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Article 22. Safety – Sanitation

22.1 The City will exert every reasonable effort to provide and maintain safe working conditions and equipment, and the Unions will cooperate to that end, encourage members to work in a safe manner and support the City when discipline is reasonably required in the case of safety regulation violations. The willful violation of any State or Federal safety law by an employee shall be cause for disciplinary action or discharge.

22.2 **Safety Committees.** ~~The parties recognize~~ ~~The parties will encourage their members to work in a safe manner,~~ ~~will support efforts to change unsafe work habits of employees and recognize~~ that disciplinary action may be imposed for just cause in matters involving violations of safety rules and procedures. To that end safety committees shall be established within the various operations of the City. Each committee shall be composed of a minimum of five (5) representatives, two (2) representatives designated by the City, two (2) by the Unions represented in the work unit(s) covered by the committee, and a fifth picked by the four (4) representatives. Each union represented by a committee will be afforded a minimum of (1) membership position. Structure and membership of the Safety Committee shall be in compliance with applicable State and OSHA regulations; namely safety committee memberships may be expanded appropriately for the size of the work unit and to accommodate all unions represented, however no more than 50% of membership shall be management or management designees. The committee shall assist, make recommendations to and cooperate with a safety representative of the City, who shall be an ex-officio member of such committee. The employees designated for this committee shall be employees who have knowledge of practices of the operations and who have worked for the City a minimum of one (1) year. The functions of such committee shall be advisory only. Committees in the City's maintenance and field operations work units shall meet once a month with minutes of meeting prepared by management and a copy thereof furnished to the Unions Other committees shall meet as necessary. Committee members shall serve a term of one (1) year or until replaced, but may not serve more than five (5) consecutive years.

22.2.1 Each month each manager or supervisor in a maintenance or construction operation shall hold a safety meeting with their crews. The manager or supervisor will report on the action or disposition of any recommendations or complaints of the safety committee that would have an effect on the employees.

22.3 All work performed by the employees shall be governed by the provisions set forth in the Oregon State Safety Codes.

22.4 The City will keep its vehicles, equipment, and machinery in safe condition. No employee shall be allowed to operate any vehicle, equipment, or machinery known or that the employee should have reasonably known to be unsafe. ~~which does not comply with the Safety Codes or the Laws of the State of Oregon.~~

22.5 **Reporting Unsafe Conditions or Equipment/Machinery.** Any employee who believes that any working condition or equipment/machinery is unsafe shall immediately be placed out of service and call it to the attention of their supervisor. The supervisor shall immediately discuss the matter with the employee and try to arrive at a mutual agreement as to whether

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or not an unsafe condition exists. If unable to reach a mutual agreement on the matter, the supervisor may make a decision on the matter. However, if the employee is not satisfied with the decision, such employee shall be allowed time to telephone the City's Safety Officer and if they are unavailable, the Workers' Compensation Board and/or the Occupational Safety and Health Administration, to request an immediate investigation of the matter.

- 22.6 No employee shall be disciplined for refusal to violate the Safety Codes or the laws of the State of Oregon or to follow a supervisory directive where the employee reasonably believes direct bodily harm would result.
- 22.7 The City shall furnish on all temporary work sites sanitary facilities or shall provide transportation when available.
- 22.8 Any condition which the Unions believe a violation of reasonable sanitation practices may be taken up through the grievance procedure at Level Two (Article 35.3.5).
- 22.9 **Personal Clean Up Time.** Employees required to work in and around biohazards, sewage or garbage and others required to work in live sewers shall be allowed adequate time to wash or shower and change their clothes prior to the end of their work shift on paid time. Any clothing furnished such workers by the City shall not be worn home nor away from a permanent job location. Other employees shall be allowed necessary time for personal clean-up prior to the end of the shift. The City shall furnish waterless cleaner and towels when it is necessary for employees to clean up, and when soap and water are not available.
- 22.10 **Ventilation.** Where noxious or poisonous gasses may accumulate, the City shall provide proper protection and ventilation. Proper lighting and ventilation shall be provided for all enclosed working spaces. All work in enclosed and confined spaces shall be performed in accordance with applicable Federal, State, and local regulations. Spray painting shall be done only by qualified painters.
- 22.11 No employee shall be allowed to work alone in a situation in which working alone is hazardous. In the determination of whether it is hazardous to work alone, the City's Safety Representative and the Unions in the operation involved, shall meet to discuss, and arrive at a mutual decision as to what constitutes such a hazardous condition when the question arises.
- 22.12 The City shall provide a traffic-safe outer garment to employees required to work in streets open to traffic.
- 22.13 **Safety Apparel and Equipment.** Each employee shall be required to wear such safety and protective apparel and devices as furnished by the City. Employees shall be instructed as to the safety apparel and/or equipment required for the work to be performed and the proper use thereof. In order to efficiently distribute job related safety equipment and to encourage individual employee responsibility, each bureau, with Union ~~DEU~~ input, shall set work group standards as to what schedule and in what quantity it shall be issued.

