EXHIBIT A --- AMENDED

TITLE 9 -- Protected Sick Time

Chapter 9.01 Protected Sick Time

9.01.010 Purpose. The purpose of this Chapter is to promote a sustainable, healthy, and productive workforce by establishing minimum standards for Employers to provide sick leave and to ensure that all persons working in the City will have the right to earn and use paid sick time. Allowing employees to earn and take sick time will maintain a healthy workforce and promote a vibrant, productive, and resilient City. It is the City's aspiration that all persons working in the City will be provided the right to earn and use paid sick time.

9.01.020 Definitions.

For purposes of this Chapter, the following definitions apply:

A. "City" means the City of Portland as defined in Title 1 of the Code of the City of Portland.

B. "BOLI Commissioner" means the Commissioner of the Bureau of Labor and Industries (BOLI) of the State of Oregon as established by ORS 651.020.

C. "Employee" means an individual who renders personal services to an Employer where the Employer either pays or agrees to pay for the personal services or suffers or permits the individual to perform the personal services. "Employee" includes Home Care Workers as defined by ORS 410.600(8).

D. "Employee" does not include:

1. A copartner of the Employer
2. An Independent contractors
3. A participant in a work training program administered under state or federal assistance laws;
4. Those who are participating in a work study program that provides students in secondary or post secondary educational institutions with employment opportunities for financial and/or vocational training; or
5. Railroad workers exempted under the Federal Railroad Insurance Act, 45 USC 363.

E. "Employer" means the same as that term is defined in ORS 653.010(3), but does not include:

1. The United States Government; or

2. The State of Oregon including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary; or
3. Any political subdivision of the State of Oregon or any county, city, district, authority, public corporation or public entity other than the City.

F. "Family Member" means the same as that term is defined in ORS 659A.150 (4) and includes domestic partners as defined under ORS 106.310.

G. "Health Care Provider" means the same as that term is defined in ORS 659A.150 (5)(a).

H. "Paid Time Off" or PTO means:

1. A bank of time, including time accrued in regular increments according to an established formula, provided by an Employer to an Employee, that the Employee can use to take paid time off from work for any purpose, including the purposes covered by this Chapter; or
2. A contribution made by an Employer to a vacation pay account, in the name of a construction trade union Employee covered by a collective bargaining agreement, that the Employee may cash out or use for any purpose, including the purposes covered by this Chapter.

I. "Sick Time" means time that has been accrued and may be used by an Employee under this Chapter, and that is calculated at the same hourly rate and with the same benefits, including health care benefits, as the Employee normally earns during hours worked and is provided by an Employer to an Employee at the accrual rate described in Section 9.01.030.

J. "Sick Leave" means time off from work using Sick Time.

K. "Retaliatory Personnel Action" means:

1. Any threat, discharge, suspension, demotion, other adverse employment action against an Employee for the exercise of any right guaranteed under this Chapter, or
2. Interference with, or punishment for, participating in any manner in an investigation, proceeding or hearing under this Chapter.
3. Adverse employment actions based on Sick Leave use not covered in this Chapter are not Retaliatory Personnel Actions.

L. "Year" means any consecutive 12-month period of time that is normally used by an Employer for calculating wages and benefits, including a calendar year, tax year, fiscal year, contract year, or the year running from an Employee's anniversary date of employment.

9.01.030 Accrual of Sick Time.

A. Employers with a minimum of 6 Employees shall provide Employees with a minimum of one hour of paid Sick Time for every 30 hours of work performed by the Employee, within the geographic boundaries of the City, except as otherwise provided in this Chapter.

B. Employers with a maximum of 5 Employees shall provide Employees with a minimum of one hour of unpaid Sick Time for every 30 hours of work performed by the Employee within the geographic boundaries of the City, except as otherwise provided in this Chapter.

C. Employees who are paid base wage plus piece rate, tips or commission shall accrue and be paid Sick Time based on the base wage.

D. Salaried executive, administrative or professional Employees under the federal Fair Labor Standards Act or the state minimum wage and overtime laws will be presumed to work 40 hours in each work week for purposes of earning and accruing Sick Time unless their normal work week is less than 40 hours, in which case Sick Time is earned and accrued based upon that normal work week.

E. Employees who travel to the City and make a stop as a purpose of conducting their work accrue benefits under this Chapter only for the hours they are paid to work within the City.

F. Employees may accrue a maximum 40 hours of Sick Time in a Year, unless the Employer provides, or is contractually obligated to provide, more. Sick Time equivalent to this amount may be given at the beginning of a Year to meet this requirement for accrual.

G. Sick Time accrued by an Employee that is not used in a calendar year may be used by the Employee in the following Years. An Employer is not required to allow an Employee to carry over accrued hours in excess of 40 hours.

H. If an Employee is transferred by an Employer to a separate division, entity or location of the Employer within the City, the Employee is entitled to all Sick Time accrued at the prior division, entity or location and is entitled to transfer and use all Sick Time as provided in this Chapter. If a Sick Time equivalent is given at the beginning of a Year, in accordance with subsection G of this section, the Employer is not required to allow an Employee to carry over accrued hours.

