



Health & Human Services and Public Safety Committee

Tuesday, January 8, 2019, 5:30 PM
Council Chambers, 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 November 27, 2018
 - a. November 27, 2018 HHS & Public Safety Committee Draft Meeting Minutes
3. Potential 2019 Committee Workplan and Goals
 - a. Potential Workplan and Goals
4. Earned Paid Sick Leave
 - a. Public Comment
 - b. Committee Discussion & Next Steps
5. Next Meeting: January 22, 2019
Homeless Services Center

NOTE: 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/DocuementCenter/View/1184>

The meeting can be watched online via livestream: www.portlandmaine.gov/livestream

Keep up to date with the new shelter design and planning process at the City's website

www.portlandmaine.gov/shelterplanning



Health & Human Services and Public Safety Committee Minutes

Tuesday, November 27, 2018, 5:30pm, Council Chambers, 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) Nick Mavodones (At-Large)

City Staff: City Manager, Jon Jennings; Assistant City Manager, Michael Sauschuck; Director of Health and Human Services, Dawn Stiles; Director of Social Services, David MacLean; Former Director of the Oxford Street Shelter, Rob Parritt; Executive Assistant, Adam Harr

AGENDA ITEM 1 – Announcements

After a partner agency presentation, Chair Ray announced that people in attendance can voice their opinions during public comment and to refrain from applauding or booing what is said during presentations or public testimony.

Public Comments should be limited to the topic at hand.

AGENDA ITEM 2 – Approval of Minutes

Chair Ray entertained a motion to approve the minutes from the November 13, 2018 meeting; Councilor Ali seconded and the motion passed unanimously.

AGENDA ITEM 3 – Homeless Services Center

City manager Jon Jennings thanked the City staff, community members and partners, the Committee and Councilor Batson for representing his district while working collaboratively.

During this meeting:

- Possible vote on shelter model
 - o For that reason, a public hearing is planned.
- Two Community Partners programs
 - o Avesta
 - o The Opportunity Alliance



- If the model proposed tonight is adopted, City staff's recommendation for the best location is no longer the Baron Center Campus.
 - The decision is still the committee's and full Council's

Homeless Services Model

Future of Homeless Services in Portland

- Assistant City Manager Michael Sauschuck
 - This process is not complete, including if there is a vote
 - 821 unduplicated clients in one year
 - 286 are 55 or older
 - 160 males and 40 female shelter guests per night
 - Model suggestion is 150 beds plus specialty beds/Partner locations
 - Avesta
 - 15 bed assessment center
 - 36 Unit Assisted Living Facility
 - 30 Unit Housing First Development
 - Next steps could be assisted living, Baron Center,
 - Opportunity Alliance
 - 15 treatment beds for homeless adults living with a major mental illness and who may also have a substance use disorder
 - Has partnered with the police dept. on mental health issues
 - Trauma informed treatment and support
 - TOA and Avesta will work with the City to establish a direct referral process into these programs and services.
 - Integrated with collaborations such as the Long-Term Stayer Initiative
 - Housing First is working in the community
 - Logan Place
 - Huston Commons
 - Looking to maximize space and resources
 - Financial Model
 - Clarified the Barron Center is not a proposed location in this cost estimate;
 - Barron Center will expand its food operations to supply food to the shelters as the shelters themselves will not have kitchens
 - Additional Partner Documentation from
 - Avesta
 - TOA
 - Preble Street
 - Policy Guidance
 - Waiting for final guidance from Corporation Council (informed by HUD and MaineHousing policies)



- Donna Yellen, Acting Executive Director of Preble Street: Specialized Women's Shelter Proposal (Draft Document)
 - Low barrier shelter for women
 - Specializing in services for women experiencing substance use, domestic violence and behavioral health issues.
 - Accommodate women currently staying at OSS and an expanded local continuum of Care.
 - Up to 80 beds, based on need.
 - Partnership aid need
 - City to provide free land
 - Financial support
 - Exploring federal and state funding streams
 - Still a draft proposal as yet approved by the Preble Street Board.
- Mayor Strimling asked what the timeline would be for construction to be completed:
 - Firm timelines are difficult but after approval all processes would likely start concurrently but each will have their own logistical timelines.
 - Mike Tarpinian, president and CEO of The Opportunity Alliance: TOA's Bridge would likely take 12-18 month range.
 - Dana Totman, President and CEO of Avesta: Avesta would take about a year due to permitting.
 - Preble Street project would be about two years.
 - The City's timeline will depend on location and existing construction, but a new construction would likely mean a 12-18 month timeline
- At approximately 6:06 PM Chair Ray opened the floor for a public hearing, reminding those in attendance:
 - Public comments should stick to the Shelter model
 - Are limited to 3 minutes
 - Chair Ray will stand when the speaker has 30 seconds left
 - Audience remains silent
 - Questions will be noted and answered at the end of the comment period
- Jake Niles – Portland: Thinks we are heading in the right directions, current city policy guidelines to geographic origin and hard caps. There are no statutes prohibiting restrictions. The 3-model budget last meeting was for 3 city run shelters. Poverello center in Montana: it makes more sense for one city run shelter. 150 beds would be the largest per capita city-run shelter in New England.
- William Higgins - High Street resident. A rush to judgement on one center versus three will have one center to not be fair to one district. Having a center on the peninsula would help people seeking employment. There is an opportunity with the new administration to seek legislation to fund shelter beds.



