclairnjsa.org/index.php?option=com_content&view=category&layout=blog&id=341&Itemid=880)
- Bloomfield: <http://www.bloomfieldtwpnj.com/main/press-release/bloomfield-first-nj-town-year-mandate-paid-sick-leave>
- Jersey City: <http://www.jerseycitynj.gov/business.aspx?id=13851>
- San Diego: <https://www.sandiego.gov/treasurer/minimum-wage-program>
- Tacoma: <http://www.cityoftacoma.org/cms/one.aspx?objectId=75860>
- Philadelphia: <http://www.phila.gov/MDO/Pages/PaidSickLeave.aspx>
- Emeryville: <http://www.ci.emeryville.ca.us/1024/Minimum-Wage-Ordinance>
- Spokane: <https://my.spokanecity.org/citycouncil/items-of-interest/sick-leave/>
- Santa Monica: [https://www.smgov.net/departments/HED/Economic\\_Development/Minimum\\_Wage\\_Proposal.aspx](https://www.smgov.net/departments/HED/Economic_Development/Minimum_Wage_Proposal.aspx)
- Minneapolis: <http://www.minneapolismn.gov/sicktimeinfo/index.htm>
- Los Angeles: <http://wagesla.lacity.org/>
- Saint Paul: <https://www.stpaul.gov/departments/human-rights-equal-economic-opportunity/earned-sick-and-safe-time>
- SeaTac: <http://www.ci.seatac.wa.us/index.aspx?page=681>
- San Francisco Code Chapter 12W; D.C. Code § 32-131.01 et seq.; Seattle Code § 14.16.010 et seq.; Conn. Gen. Stat. § 31-57r et seq.; NYC Code § 20-911 et seq.; Jersey City Code § 3-350 et seq.; Newark Legislation File # 13-2010, Version 6; San Diego Municipal Code § 39.0101 et seq.; Cal. Lab. Code § 245 et seq.; Long Beach Code § 5.48.010 et seq.; Oakland Code § 5.92.010 et seq.; Massachusetts General Laws Chapter 149, §§ 148C, 148D; Tacoma Code § 18.10.010 et seq.; Philadelphia Code § 9-4101 et seq.; Or. Rev. Stat. §§ 653.256 et seq., 659A.885; Emeryville Code § 5-37.01 et seq.; Montgomery County Code Chapter 27, Article XIII; Pittsburgh Code § 626 et seq.; Spokane Municipal Code § 09.01.010 et seq.; 21 Vermont Statutes § 481 et seq.; Santa Monica Code § 4.62 et seq.; Minneapolis Code § 40.10 et seq.; Los Angeles Code § 187.00 et seq. and § 188.00 et seq.; San Diego Code § 39.0101 et seq.; Chicago Code § 1-24-010 et seq.; Berkeley Code § 13.100.010 et seq.; Saint Paul Code § 233.01 et seq.; Morristown Ordinance O-35-2016; Cook County Code § 42-1 et seq.; Ariz. Rev. Stat. § 23-364 and 23-371 et seq.; Washington Initiative No. 1433 (to be codified in Wash. Rev. Code Chapter 49.46).

**Section 1. Definitions**

The following definitions shall apply for purposes of this Article:

Child shall mean a biological, adopted, or foster child of the employee; stepchild or legal ward of the employee; child of a domestic partner of the employee; or a child for whom the employee stands in loco parentis.

Earned paid sick time shall mean paid sick time accrued and awarded pursuant to section X.

Employee shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Article, Employee shall not include the following:

- 1. Any employee who meets all of the following criteria:
  - a. Is licensed
  - b. Is employed by a health care facility
  - c. Is under no obligation to work a regular schedule;
  - d. Works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and
  - e. Receives higher pay than that paid to an employee of the same health care facility performing the same job on a regular schedule.
- 2. Individuals providing childcare in a person's home for fewer than eight hours per week.
- 1.3. Employees who work less than X number of hours per year/week/month for an employer.

**Commented [AT1]:** Committee: Consider additional exemptions for per diem workers

**Commented [AT2]:** Committee: Consider how to deal with babysitters.

**Commented [AT3]:** Committee: Consider minimum number of hours worked.

Employer shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Article, Employer shall not include the following:

- 1. Any business that has not employed any employees for less than one year.

Family member shall mean a child, grandchild, sibling, spouse, domestic partner, parent, or grandparent of an employee; a spouse or domestic partner of a parent or grandparent of the employee; a sibling of a spouse or domestic partner of an employee; or any other person related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.- (A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor; (B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child; (C) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision; (D) A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or

~~domestic partner; (E) A person for whom the employee is responsible for providing or arranging care, including but not limited to helping that individual obtain diagnostic, preventive, routine or therapeutic health treatment; or (F) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.~~

*Health care professional* shall have the same meaning as in 26 M.R.S. § 843.