I. Accrued Sick Time shall be retained by the Employee if the Employer sells, transfers or otherwise assigns the business to another Employer and the Employee continues to work in the City.

J. An Employer shall provide previously accrued and unused Sick Time to an Employee who is rehired by that Employer within six months of separation from that Employer. The Employee shall be entitled to use previously accrued Sick Time immediately upon re-employment.

K. An Employer with a minimum of 6 Employees who provides a minimum of 40 hours in a Year of paid time off through a PTO policy, or an Employer with a maximum of 5 Employees who provides a minimum of 40 hours per Year of unpaid time off, that can be

used under the same provisions of this Chapter, is not required to provide additional Sick Time.

L. Sick Time will begin to accrue for Employees who are employed on the date this ordinance takes effect on the effective date. New Employees shall begin accruing Sick Time on commencement of employment.

M. An Employer with a Sick Leave or PTO policy in effect that provides the Employee with accrual of Sick Time that equals or exceeds the requirements of this Section is compliant with this section.

9.01.040 Use of Sick Time.

A. An Employee becomes eligible to use Sick Time when he or she has worked for an employer within the geographic boundaries of the City for at least 240 hours in a Year. Once an Employee becomes eligible to use Sick Time he or she remains eligible regardless of the number of hours worked for that employer in subsequent Years.

B. An Employee may use Sick Time for the following qualifying absences:

1. Diagnosis, care, or treatment of the Employee's, or the Employee's Family Member's, mental or physical illness, injury or health condition including, but not limited to, pregnancy, childbirth, post-partum care and preventive medical care;
2. Purposes described in ORS 659A.272 Domestic Violence, Harassment, Sexual Assault or Stalking.
3. An absence from work due to:
   a. Closure of the Employee's place of business, or the school or place of care of the Employee's child, by order of a public official due to a public health emergency;
   b. Care for a Family Member when it has been determined by a lawful public health authority or by a Health Care Provider that the Family Member's presence in the community would jeopardize the health of others; or
   c. Any law or regulation that requires the Employer to exclude the Employee from the workplace for health reasons.

C. An Employee may use Sick Time:

1. In increments of one hour, unless a lesser time is allowed by the Employer. Where it is physically impossible for an Employee to commence or end work part way through a shift, the entire time an Employee is forced to be absent may be counted against an Employee's Sick Time.
2. To cover all or part of a shift.
3. To cover a maximum of 40 hours per Year, unless otherwise allowed by the Employer or as provided by law.

D. An Employee may not use Sick Time:

1. If the Employee is not scheduled to work in the City on the shift for which leave is requested; or

2. During the first 90 calendar days of employment, unless the Employer allows use at an earlier time.

E. Except as allowed under subsection 9.01.040 G, An Employee, when absent from work for a qualifying reason under subsection 9.01.040 B, shall use accrued Sick Time hours on the first day and each subsequent day of absence until all accrued time has been used.

F. An Employer may not require the Employee to:

1. Search for or find a replacement worker as a condition of the Employee's use of Sick Time.

2. Work an alternate shift to make up for the use of Sick Time.

G. If the Employer allows shift trading, and if an appropriate shift is available, then the Employer shall allow the Employee to trade shifts instead of using Sick Time.

H. Employers shall establish a written policy or standard for an Employee to notify the Employer of the Employee's use of Sick Time, whether by calling a designated phone number or by using another reasonable and accessible means of communication identified by the Employer for the Employee to use.

I. The Employee shall notify the Employer of the need to use Sick Time, by means of the Employer's established policy or standard, before the start of the employees scheduled work shift or as soon as practicable.

J. When the need to use Sick Time is foreseeable, the Employee shall provide notice to the Employer by means of the Employer's established policy or standard as soon as practicable, and shall make a reasonable effort to schedule the Sick Leave in a manner that does not unduly disrupt the operations of the Employer. The Employee shall inform the Employer of any change to the expected duration of the Sick Leave as soon as practicable.

K. For absences of more than 3 consecutive days, an Employer may require reasonable documentation that Sick Time has been used for one of the purposes listed in Subsection 9.01.040 ~~A~~B, including but not limited to:

1. Documentation signed by a licensed Health Care Provider,

2. Documentation for victims of domestic violence, harassment, sexual assault or stalking as provided in ORS 659A.280 (4), or

3. A signed personal statement that the Sick Leave was for a purpose covered by Subsection 9.01.040 B.

L. If an Employer chooses to require documentation of the purpose for the use of Sick Time, the Employer shall pay the cost of any verification by the Health Care Provider that is not covered by insurance or another benefit plan as provided in ORS 659A.168 (2).

M. Employers suspecting Sick Leave abuse, including patterns of abuse, may require documentation from a licensed Health Care Provider verifying the Employee's need for leave at the Employee's expense. Indication of patterns of abuse may include but are not limited to, repeated use of unscheduled Sick Time on or adjacent to weekends, holidays, or vacation, pay day, or when mandatory shifts are scheduled.

