

# CITY OF LA VISTA

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## **Personnel Manual**

**CITY OF LA VISTA  
PERSONNEL MANUAL  
TABLE OF CONTENTS**

Employee Receipt and Agreements	
Purpose (dated December 20, 2005)	Section 1
Definitions (dated December 20, 2005)	Section 2
General Provisions (dated December 20, 2005)	Section 3
3.1 Organization for Personnel Administration	
3.2 Administration of Rules	
3.3 Departmental Regulations	
3.4 Political Activities	
3.5 Prohibition of Discrimination	
3.6 Diversity and Inclusion	
3.7 Unlawful Acts Prohibited	
3.8 Nepotism	
3.9 Residency and Travel Time Requirements	
3.10 Outside Employment	
3.11 Appearance and Conduct	
3.12 Attendance	
3.13 Hours of Work	
3.14 Repair and Use of City Property	
3.15 Use of City-Owned Vehicles	
3.16 Safety	
3.17 Reporting Accidents and Injuries	
3.18 Selling and Peddling	
3.19 Conflict of Interest	
3.20 Maintenance of Records	
3.21 Reporting Changes in Name, Address and Dependents	
3.22 Promotion	
3.23 Transfer	
3.24 Equal Employment Opportunity	
3.25 Employee Suggestions	
3.26 Harassment Prohibited	
Civil Service (dated December 20, 2005)	Section 4

Selection and Appointment (dated December 20, 2005)	Section 5
5.1 General Policy	
Selection and Appointment (cont.)	Section 5
5.2 Hiring Process	
5.3 Applicants for Employment and Volunteer Positions	
5.4 Military Service Credit	
5.5 Disqualification by Reason of Felony Conviction	
5.6 Disqualification	
5.7 Probationary Period	
Classification Plan (dated December 20, 2005)	Section 6
6.1 The Classification Plan	
6.2 Purposes of the Classification Plan	
6.3 Administration of the Classification Plan	
6.4 Classification of Positions	
6.5 Transfer of Employee	
Compensation Plan (dated December 20, 2005)	Section 7
7.1 General Policy	
7.2 Procedures	
7.3 Pay Rates for New Employees	
7.4 Frequency of Salary Increases	
7.5 Pay Increases and Reductions; Effective Date	
7.6 Pay Day	
7.7 Pay Computation	
7.8 Reporting of Time Worked	
7.9 Incomplete Pay Period	
7.10 Overtime Pay	
7.11 Compensatory Time Leave in Lieu of Overtime Pay (Comp Time Leave)	
7.12 Call Out Time	
7.13 Travel and Official Expenses	
7.14 Pay Rates Upon Transfer	
7.15 Pay Rates Upon Promotion	
7.16 Pay Rates Upon Demotion	
7.17 Longevity Pay	
7.18 Payment of Accrued Wages, Vacation Leave and Sick Leave Upon Death of an Employee	

7.19 Temporary and Regular Part-Time Employees	
7.20 Wages in Advance	
Compensation Plan (cont):	Section 7
7.21 Termination Pay	
7.22 Pay During National Guard or Reserve Active Duty	
7.23 Re-employment	
7.24 Annual Salary Survey	
7.25 Budget-Required Furloughs	
7.26 Reduction in Force Policy for Police Department Employees	
7.27 Voluntary Dock Day Program	
Employee Benefits (dated December 20, 2005)	Section 8
8.1 Request for Leave:	
(sick leave and emergency sick leave-category one and two, vacation leave, personal and funeral leave, military leave of absence, civic duty leave, civil emergency leave, leave of absence without pay, absence without leave, and family and medical leave)	
8.2 Temporary Limited Light Duty	
8.3 Holidays	
8.4 Health and Life Insurance	
8.5 Retirement Programs	
8.6 Worker's Compensation	
8.7 Rest Periods	
8.8 Health and Wellness Incentive Program	
Disciplinary Action (dated December 20, 2005)	Section 9
9.1 Disciplinary Action	
9.2 Procedures	
9.3 Reprimand	
9.4 Suspension	
9.5 Demotion	
9.6 Dismissal/Discharge	
9.7 Final Arbiter	
9.8 Civil Service	