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22.13.1 The bureau will ~~meet~~ ~~have an initial meeting~~ with the Union on proposed changes from current practice. At that meeting the parties agree to meet up to an additional two times within 14 calendar days, or such other schedule as is mutually agreeable. The discussions shall be limited to quantity and frequency of items issued. If the parties are unable to reach an agreement, the unresolved portions will be referred to the first available local Metropolitan Portland area arbitrator supplied by the State Employment Relations Board. The parties shall equally share the costs of the arbitration. The arbitrator shall issue a bench decree after a hearing of no more than two hours in length that is the final offer of one of the parties. The decree shall be final and binding. Attorney advocates shall not be allowed as representatives.

22.14 Drivers/Commercial Driver's License. The parties agree that an employee should only operate a City of Portland motor vehicle with a valid driver's license. An employee who is required to have a valid driver's license as a condition of employment, and who loses their driving privileges must report their driving status to their supervisor by their next working day.

22.14.1 An employee who receives a citation (including a parking citation) while operating a city vehicle, shall report the citation to their supervisor by their next working day. The parties agree that the employee is responsible for payment of any fine(s).

22.14.2 Operating a city vehicle without a valid license, failing to report the loss of a license in a timely manner, or failing to pay any fines related to a citation received while operating a city vehicle within a timely manner may subject employees to disciplinary actions.

22.14.3 CDL Premium. A premium of 3% shall be applied to the base wage of all hours worked for those who maintain the Commercial License (CDL) with all the required endorsements, as determined by the Bureau and perform duties of a commercial driver for the City as needed. Employees who receive the premium must also participate in the City's CDL drug testing program to utilize their CDL for city work assignments.

22.14.3 Loss of Driving Privileges

- (A) **First Occurrence.** On the first occasion when an employee, who is required to have a valid driver's license as a condition of employment, reports driving privileges suspended, revoked, cancelled or restricted ~~a lack of a driver's license~~, the employee will be accommodated in a non-driving assignment in the same or lower job classification for thirty (30) calendar days. If the employee does not regain a valid, unrestricted ~~have a~~ license at the end of the thirty-day accommodation period, the bureau may transfer the employee to a non-driving assignment in the same or lower job classification or lay off the employee, at the bureau's sole discretion. If the employee receives a valid, unrestricted license within ninety (90) calendar days after the loss of the license, the employee will be returned to work. If the employee receives a valid, unrestricted license after ninety (90) calendar days after the loss of the license, the employee will be subject to recall under the provisions of Article 14. The bureau will, at the request of the employee, provide the employee with a letter that verifies the employee's work location and schedule for the purpose of providing the employee with necessary documentation to obtain a Hardship Permit ~~an occupational license~~. If an employee obtains a Hardship Permit ~~an occupational license~~, the City's Risk Manager will review and

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determine whether to allow the employee to operate a vehicle for City business purposes.
~~continue to operate city vehicles.~~

(B) **Second Occurrence.** If within three years from the first incident of driving privileges being suspended, revoked, cancelled or restricted~~loss of a license~~, an employee again reports their driving privileges being suspended, revoked, cancelled or restricted, ~~a lack of a driver's license~~, the employee may be accommodated in a non-driving assignment in the same or lower job classification or may be laid off at the bureau's sole discretion. Upon receipt of a valid, unrestricted driver's license, the employee will be subject to recall under the provisions of Article 14. If an employee obtains a Hardship Permit~~an occupational license~~, the City's Risk Manager will review and determine whether to allow the employee to continue to operate a vehicle for City business puposes.~~city vehicles.~~

(C) Reporting the loss of a license shall have no bearing on whether there is just cause for discipline.