N. Nothing in this Chapter requires an Employer to compensate an Employee for accrued unused Sick Time upon the Employee's termination, resignation, retirement, or other separation from employment.

O. An Employer with a Sick Time or PTO policy in effect that provides the Employee with use of Sick Leave that equals or exceeds the requirements of this Section is compliant with this section.

9.01.050 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 Chapter.

B. An Employer shall not take Retaliatory Personnel Action or discriminate against an Employee because the Employee has exercised rights protected under this Chapter.

C. Retaliatory Personnel Action shall not be taken against any person who mistakenly, but in good faith, alleges violations of this Chapter.

D. It shall be a violation for an Employer's absence control policy to count earned Sick Leave covered under this Chapter as an absence that may lead to or result in an adverse employment action against the Employee.

9.01.060 Notice and Posting.

A. Employers shall provide and post notice of Employee rights under this Chapter. The notice shall be in English and other languages used to communicate with the Employer's workforce. The City may contract with the Bureau of Labor and Industries to create and disseminate the required poster. The City shall provide a template for the notice.

B. In addition to providing Employees with written notice, Employers may comply with posting requirements of this section by displaying a poster in a conspicuous and accessible place in each establishment where Employees are employed. ,.

C. An Employer who knowingly violates the notice and posting requirements of this section may be subject to a civil fine as provided in administrative rules.

D. Fines shall not be assessed against any Employer who mistakenly, but in good faith, violates this Section.

9.01.070. Employer Records.

Employers shall retain records documenting hours worked, and Sick Time accrued and used by Employees, for a period of at least two years as required by ORS 653.045(1). Employers shall allow access to such records by BOLI or other agency authorized to enforce this Chapter.

9.01.080 Administrative Rules Implementing this Chapter.

A. The City Attorney may adopt rules, procedures and forms to assist in the implementation of the provisions of this Chapter.

B. All rules adopted to implement this Chapter shall be subject to a public review process.

C. Not less than ten or more than thirty days before such public review process, a notice shall be published in a newspaper of general circulation and sent to stakeholders who have requested notice. The notice shall include the place and time, when the rules will be considered and the location at which copies of the full text of the proposed rules may be obtained.

D. The duration of public review process shall be a minimum of 21 calendar days from the date of notification for written comment.

E. During the public review process a designee of the City shall hear testimony or receive written comment concerning the proposed rules.

F. The City shall review and consider the comments received during the public review process, and shall either adopt, modify, or reject the proposed rules.

G. All initial rules shall be effective January 1st, 2014, and all subsequent rules shall be effective 30 days after adoption by the City Attorney and shall be filed in the office of the City Auditor.

H. Notice of changes in Administrative Rules shall be published in a newspaper of general circulation, sent to stakeholders who have requested notice and posted on the BOLI and City web sites.

9.01.090 Enforcement.

A. The City may contract with BOLI to enforce this Chapter.

B. Pursuant to agreement between BOLI and the City, enforcement may be governed by the procedures established pursuant to ORS 659A.800 *et.seq*, ORS. Chapter 652 or ORS Chapter 653, or such other procedures as may be agreed upon by BOLI and the City. Rules adopted by the City pursuant to Section 9.01.090 of this Chapter may also be used to implement enforcement and administration of this Chapter.

C. Pursuant to agreement between BOLI and the City, any person claiming to be aggrieved by an unlawful employment practice under this Chapter may file a complaint with BOLI under procedures established under ORS 659A.820, ORS Chapter 652 or ORS Chapter 653, or such other procedures as BOLI or the City may establish for taking complaints which shall include options for resolution of complaints through such means as mediation.

D. Pursuant to agreement, BOLI shall have the same enforcement powers with respect to the rights established under this Chapter as are established under ORS 659A.820 *et .seq.*, ORS Chapter 652 and ORS Chapter 653, and if the complaint is found to be justified, the complainant may be entitled to any remedies provided under ORS 659A.850 *et. seq.*, ORS Chapter 652 and ORS Chapter 653 and their implementing regulations and any additional remedies, provided that those remedies are specified in the agreement between the City and the BOLI Commissioner.

E. Any person claiming to be aggrieved by a violation of this Chapter shall have a cause of action for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659A.870 *et. seq.* The court may grant such relief as it deems appropriate.

9.01.100 Confidentiality and Nondisclosure.

A. If the Employer obtains health information about an Employee or Employee's Family Member, such information shall be treated as confidential to the extent provided by law.

B. All records and information kept by an Employer regarding an Employee's request or use of Sick Time under subsection 9.01.040 (A)(2) shall be confidential as described in ORS 659A.280(5).

9.01.110 Other Legal Requirements.

This Chapter provides minimum requirements pertaining to Sick Time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by Employees of Sick Time, whether paid or unpaid, or that extends other protections to Employees.

9.01.120 Public Education and Outreach.

The City shall develop and implement an outreach program to inform Employers and Employees about the requirements for Sick Time under this Chapter.

9.01.130 Severability.

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

9.01.140 Application.

This Chapter is effective January 1, 2014.