- Cullen Ryan, CHOM – Most people are circumstantially homeless. Housing those staying longest to shortest is the right approach. It is better to plan for the worst with adequate capacity. One center is better than multiple shelters. One shelter done right, made bigger than needed will help make more efficient housing operation and shelter. An overcapacity shelter slows down the housing operation. It is wise to build a shelter to insure it will meet the need.
- Bob Fowler, Executive Directive of Milestone Foundation, shelter and program for people experience homelessness and substance use. Milestone supports the efforts to better serve this population.
- Jordan, Cook at Bull Feeney's grew up in Portland and cannot afford to live in the City anymore. Many people at the shelter should be in a healthcare facility. He has experienced struggle and has been priced out of the neighborhood he grew up in. The bathroom is one at a time, causing a homeless veteran to soil himself while waiting for the urinal.
- Cecelia Smith – Is excited for the TOA and Avesta proposed projects as well as the Preble street project. She is concerned a single shelter being opened that has over 100 beds is a mega shelter, citing NYC limits shelters to 100 beds. She would like the council to explore creative ideas to address the lack of affordable housing, such as fees from air bnb units or tiny houses. She would also like engagement from the religious community.
- Sarah Michniewicz – Speaking for herself, not the bayside neighborhood association. She supports the single site center as that is what the service providers serving the population support as the best model and is what the full council would support. Any other model is an attempt to delay. The Oxford Street Shelter is not adequate and cannot be upgraded to meet those needs. The City staff have proposed smart single site models, now adding community partner projects to maximize city resources. She encouraged the committee to choose partners carefully and to hold them to a high standard. There will be opportunity to correct the course but only if you continue to keep moving forward.
- Mike Best – Thanked the Council to look into all these options; taking the Baron center off the table makes him happy but not at the expense of another neighborhood getting a 150-bed mega shelter. Wishes the nonresidential areas would be considered.
- Adalarge Fleetwood – If you don't want a 150-bed shelter, stop offering services and shelter to individuals from other states. He has been in the state for 5 months to be with his kids. There are not enough resources for people experiencing homelessness, leading to the suicide death of a woman. He is homeless and works hard. Regardless of the size of a shelter, if there are not adequate resources, people will remain in homelessness.
- DeeJay Beers is new to Portland from Daytona Beach, Florida. He has a section 8 voucher that he can't use because of the housing shortage. No shelter would accept him or his cat. He has been on the street and has been sleeping in a tent, leading state troopers to hack at his tent with him inside it, giving him a concussion. He liked the suggested programs but the numbers are too low and wants more shelters, not a single mega shelter. He moves into his apartment in December.



- Michael Stockmeyer – 19 Portland Street– He has an apartment that is too expensive but it is better than being homeless. He stayed in the Oxford street shelter and had a good experience. He does not support a one stop shop mega shelter, citing the NYC 100 bed limit ordinance. He thinks there should be two fair sized shelters with access to businesses.
- George Rhault, Bayside Resident – He is against a single large shelter. Preble Street in 2014 proposed an honest 300 bed single site solution. The BNA and City did not support it as it concentrated problems. He recalled that people accessing peer support at Amistad do not like going to the Preble Street Resource Center large day room. Service Providers such as CHOM, Avesta have developers financially benefitting from such moves.
- Sherril Harkins, HVJ and SHC – Homelessness is rising despite the increase of vouchers including families and people with substance use and mental health disorders, and disabilities. People are othered and shunned, unable to relieve themselves; people with medical issues sleep in parking garages because the shelter is not accessible. People in neighboring towns and cities that don't have shelters have to send them to the closest shelter. That is in Portland. We must end the "not in my back yard" mentality HVJ is open to collaborating, please include us.
- Steven Williams – Has not heard in the plans the acknowledgment that many people are from away and that this is a state and national problem and should not just be the responsibility of Portland tax payers. He is relieved the Barron Center proposed location. He reiterated this must be done with the cities sending people to our community.
- Jane Drew – HVJ: The shelter at OSS isn't working and HVJ fears that another single large shelter will not serve the different populations well. She is not pro-segregation but thinks with will be more efficient to have smaller shelters with specializations. New shelters must be completely accessible including easy access to public transportation. It is more important to have access to equal justice: who will be eligible to stay and receive services at the new location? Each representative has stated that anyone who needs shelter will receive it, HVJ is worried that this will change, leading to people being turned away and dying from exposure. People experiencing homelessness are who will be affected, and should be involved. People experiencing homeless are telling the committee and council that they want to be heard; don't hide us, include us.
- Sean Murphy Several small- versus one shelter. In 2012 the ending homelessness taskforce suggested smaller housing units for various demographics and a referral center. Several Smaller units could be added or taken out over time. The city has been working on a single-site model and it's not working. He does not want to choose a model but to move forward with a new option.
- Jenny Stasio – Through These Doors. TTD supports this process.
- Brian Townsend ED of Amistad – He is thankful that this has remained a priority issue. He noted confusion on the comments made about the Amistad board of directors. He has received consistent feedback on the single site model: safety, support/assistance, and effective links to housing. No feedback has indicated that the size of the shelter hasn't



made them feel more or less safe, the services more or less effective or that it would reduce housing. Amistad would be stretched thin working with one shelter and would not be able to serve multiple shelters.