22.14.4 **Loss of CDL Medical Certification.** The following sub-articles are intended to apply to temporary disqualification of CDL holders due to the temporary loss or lapse of medical certification caused by a medical condition that is difficult to regulate, and the temporary disqualification is beyond the employees' ability to control. When employees are unable to maintain medical certifications under such circumstances, the parties agree to treat the affected CDL employees as follows:

22.14.5 **Lack of Knowledge/Active Management Initial Thirty (30)-day Accommodation.** Where an employee has not been medically diagnosed or otherwise informed of a CDL medical certification-impacting medical condition, or where an employee can establish that they are engaged in active and affirmative efforts to manage their CDL medical certification-impacting medical condition, and where the employee's medical certification lapses or is otherwise lost for no more than thirty (30) days, the employee will be accommodated by not being assigned CDL-vehicle operation duties for thirty (30) calendar days. In such instances, although a record may be kept of the lapse or loss, there shall be no adverse employment action or other prejudice related to or based on the lapse or loss.

22.14.6 **Extended Initial Accommodation.** If the employee does not have a valid and current medical certification at the end of the thirty (30) day initial accommodation period, and if the bureau can continue to provide placement in an assignment where CDL-vehicle operation duties can be temporarily avoided without adverse impact to the bureau efficiently completing its scheduled work, the employee shall be assigned accordingly. If at any point after thirty (30) days, however, continuation of the same or other accommodation cannot be made without adverse impact, the bureau may transfer the employee to another assignment in the same or lower job classification or may lay the employee off. If transfer is made to an assignment in a lower job classification, the employee shall be temporarily demoted until reassigned in their previous classification with no loss of seniority.

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- 22.14.7 **Regaining Certification/Failure to Obtain.** Affected employees, who regain their medical certifications before the expiration of ninety (90) days from the date of the lapse or loss, will be reassigned to their regular classification. A record of the lapse or loss may be kept; in instances where the employee is actively seeking to obtain medical certification following lapse or loss, such lapse or loss may not be considered for future discipline, but in instances where the employee has failed to actively seek recertification, the lapse or loss may be referred to and relied on in the event of a subsequent like instance of failure to actively seek recertification occurring within three (3) years of the prior instance. After ninety (90) days without a valid and current medical certification, a laid off employee will be subject to the recall provisions of Article 14 provided they meet the eligibility requirements under the federal regulations.
- 22.14.8 **Subsequent Loss or Lapse of CDL Medical Certification.** If an employee who has had a lapse or loss of more than thirty (30) days before obtaining valid and current medical certification subsequently obtains medical certification in their next certification cycle without lapse or loss, or with a lapse or loss of not more than thirty (30) days, their prior lapse or loss of more than thirty (30) days may not subsequently be relied upon as a basis for subsequent adverse employment action. If, however, an employee has a second consecutive lapse or loss of more than thirty (30) days, they may be laid off at the bureau's sole discretion.
- 22.14.9 **Lack of Proof of Active Management Initial Thirty (30)-day Accommodation.** Where an employee has been medically diagnosed or is otherwise aware of a CDL medical certification-impacting medical condition, and where the employee cannot establish that they are engaged in active and affirmative efforts to manage their CDL medical certification-impacting medical condition, the employee will be accommodated for a medical certification lapse or loss of no more than thirty (30) days by not being assigned CDL- vehicle operation duties for thirty (30) calendar days. In such instance, however, a record of the lapse or loss shall be permanently retained and may be the basis of subsequent adverse employment action.
- 22.14.10 **No Extension of Accommodation.** At any point after thirty (30) days, the bureau may transfer the employee to another assignment in the same or lower job classification or may lay the employee off, at the bureau's sole discretion. If transfer is made to an assignment in a lower job classification, the employee shall be temporarily demoted until reassigned in their previous classification with no loss of seniority.
- 22.14.11 **Regaining Certification/Failure to Obtain.** Affected employees, who regain their medical certifications before the expiration of ninety (90) days from the date of the lapse or loss, will be reassigned to their regular classification with no loss of seniority. Affected employees who fail to obtain a medical certification after ninety (90) days will be laid off. Employees who are laid off will be subject to the recall provisions of Article 14.

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22.14.12 If, however, an employee has a second lapse or loss within four (4) years where the employee cannot establish that they are engaged in active and affirmative efforts to manage their CDL medical certification-impacting medical condition or has a second lapse or loss of more than thirty (30) days within four (4) years, they may be laid off at the bureau's sole discretion.