~~*Parent* shall mean a biological, adoptive, or foster parent of the employee or employee's spouse or domestic partner; a stepparent or legal guardian of the employee or employee's spouse or domestic partner; or a person who stood *in loco parentis* of the employee or the employee's spouse or domestic partner when that person was a minor child.~~

*Year* shall mean a regular and consecutive 12-month period as determined by the employer.

## Section 2. Accrual of Earned Paid Sick Time

(a) All employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours ~~of worked, up to a maximum accrual of 48 hours in one year. Hours worked shall not include vacation, sick, or other time for which an employee is paid but no actual work is performed.~~

1. ~~Employees may accrue a maximum number of hours of earned paid sick time in one year, based on the size of their employer, as follows:~~

i. ~~Employers with ten or fewer employees: 24 hours~~

ii. ~~Employers with greater than ten employees: 40 hours~~

2. Employees who are exempt from overtime requirements under the Fair Labor Standards Act will be deemed to work 40 hours in each work week for purposes of earned paid sick time accrual, unless their normal work week is less than 40 hours, in which case earned paid sick time accrues based upon that normal work week.

3. ~~Tipped workers~~

4. Employees shall begin to accrue earned paid sick time at the commencement of employment or on the date this law goes into effect, whichever is later.

5. Accrued paid sick time shall be awarded and available for use no more than eight days after it is accrued. Alternatively, an employer may award paid sick time in advance of accrual in an amount anticipated to be accrued over a year's

**Commented [AT4]:** Councilor Ray to propose alternative accrual methods.

**Commented [AT5]:** Committee: For review with additional information from Mayor Strimling

**Commented [AT6]:** Committee: Consider how to handle tipped workers

time.

~~3.6. Employers are not required to allow employees to take earned paid sick time in the employee's first 90 days of employment. However, employees who return to the same employer within one year of termination shall not have to complete an additional 90-day period to be eligible to take earned paid sick time.~~

**Commented [AT7]:** Committee: Consider the impact on seasonal employees. Consider reducing waiting period.

(b) Earned paid sick time shall not be automatically forfeited with the passage of time, unless the employer has a policy to pay the employee for any remaining sick time at set intervals of not less than one year.

~~1. However, employers may set a cap on the amount of earned paid sick time that an employee can accrue, which cap may not be less than X hours.~~

**Commented [AT8]:** Committee: For review

~~1.2. N~~However, nothing in this Article shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(c) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within ~~one year~~ ~~two months~~ of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

**Commented [AT9]:** Committee: Consider this change in the context of the 90-day exemption and renewing rights for seasonal employees.

(d) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(e) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(f) Any employer that has a paid leave policy that makes available an amount of paid leave sufficient to meet the accrual requirements of this section, and allows that paid leave to be used for the same purposes and under the same conditions as earned paid sick time under this ordinance, is not required to provide additional paid sick time. This exception applies regardless of how the paid leave is designated, including "sick leave," "paid time off," or otherwise. If an employer has a policy that does not distinguish between sick leave and other types of leave, the employer need not track the actual reasons for leave, so long as leave is available for the same purposes and under the same conditions as earned paid sick time

under this ordinance.

### Section 3. Use of Earned Paid Sick Time

- (a) Employees may use earned paid sick time for any of the following:
1. Job protected leave provided pursuant to the Maine Employment Leave for Victims of Violence statute;
  2. Leave for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventative medical care;
  3. Leave for care of a family member's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventative medical care; or
  - ~~4.~~ Leave to attend a school meeting [necessitated by the family member's health condition or disability; or](#)
  - ~~4.5.~~ Leave to attend ~~a~~ meeting at a place where a family member is receiving care necessitated by the family member's health condition or disability.

~~(b)~~ (b) Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

~~(c)~~ (c) If an employee uses earned paid sick time for an entire day or shift, earned paid sick time must be paid for the hours the employee was otherwise scheduled to work.

~~(d)~~ (d) Employees may not use more than 48 hours of earned paid sick time in a year, unless the employer selects a higher limit.

### Section 4. Procedures for Taking Earned Paid Sick Time

- (a) Earned paid sick time shall be provided upon the request of an employee.
1. An employer may not require more than five days' notice for an employee to use earned paid sick time, when the need is foreseeable.
  2. When the need for use of earned paid sick time is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and

circumstances of the particular case

3. An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.
4. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(b) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sicktime.

(c) For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by **Sec. X(a)(2)** through (a)(4). An employer may not require that the documentation explain the nature of the reasons for leave. However, nothing in this section shall be construed to limit an employer's rights with respect to documentation of leave allowed under state or federal law.

1. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.
2. If an employer requires documentation of the reasons for taking earned paid sick time, the employer is responsible for paying the employee's out-of-pocket costs for obtaining such documentation.