- Carolyn Silvius – HVJ would like Collaborative planning, eligibility, and accessibility. Collaborative planning, not all members of the committee were available on a planned September 10th meeting date and no new meeting were planned since then. Eligibility: The City position has always committed to providing shelter to those who need it. HVJ fears that the City will walk away and cause the deaths of people who are not long time Portland residents. Accessibility: the time waiting for large bus commutes can be barriers to making appointments. Shelters are where people are temporarily residing and should be in residential areas. People should not be hidden and subjected to
- Channing Cambuchino – supports smaller shelters and integrating all people. She asks that if the smaller shelter model is accepted that the committee consider how many services already exist in an area and to please consider balance.
- Maya Lena President of Nason's Corner – Nason's Corner residents were not consulted during the planning and have unanswered questions: what would the overflow capacity be, how would it work in a residential neighborhood, these questions apply to any shelter in a residential setting. Shelter planning taskforce in 2015 looked at smaller shelters, not the proposed large model. What location in the city would best serve people experiencing homelessness?
- Shawn Erwin Supports a single shelter; it is efficient. There is already a multi shelter model across the city. The intake needs with the city are best served by a single site. The Current system is in crisis, more research isn't needed, rather the political will to move forward with the consensus model that's been reached. He thanked the councilors for working to solve these problems.
- Todd Henry or Pinecrest Rd.– No political appetite to change intake process. Encourages council to analyze shelter eligibility.
- Dennis Parante is in favor of single shelter model for financial reasons and to achieve balance with the multiple shelters already in the city. He cited the 150-bed crossroads shelter in Portsmouth that appears to be successful.
- Debra Morvit – is from away. She is in her 80s and has a sharp mind and perspective to share including stays at two shelters in Portland. Homeless Services in Portland have not asked the guests and community. She is an artist and advocate with HVJ. She engages with all types of people including the children and adults in shelter. She recalled pearl harbor and the turning point in history, recognizing the turning point we find ourselves in today. Every time she is seeming to get ahead, a setback pops up; theft, age discrimination, etc. It is not an equation of how many and how much, but what do individuals need as people. Wants a security CCTV system to prevent theft.
- Lynn Denight – She has lived in Portland for 8 years and is now homeless due to political evictions/gentrification. She has a housing choice voucher but is priced out of the community. The rental prices are too high to work with her voucher. One was called a



luxury apartment at \$1,400 a month for rent. She is literally homeless, not knowing where she will sleep tonight. Landlords increase rents up the maximums possible, evicting and pricing people out and into the shelter or to sleep outside.

- Frank D'Alessandro PTLA – Rental Housing issues, 1,400 cases in Portland. The number of beds will be inefficient without addressing the lack of affordable housing in the city. People with housing vouchers remaining homeless. Please explore the possibility of restoring state funding. The talks of residency for cost savings; there is no evidence to support that people are coming to Maine to take advantage of our generosity. A hard cap in the number of beds to serve homeless people does not mean that people will be ineligible for General Assistance, meaning the alternative required of the city may be more expensive than the shelter. Residency requirements are unconstitutional. He implores the council to instead invest in creating more affordable housing.
- Brett Gabor of Frederick Street – thinks the council is moving in the right direction with the partner model but is worried about the larger shelter model. Is afraid that the larger shelter will be harder to manage vs smaller shelters. He wants to see more programs like Logan Place.
- Norman Maze, Deputy Director of Shalom House – Understanding the concerns, they do not support smaller specialty city-run shelters. They support the added residential treatment beds and assisted living projects. The city already has five specialty shelters. Residential treatment allows people to exercise their freedom. Any Homeless Services Center would demonstrate that the City does not hide its homeless neighbors but provides a safe place to stay temporarily as they get back on their feet.
- Laura Cannon of Paris Street - She thanked the councilors, committee and full council and city staff working on this initiative. 2012 taskforce centralized location process with collocated services, six years later community partners still support this. She encourages a vote tonight to enable such possibilities rather than prescribing them. Building a new facility is a step addressing the complicated problems of homelessness the city of Portland is obligated to residents in ways that private entities are not. She hoped that the committee will move forward with a vote on a single facility.
- Bod Shiabul of Birchvale Drive - He became a resident of Portland in July. In late September during the committee meeting he heard the committee consider evidence a different city owned model may be better. His friends told him it was politics. He said he has only heard anecdotes not evidence. He asked to see evidence-based arguments.
- Gloria Sklar wants to hear from the right people, HVJ members feel like they haven't been engaged and want rigorous evidence from consumers. She reiterated that emergency homeless shelters cannot be talked about without looking at the root causes. Preventative measures would look at affordable housing and the opioid crisis. Why does HVJ feel unheard and will the committee look at root causes of homelessness?
- Dick Farnsworth of Old Mast Road and State Representative of House District 37 – Thanked the committee for hearing the issues of this complex problem. It is important to understand the diversity of the population talked about. It is difficult to have a single



solution and it is important to have an open mind. This is not a Portland problem, it is a statewide and national problem. The Portland delegation recognizes this. They would like to work with the Council and other communities to provide the resources needed for opioid treatment, mental health treatment to meet consumer needs and to develop housing, not just emergency shelter. He wished the committee good luck.