22.14.13 **Hazardous Materials.** Employees required to handle hazardous materials in the course of their employment, shall receive instructions as to the safe procedures for the handling of such materials, in conformance with State and Federal regulations.

22.14.16 **Parking.** Employees reporting to work in person will be reimbursed for up to four (4) parking passes per pay period at City garages and City Smart Park locations.

22.14.17 **Atypical Work Incidents and Trauma Training.** The City will offer training for all staff work to incorporate Trauma Informed Care training for all staff to assist employees who experience a traumatic event at work in processing the event and giving management feedback after an incident.

Administrative Leave will be granted for up to three (3) days to provide physical, emotional or psychological support in response to an atypical and rare incident that occurs while the employee is at work, and when the incident temporarily and significantly interferes with an employee's ability to perform their normal job functions. Bureau Directors shall not extend this type of paid administrative leave beyond three days. This type of paid administrative leave is subject to supervisory discretion and may or may not be granted in response to atypical work incidents. When granted, it must be taken immediately following the circumstances necessitating such leave.

22.2 **Pregnancy Accommodation.** If during the first seven (7) months of pregnancy, a pregnant employee presents supporting medical evidence, the City on request will attempt to make reasonable accommodation regarding available work within the employee's classification for a period not to exceed sixty (60) days.

22.3 **Reasonable Suspicion of Drug or Alcohol Use.** For the purposes of determining Reasonable Suspicion the City prefers two supervisors observe and document behavior, however, if two are not available then one supervisor may take action.

22.3.1 For purposes of this Article, the following definitions apply.

- (A) Reasonable suspicion: a legal standard of proof that is less than probable cause, but more than a "hunch." It must be based on specific, contemporaneous, articulable observations
- (B) by a trained manager or supervisor concerning the appearance, behavior, speech, or body odors of an employee.
- (C) Alcohol: colorless, volatile, and flammable liquid that is the intoxicating agent in

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fermented and distilled liquors. Includes, but is not limited to, beer, wine, and liquor.

- (D) Drugs: any controlled substance included in ORS 475.005, including marijuana, or prescribed drugs which have not been legally obtained or are not being used for the purpose for which they were prescribed.
- (E) Drug paraphernalia: any item which is clearly intended for use for the administering, transferring, manufacturing, testing, or storing of a drug.

22.3.2 The City reserves the right to determine whether reasonable suspicion exists. Only managers and supervisors trained in the signs and symptoms of drug and alcohol use may refer employees for reasonable suspicion testing. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to, direct observation of any of the following:

- (A) on-duty use or possession of alcohol;
- (B) on-duty use or possession of drugs or drug paraphernalia;
- (C) on-duty odor of alcohol;
- (D) on-duty physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, slurred speech, poor coordination or reflexes);
- (E) on-duty indications of chronic and/or withdrawal effects of alcohol or drugs;
- (F) pattern of abnormal conduct, erratic behavior or deteriorating work performance which can be reasonably attributed to alcohol or drug use.

22.3.3 Where the City has reasonable suspicion to believe that an on-duty employee possesses or is under the influence of alcohol or drugs, including marijuana, the City may require that the employee immediately consent and submit to a urine and breathalyzer test. The City shall pay the cost of the tests, and employees will be paid for time spent in the testing process. A refusal to consent and submit to such tests shall subject an employee to discipline up to and including termination. Refusal to consent and submit means:

- (A) refusing a directive to submit to a required test;
- (B) inability to provide a urine specimen or breath sample without a valid medical reason confirmed by a physician;
- (C) tampering, adulterating, or substituting a specimen or any other attempt to defeat or obstruct an alcohol or drug test;

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(D) leaving the collection site before the testing process is complete;

(E) failing to permit an observed collection when required;

(F) failing to submit to a second test when required;

(G) failing to undergo a medical evaluation when required;

(H) failing to cooperate with any part of the testing process.

22.3.4 When an employee is notified that testing is required, the employee may request the presence of a Union representative. Testing may not be delayed for more than 15 minutes in order to wait for a representative. The absence of a representative shall not be grounds for the employee to refuse to consent and submit to testing. The presence of a representative shall not disrupt or interfere with the tests.

22.4 For purposes of drug testing, the City will use the Department of Transportation concentrations described in Rule 49 CFR Part 40 Section 40.85. The parties recognize that urinalysis testing for marijuana metabolites and THCA does not provide conclusive evidence of employee intoxication at the time of the test.