#### **Section 5. Exercise of Rights Protected; Retaliation Prohibited**

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Article.

(b) It shall be unlawful for an employer or any other person to retaliate against an employee for exercising his or her rights under this Article, including requesting or using earned paid sick time; filing a complaint or otherwise complaining about an employer's alleged violation of this Article; participating in an investigation or other proceeding under this Article; or informing others of their rights under this Article.

(c) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action. However, nothing in this Article shall be construed to prohibit an employer from taking disciplinary action against an employee who uses earned paid sick time for purposes other than those described in this Article.

(d) Protections of this section shall apply to any person who mistakenly but reasonably alleges a violation of this Article.

### **Section 6. Notice of Rights**

(a) Employers shall both display a poster notifying employees of their rights under this Article, and give employees written notice at the commencement of employment or the effective date of this ordinance, whichever is later. The poster and notice shall be consistent with this section.

(b) The notice and poster shall contain the following information: that employees are entitled to earned paid sick time and the amount of earned paid sick time; the terms of its use guaranteed under this Act; that retaliation is prohibited; that each employee has the right to file a complaint or bring a civil action if earned paid sick time as required by this Act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and the contact information for the City of Portland where questions about rights and responsibilities under this Act can be answered.

(c) The notice and poster shall be provided in English, Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole and any language that is the first language spoken by at least 5% of the employer's workforce, provided that such notice has been ~~provided~~ created by the City of Portland.

(d) The City of Portland shall create and make available to employers, in all languages spoken by more than 5% of the City's workforce and any language deemed appropriate by the City of Portland, model notices and posters meeting the requirements of this section. This requirement may be satisfied by posting the model notices and posters on the City's website and making them available for download.

(e) The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.

(f) An employer who willfully violates this section shall be subject to a civil fine

in an amount not to exceed \$100 for each separate offense. Each day that an employer allows a violation of this section to continue shall be a separate offense.

### Section 7. Recordkeeping Requirements

(a) Employers shall retain records documenting hours worked by employees and earned paid sick time earned and taken by employees for a period of six (6) years.

(b) Employers shall allow the City of Portland access to the records required by this section, with appropriate notice and at a mutually agreeable time.

(c) When an issue arises as to an employee's entitlement to earned paid sick time under this Article, if the employer has not maintained adequate records required by this section, or does not allow the City of Portland reasonable access to such records, it shall be presumed that the employer has violated this Article, absent clear and convincing evidence otherwise.

### Section 8. Enforcement

(a) Enforcement.

1. The City Manager or his/her designee shall enforce the provisions of this ordinance.

~~2. The City Manager shall adopt rules and regulations for the proper administration and enforcement of this ordinance.~~

(b) Complaint Process

1. Any Employee, ~~including, but not limited to, a Service Employee,~~ alleging a violation of this ordinance may file a written complaint with the City Manager's office.

2. The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.

3. If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, three times the amount of any back wages withheld and the payment of not less than \$100.00 to the employee as a penalty for each day that a violation of this chapter has occurred. If a violation occurred but did not result in wages being withheld, such as in the case of an employee who worked after being unlawfully denied permission to use earned paid sick time, appropriate relief shall include an

additional amount of two times what the employee was paid.

4. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

1. Any Employee, ~~including, but not limited to, a Service Employee,~~ the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Such action may be brought by a person aggrieved by a violation of this section without first filing a complaint with the City Manager. Actions brought pursuant to this section may be brought as a class action pursuant to the laws of Maine.
2. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.
3. Where applicable, remedies shall also include equitable relief, including reinstatement and back pay, and injunctive relief.
4. The City of Portland shall annually report on the City of Portland website the number and nature of the complaints received pursuant to this ordinance, the results of investigations undertaken pursuant to this ordinance, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this ordinance, and the average time for a complaint to be resolved pursuant to this chapter.

### **Section 9. Confidentiality and Nondisclosure**

If an employer possesses health information or information pertaining to domestic violence, sexual assault, harassment or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee, with the permission of the affected employee, as required for the administration of the leave, or as otherwise required by law.

### **Section 10. Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws**

- (a) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the

one required herein.

(b) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any law, regulation, contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

### **Section 11. Public Education and Outreach**

The City of Portland shall develop and implement a multilingual outreach program to inform employees about the availability of earned paid sick time under this ordinance. This program shall include the distribution of notices and other written materials in English, and well as Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers.

### **Section 12. Regulations**

The city manager, or his or her designee, shall be authorized to coordinate implementation and enforcement of this Article and shall promulgate appropriate guidelines or regulations for such purposes.

### **Section 13. Severability**

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

### **Section 14. Effective Date**

This Act will take effect on July 1, 2018.

**Commented [AT10]:** Committee: Consider delay in implementation to allow businesses time to comply.