Public comment closed at approximately 7:35 PM

Questions asked of the committee:

- Overflow capacity in 150 bed model: there would be a flexible space in the shelter that would be used to keep people inside. Referrals to milestone and the hospital would continue.
 - Building to our need is unique.
- Housing: OSS is a referral-based housing program that houses several hundred people out of the shelter each year.
 - Lack of affordable housing in this and surrounding communities is a major component of the problem.
 - OSS follows all laws permitting service and companion animals; pets are not allowed.
 - Accessibility: people are not turned away and many guests with disabilities are staying in the shelter.
- A law prohibiting shelters above 100 beds in NYC does not exist; a 200-bed shelter was opened recently.
- HVJ has been invited to the meetings but have chosen to only attend two meetings.
 - Assistant City Manager Sauschuck will continue to invite and reach out to them.
 - Councilor Ali will continue outreach.
- Councilor Batson was disheartened with the comment equating instilling eligibility restrictions to killing people.

Committee Questions

- Counselors Ali asked about the numbers given from Preble Street; they are looking to open an 80-bed shelter.
- Councilor Batson: City Guidance on the correct number of beds and will be ongoing with input.
- Chair Ray wants to make sure there is adequate capacity as it is much easier to repurpose and scale down than to scale up.
 - Very interested in Preble Street opening a women's shelter
 - The City shelter should not consider gender due to not being able to stay with opposite sex partners leading to them sleeping out.
 - Prospects of partner projects makes 150 more comfortable
- How comfortable are each organization using their current funding situation to create these proposals and their thoughts on longevity?



- o TOA: Bridge has existed for a long time and is expected to be paid by MaineCare and the hope is that the single adults without children who used to be eligible for MaineCare will regain access under the new administration.
- o Avesta: Avesta's oldest assisted living development was created in 1854 with other projects created in the 90s and 2000s. They have survived through changing finances and were created with loans that are only given if they have the money to sustain their projects for 30 years. They are optimistic that this model looks similar to successful ones.
- o Preble Street is a private non-profit organization. Most financially secure with a 50% private, 50% publically funded model. Public funding from federal, state, and county streams combined with private sources with an active board looking to not initiate projects without being able to sustain it.
 - Councilor Batson asked for information on the curtailing of services
 - Single adults do not have much funding unless they also are part of a special demographic: victims of trafficking, veterans, etc.
 - It would be the least harmful cut to reduce day shelter hours because Oxford Street serves single adults and expanded its operations into day shelter for its guests.
- o There is not an additional tax burden to the resident of the city of Portland
- Mayor Strimling asked Dana Totman if about turnover at Avesta's assisted living project. There is turnover due to the frailty of residents, some pass on. Residents must demonstrate deficits in daily living activities to qualify, if progressed residents will move on to nursing facilities.
 - o More likely the blend of funding sources may change.
- Mayor Strimling asked about TOA's bed cap
 - o 15 because 16 or over initiates prohibitive regulations.
 - o Immediate assessment and transition plan
 - o Directly linked to shelter, first offered to qualifying OSS guests.
 - o What would prevent TOA from having 17 bridge programs?
 - Neighborhood resistance makes it not an easy solution
 - Medicaid pays for 85% of the cost;
 - The remaining 15% is about \$180,000
 - Who will pay for the room and board
 - The recent environment in the state discouraged new buildings/programs.
 - Narrowly focused programs can be very effective leading to efficient turn around.
 - o How many people could benefit/does OSS expect to keep them filled?
 - How many 15 bed projects could be filled
 - Hard to answer precisely as statistics are based on self-reporting.
 - o TOA Bridge is not just 15 beds, 12 already exist and that may increase to 15.



- The people remaining on the LTS list would immensely benefit from individualized programs.
- With the understanding OSS would get direct referrals if Portland partnered in their creation, does TOA partner with other municipalities?
 - There are other projects with other target medical and behavioral health condition, but the bridge is unique in its focus on people experiencing homelessness and substance use disorders.
 - This would be a model to share responsibility with other municipalities.
 - OSS would have first right of refusal to the 15 bridge beds
- Some affordable senior housing serves people older than a certain age OR who have a disability; the Avesta project would only be for people 55 and older.
- There is some uncertainty in Preble street model as their board has not voted on it
 - Councilor Dusen asked Rob if the City recommended model would be successful independent of the partnerships.
 - They are not designed to diminish the number of beds at the shelter.
- Is the cuts to services causative to the increase shelter populations?
 - Rob believes so and is looking to see what impact the new administration will have.
- Is there a plan for some of the projects to be co-located with community partners?
 - If that would work best it would be considered.
 - If a parcel could accommodate co-locations, it would be a consideration.
- Councilor Batson thanked Donna for presenting and asked Dana about similar PNMI facilities, is there a close point of reference?
 - 37 bed assisted living program in graham have 20 beds which are supported by PNMI (Private Non-medical Institute, a form of Medicaid funded level 4 assisted living program; not all level 4 facilities are Medicaid eligible)
 - This would be the first PNMI assisted living facility focusing on people experiencing homelessness; the same medical and daily living eligibility of existing PNMI's will apply
 - PNMI requires 1 care-giver per 12 residents.

Chair Ray asked the committee to give thoughts on the wording of a motion to give City staff official direction.

- Councilor Batson is comfortable supporting a single City-built shelter having seen the proposed partner projects and thanked each agency.
 - Move to direct the City move forward pursuing a single City-operated facility of yet to be determined beds, up to 150 beds in conjunction with Avesta and the Opportunity Alliance.



- o Is there a way to word it to include projects that are more concrete with leadership directing the projects?
- o Councilor Ali asked how long it would take for the Preble Street Board to sign off on the project and flesh out a partner project.
 - The board sanctioned the draft, and wants to be here, but a needs assessment and planning with City staff.
 - Donna asked what the committee needs to feel comfortable.
 - Councilor Ali asked how comfortable Preble Street is in the planning process.
 - Chair Ray clarified that she does not want to make the City's plan contingent on the success of partner projects.
- o Councilor Batson would be amenable to adding 'potential' partnerships to assuage the contingency concern and open up the planning to include other partners/projects.
- Mayor Strimling: Staff to pursue multiple site model with up to 150 beds coordinating with partner projects.
 - o City to pursue a single city-owned site.

Councilor Batson moved that this committee adopt a resolution stating that committee supports the City building a single low-barrier shelter, beds to be determined, in conjunction with supporting the potential public-private partnerships with organizations: Avesta, Preble Street, the Opportunity Alliance, as well as any other organizations that may come to the table. Councilor Ali seconded. Discussion:

- Mayor Strimling is concerned about defining moving forward based on partner projects.
- Councilor Ali thinks that the language Councilors Batson provided will allow the project to move forward if proposed projects do not.
- Councilor Dusen would like to add language to show that staff can work out what support the City would offer such as land or other supports, and supports the Mayors suggestion of adding the explicit referral agreements outlined by the agencies that presented.
- City Manager Jennings is pleased with the guidance as it gives City-staff clear guidance.
 - o The committee is asking staff to
 - Look for a location for a homeless services center (likely up to 150 beds);
 - Work with partnering service providers on the mutual supports, including land or colocation considerations leading to draft MOUs.
- Mayor Strimling is pleased with how far things have come that builds out the City shelter and multiple smaller projects that stakeholders have been looking for. He still supports the smaller multi-site model and is pleased with how much progress this committee as made.
- Chair Ray made clear that the challenges faced at the Oxford Street Shelter is not cause by staff, but the physical facility that was never designed to be an emergency shelter. It is



an outwardly facing design, where people have to line-up outside, on display. A new facility would do these processes inside with a physical space designed to honor the dignity of the people staying in shelter.

Committee vote: the motion passed unanimously.

Next Steps

- First meeting in January
 - Public hearing on Paid Sick leave with possible vote
- The second January meeting
 - Homeless Services Center

The meeting adjourned at approximately 9:00 PM.

Health and Human Services & Public Safety Committee: Potential Topics/Issues for the 2019 Workplan

This list includes ideas from previous years as well as new items brought forward by the public. Committee members are encouraged to consider this list and bring forward other potential ideas for the 2019 Council year. We will try to solidify our priorities for 2019 at our January 22nd meeting so that we can present them for discussion at the Council's Goal Setting meeting on January 28th.

*Items 1-3 (**in bold**) are currently in process at the committee.*

*Items 4-5 (**in red**) were identified as priorities by the 2018 committee but were not addressed.*

1. **The city's new Homeless Services Center and associated facilities/programs run by community partners: site selection, planning, design, etc.**
2. **Mandatory Earned Paid Sick Leave**
3. **Noise ordinance rewrite/update**
4. **Sober/Recovery Housing: Regulation or Accreditation Process**
5. **Opioid Epidemic: Discussion around Safe Consumption Sites / Comprehensive User Engagement Sites**
6. Regulations to address golf cart issues on Peaks Island
7. Regulations for Backyard Fire Pits
8. 100-foot requirement for issuing entertainment licenses: Discuss measuring technique and evaluate if 100 feet is the appropriate distance
9. Small shelter zoning (in limbo after the Planning Board declined to act on it in 2017)
10. Muskie Positive Health Transition follow-up

Items on which the committee may want updates:

- Portland Opportunity Crew: # served, efficacy of program, potential for expansion
- India Street Public Health Updates: # served by various programs, ongoing initiatives and projects
- Health Assessment for the City of Portland: Dr. Bankole's work to integrate public health across all departments and assess the city's overall health and wellness
- Barron Center: census, programming, insurance issues, etc.

Rules & Procedure for Public Testimony

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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.

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 pursuant to Title 32, Chapters 31, 97, or 103;
 - b. Is employed by a health care facility, as defined in 22 M.R.S. § 328(8);
 - 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. Employees who work less than 60 hours per year for that employer.

Employer shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Article, Employer shall not include any employer for a period of one year after the employer hires its first employee.

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.

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) Rates of Accrual. Subject to the limitations in subsection (2), employers must allow employees to accrue earned paid sick time pursuant to one of the following methods, which may be chosen by the employer.

1. Employees will accrue a minimum of one hour of earned paid sick time for every 30 hours worked. Hours worked shall not include vacation, sick, or other time for which an employee is paid but no actual work is performed.
2. Employees will accrue earned paid sick time in the amount of 48 hours or six working days, ~~whichever is less~~, in one lump sum at the beginning of each calendar year or the beginning of the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.
3. Employees will accrue earned paid sick time in the following amounts at the end of each calendar month worked, starting with the first month of the calendar year or the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.

Employee's average hours/week	Earned paid sick time accrued
37.5-40	8 hours/month for first 6 months
30	6 hours/month for the first 8 months
24	4 hours/month for the first 10 months
20	4 hours/ month for the first 9 months
16	3 hours/month for the first 10 months
10	2 hours/month for the first 10 months
5	1 hour/month for the first 10 months
Under 5	1 hour/month for the first 8 months

Commented [AT1]: Committee to discuss if this is the intent. Would allow for proration.

Commented [AT2]: Adjusted to reflect 48

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(b) Limitations on Accruals. The accrual of earned paid sick time shall be subject to the following limitations.

1. Employees may accrue a maximum number of hours of earned paid sick time in one calendar or anniversary year, based on the size of their employer, as follows:
 - i. Employers with ten or fewer employees: 24 hours of earned paid sick time and then 24 hours unpaid sick time
 - ii. Employers with more than ten employees: 48 hours of earned paid sick time
2. An employer is not required to allow an employee to accrue earned paid sick time in excess of 72 hours.

(c) Conditions of Accrual. The accrual of earned paid sick time shall be subject to the following conditions.

1. 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.
2. 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.
3. Employees accruing earned paid sick time may roll over any unused earned paid sick time, up to a maximum of 72 hours, at the end of a benefit year.
4. 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 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.
5. 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.

(d) Employers are not required to allow employees to take earned paid sick time in the employee's first 45 days of employment. However, employees who return to the same employer within one year of termination shall not have to complete an additional 45-day period to be eligible to take earned paid sick time.

(e) 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.

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

(g) 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. Time needed for diagnosis, care, or treatment of, or recovery from, an employee’s mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
3. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member’s mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member; or
4. Leave to attend a school meeting necessitated by the family member’s health condition or disability.

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

(e) Earned paid sick time for tipped workers shall be paid out at the highest applicable minimum wage for non-tipped employees.

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 seven 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) An employer may require certification when earned paid sick time is used subject to the following restrictions.

1. An employer may require an employee to personally verify in writing that the employee has used earned paid sick time only for allowable purposes under this Article using the form provided by the City.
2. Where the need for earned paid sick time covers more than 24 consecutively scheduled work hours, an employer may require reasonable documentation signed by a health care provider, where applicable, indicating the need for the earned paid sick time taken. Employees who do not have healthcare coverage, or where the need for leave is not health related, may instead provide a signed, written statement evidencing the need for the use of earned sick time using the form provided by the City.
3. An employer may not require that any documentation explain the nature of the illness or the details of the domestic violence.
4. The employer shall not delay the taking of earned sick time or delay pay for

the period in which earned sick time was taken on the basis that the employer has not yet received the certification.

5. Certifications under this subsection shall be kept confidential, except as required by business necessity.

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.

(d) 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.

(e) 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 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 provided to the employee in writing at least once per month, and upon request of the employee.

(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.

Commented [AT4]: Committee: Consider how many translations, etc. the City will provide. What threshold level or trigger for additional translations?

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 three (3) years. Separate records of earned paid sick time need not be kept if earned paid sick time is not tracked separately by the employer.

(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.

Section 8. Enforcement

(a) Enforcement.

1. The City Manager or his/her designee shall enforce the provisions of this ordinance.
2. A violation of this Ordinance is a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(b) Complaint Process

1. Any 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, educate the employer and/or employee, and attempt to mediate a mutually agreeable resolution between the employer and employee.
3. If the City Manager or his or her designee is unable to mediate a mutually agreeable resolution, he or she shall issue a letter to the parties stating his or her findings and determination with respect to whether this Article has been violated.

(c) Private Cause of Action.

1. Any Employee, 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 Article 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 and employers about the availability of earned paid sick time under this ordinance.

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 [AT5]: Committee: Consider delay in implementation to allow businesses time to comply.

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 pursuant to Title 32, Chapters 31, 97, or 103;
 - b. Is employed by a health care facility, as defined in 22 M.R.S. § 328(8);
 - 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.
- 1-2. Employees who work less than 60 hours per year for that employer.

Employer shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Article, Employer shall not include any employer for a period of one year after the employer hires its first employee.

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) Rates of Accrual. Subject to the limitations in subsection (2), employers must allow employees to accrue earned paid sick time pursuant to one of the following methods, which may be chosen by the employer.~~

- ~~1. All employees shall will 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.~~
- ~~2. Employees will accrue earned paid sick time in the amount of 48 hours or six working days, whichever is less, in one lump sum at the beginning of each calendar year or the beginning of the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.~~
- ~~3. Employees will accrue earned paid sick time in the following amounts at the end of each calendar month worked, starting with the first month of the calendar year or the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.~~

<u>Employee's average hours/week</u>	<u>Earned paid sick time accrued</u>
<u>37.5-40</u>	<u>8 hours/month for first 6 months</u>
<u>30</u>	<u>6 hours/month for the first 8 months</u>
<u>24</u>	<u>4 hours/month for the first 10 months</u>
<u>20</u>	<u>4 hours/ month for the first 9 months</u>
<u>16</u>	<u>3 hours/month for the first 10 months</u>
<u>10</u>	<u>2 hours/month for the first 10 months</u>

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<u>5</u>	<u>1 hour/month for the first 10 months</u>
<u>Under 5</u>	<u>1 hour/month for the first 8 months</u>

(b) Limitations on Accruals. The accrual of earned paid sick time shall be subject to the following limitations.

1. Employees may accrue a maximum number of hours of earned paid sick time in one calendar or anniversary year, based on the size of their employer, as follows:
 - i. Employers with ten or fewer employees: 24 hours of earned paid sick time and then 24 hours unpaid sick time
 - ii. Employers with more than ten employees: 48 hours of earned paid sick time
2. An employer is not required to allow an employee to accrue earned paid sick time in excess of 72 hours.

(c) Conditions of Accrual. The accrual of earned paid sick time shall be subject to the following conditions.

1. 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.
2. 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.

~~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 time.~~

3. Employees accruing earned paid sick time may roll over any unused earned paid sick time, up to a maximum of 72 hours, at the end of a benefit year.
4. 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 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.

5. 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.

~~(b)(d)~~ Employers are not required to allow employees to take earned paid sick time in the employee's first 45 days of employment. However, employees who return to the same employer within one year of termination shall not have to complete an additional 45-day period to be eligible to take earned paid sick time.

~~(c) — 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.~~

~~(d)(c) 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. N~~However, n 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.

~~(e) — 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 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.~~

~~(f) — 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.~~

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

~~(h)(g)~~ 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. Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
3. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member; or
1. —
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. — 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) 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.

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

~~(e)~~(e) Earned paid sick time for tipped workers shall be paid out at the highest applicable minimum wage for non-tipped employees.

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 ~~seven~~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) An employer may require certification when earned paid sick time is used subject to the following restrictions.

1. An employer may require an employee to personally verify in writing that the employee has used earned paid sick time only for allowable purposes under this Article using the form provided by the City.
- ~~1.2.~~ Where the need for earned paid sick time covers more than 24 consecutively scheduled work hours, an employer may require reasonable documentation signed by a health care provider, where applicable, indicating the need for the earned paid sick time taken. Employees who do

not have healthcare coverage, or where the need for leave is not health related, may instead provide a signed, written statement evidencing the need for the use of earned sick time using the form provided by the City.

3. An employer may not require that any documentation explain the nature of the illness or the details of the domestic violence.
4. The employer shall not delay the taking of earned sick time or delay pay for the period in which earned sick time was taken on the basis that the employer has not yet received the certification.
5. Certifications under this subsection shall be kept confidential, except as required by business necessity.

~~(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.~~

~~(d)~~

~~(e) 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.~~

~~(f)~~

~~(g) 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.

~~(e)(d)~~ ~~N~~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)(e)~~ 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 provided to the employee in writing at least once per month, and upon request of the employee.~~

(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.

Commented [AT4]: Committee: Consider how many translations, etc. the City will provide. What threshold level or trigger for additional translations?

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 ~~threesix~~ (36) years. Separate records of earned paid sick time need not be kept if earned paid sick time is not tracked separately by the employer.

(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. A violation of this Ordinance is a civil violation subject to the general penalty provisions of section 1-15 of this Code.

~~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, educate the employer and/or employee, and attempt to mediate a mutually agreeable resolution between the employer and employee, 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 or his or her designee is unable to mediate a mutually agreeable resolution, he or she shall issue a letter to the parties stating his or her findings and determination with respect to whether this Article has been

~~violated, 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.~~

~~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~~ Article 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 and employers 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 [AT5]: Committee: Consider delay in implementation to allow businesses time to comply.

Employee Verification Regarding Authorized Use of Earned Sick Time

Under the City of Portland Earned Paid Sick Leave Ordinance (City Code Chapter, Section), employers are permitted to require employees to verify that an instance of sick leave of any length was used for an authorized purpose under the law. This attestation satisfies the certification requirement described in Section 4(c)1 and 4(c)2 of the EPSL Ordinance.

I used earned paid sick leave in the amount of _____ hours on _____.
hrs. date(s)

I, _____ (print or type name), attest that I used earned paid sick leave for one or more of the authorized reasons below:

1. Time needed for any of the following in accordance with the Maine Employment Leave for Victims of Violence statute (MRS Title 26, Chapter 7, Section 850):
 - a. to prepare for or attend court proceedings;
 - b. to receive medical treatment or to attend to the medical treatment for a victim who is a family member;
 - c. to obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.
2. Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
3. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member.
4. Time needed to attend a school meeting necessitated by a family member's health condition or disability.

I understand that using earned paid sick leave for reasons other than those listed above is not allowed and that an employer is not obligated to pay an employee for earned paid sick leave that is used in a fraudulent or abusive manner.

Further, I understand that an employer may discipline an employee who misuses or abuses earned paid sick leave, and that such abuse of earned paid sick leave could result in an employee being fired or dismissed by the employer.

Employee Signature

Date

Employee Name (Printed)

Earned Paid Sick Time Accrual Chart

Accrual Rate = 0.033
(1 hour for every 30 hours worked)

Week #	Hours Per Week							# Days
	10	15	20	25	30	35	40	
1	0.3	0.5	0.7	0.8	1.0	1.2	1.3	7
2	0.7	1.0	1.3	1.7	2.0	2.3	2.6	14
3	1.0	1.5	2.0	2.5	3.0	3.5	4.0	21
4	1.3	2.0	2.6	3.3	4.0	4.6	5.3	28
5	1.7	2.5	3.3	4.2	5.0	5.8	6.6	35
6	2.0	3.0	4.0	5.0	5.9	7.0	7.9	42
7	2.3	3.5	4.6	5.8	6.9	8.1	9.2	49
8	2.6	4.0	5.3	6.6	7.9	9.3	10.6	56
9	3.0	4.5	5.9	7.5	8.9	10.4	11.9	63
10	3.3	5.0	6.6	8.3	9.9	11.6	13.2	70
11	3.6	5.5	7.3	9.1	10.9	12.8	14.5	77
12	4.0	6.0	7.9	10.0	11.9	13.9	15.8	84
13	4.3	6.5	8.6	10.8	12.9	15.1	17.2	91
14	4.6	7.0	9.2	11.6	13.9	16.2	18.5	98
15	5.0	7.5	9.9	12.5	14.9	17.4	19.8	105
16	5.3	8.0	10.6	13.3	15.8	18.6	21.1	112
17	5.6	8.5	11.2	14.1	16.8	19.7	22.4	119
18	5.9	9.0	11.9	14.9	17.8	20.9	23.8	126
19	6.3	9.5	12.5	15.8	18.8	22.0	25.1	133
20	6.6	10.0	13.2	16.6	19.8	23.2	26.4	140
21	6.9	10.5	13.9	17.4	20.8	24.4	27.7	147
22	7.3	11.0	14.5	18.3	21.8	25.5	29.0	154
23	7.6	11.5	15.2	19.1	22.8	26.7	30.4	161
24	7.9	12.0	15.8	19.9	23.8	27.8	31.7	168
25	8.3	12.5	16.5	20.8	24.8	29.0	33.0	175
26	8.6	13.0	17.2	21.6	25.7	30.2	34.3	182
27	8.9	13.5	17.8	22.4	26.7	31.3	35.6	189
28	9.2	14.0	18.5	23.2	27.7	32.5	37.0	196
29	9.6	14.5	19.1	24.1	28.7	33.6	38.3	203
30	9.9	15.0	19.8	24.9	29.7	34.8	39.6	210
31	10.2	15.5	20.5	25.7	30.7	36.0	40.9	217
32	10.6	16.0	21.1	26.6	31.7	37.1	42.2	224
33	10.9	16.5	21.8	27.4	32.7	38.3	43.6	231
34	11.2	17.0	22.4	28.2	33.7	39.4	44.9	238
35	11.6	17.5	23.1	29.1	34.7	40.6	46.2	245
36	11.9	18.0	23.8	29.9	35.6	41.8	47.5	252
37	12.2	18.5	24.4	30.7	36.6	42.9	48.8	259
38	12.5	19.0	25.1	31.5	37.6	44.1	50.2	266
39	12.9	19.5	25.7	32.4	38.6	45.2	51.5	273
40	13.2	20.0	26.4	33.2	39.6	46.4	52.8	280
41	13.5	20.5	27.1	34.0	40.6	47.6	54.1	287
42	13.9	21.0	27.7	34.9	41.6	48.7	55.4	294
43	14.2	21.5	28.4	35.7	42.6	49.9	56.8	301
44	14.5	22.0	29.0	36.5	43.6	51.0	58.1	308
45	14.9	22.5	29.7	37.4	44.6	52.2	59.4	315
46	15.2	23.0	30.4	38.2	45.5	53.4	60.7	322
47	15.5	23.5	31.0	39.0	46.5	54.5	62.0	329
48	15.8	24.0	31.7	39.8	47.5	55.7	63.4	336
49	16.2	24.5	32.3	40.7	48.5	56.8	64.7	343
50	16.5	25.0	33.0	41.5	49.5	58.0	66.0	350
51	16.8	25.5	33.7	42.3	50.5	59.2	67.3	357
52	17.2	26.0	34.3	43.2	51.5	60.3	68.6	364