Grievances (dated December 20, 2005)	Section 10
10.1 General Policy	
10.2 Grievance Procedure	
10.3 Grievance Procedure for Disability Discrimination Complaint	
Separations (dated December 20, 2005)	Section 11
11.1 Separation	
11.2 Resignation	
11.3 Return of City Property	
Personnel Records and Action Forms (dated December 20, 2005)	Section 12
12.1 General Policy	
12.2 Personnel Records	
Employee & Personnel Development (dated December 20, 2005)	Section 13
13.1 Orientation	
13.2 Training	
13.3 Conferences/Conventions	
13.4 Educational Assistance Programs	
13.5 Paramedic/EMT-I Courses	
13.6 Performance Evaluations	
Drug Testing Policy (dated December 20, 2005)	Section 14
14.1 Purpose	
14.2 Applicability	
14.3 Definitions	
14.4 Testing for Drugs and Alcohol	
14.5 Conduct Sufficient to Establish Reasonable Suspicion	
14.6 Positive Test Results and Policy Compliance	
14.7 Employee Assistance Program	
14.8 Confidentiality	
14.9 Retesting	
14.10 Reservation of Rights	
14.11 Collection and Laboratory Analysis of Samples	

**CITY OF LA VISTA  
PERSONNEL MANUAL  
EMPLOYEE RECEIPT AND AGREEMENTS**

This Personnel Manual was designed as a means of communicating to employees certain personnel-related policies and procedures including compensation, benefits and working conditions established by the City of La Vista.

I hereby acknowledge receipt of a copy of the Personnel Manual of the City of La Vista. I understand that I am responsible for reading the Personnel Manual and abiding by the requirements of the policies contained therein. If I have questions regarding the provisions of the Manual, I understand that I am to ask them of my Department Head, the City Clerk or the Human Resources Department.

I understand that the Personnel Manual is intended to provide employees with a general understanding of the City's current personnel policies and procedures and that those policies and procedures are subject to change, modification or elimination by the City at any time. I understand that if changes are made to the Personnel Manual I may be directed to place those changes in my copy of the Manual.

I understand that nothing in the Personnel Manual shall in any way constitute or imply a contract of employment between the City and any employees, nor an offer to enter into any such contract. I further understand that except as expressly stated otherwise in this Manual, nothing in this Manual changes my status as an employee at the will of the City, which means that either I or the City may terminate my employment at any time, with or without cause or prior notice.

I understand that the City of La Vista is an equal opportunity employer and that its policies and procedures require that all employees and applicants for employments be treated fairly and equally, without unlawful discrimination, and with dignity and respect.

I understand that I may not use or be under the influence of alcohol or illegal drugs in the workplace or during working time. I understand that the City of La Vista has established a drug testing policy and that this policy is a condition of employment. I consent to such testing as the City may request pursuant to that policy.

I understand that all e-mail and other computer transmissions that are stored in or on City-owned computers, terminals or computer-media are the property of the City and are subject to inspection, reading and review by the City at any time, with or without further notice to me. I also understand and agree that I have no expectation or privacy regarding such stored materials and data, and I consent to such inspection, reading and review by the City.

I agree to the COMP TIME LEAVE provisions set forth in Section 7 of this Manual.

I understand that when my employment with the City ceases, I will be obligated to return all City equipment that I might have in my possession including but not limited to uniforms, identification cards, badges, keys, and employee handbook.

I agree that if I am at any time indebted to the City, in a manner described in this Manual or otherwise, the amount of the indebtedness may be deducted by the City from any wages or other amounts the City may owe to me at any time, including my final paycheck.

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Employee Name – Print

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Department

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Employee Signature

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Date

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Department Head Signature

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Date

## **PERSONNEL RULES AND REGULATIONS**

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<b>SECTION I:</b>	<b>PURPOSE</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>
<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>DECEMBER 20, 2005</b>

This Manual is designed to inform employees and Members of the Volunteer Fire Department of the City of La Vista of the City's current personnel-related policies and procedures, including compensation, benefits and working conditions. The City strives to create a safe and enjoyable working environment for its employees and volunteers. The policies set forth herein are intended to establish an efficient, equitable and functional personnel administration system. Emphasis is placed on both personal and professional growth.

This manual cannot address every circumstance or question. The La Vista City Council, at its discretion, may revise, supplement or rescind any policies or any portion of this Manual from time to time as it sees fit. Employees will be notified of such changes.

The personnel policies and procedures in this Manual apply to all employees, both exempt and non-exempt, and Members of the Volunteer Fire Department unless specifically noted otherwise. Exceptions to the provisions set forth in this Manual may only be authorized by the City Administrator, with the approval of the Mayor and City Council.

All offices and positions of the City shall be designated as exempt service, non-exempt service, volunteer, or Members of the Volunteer Fire Department. Exempt service shall include the City Administrator, department heads and other personnel noted as such in the annual compensation ordinance. Non-exempt service shall include all other employee positions which are not specifically designated as exempt service by ordinance or other action of the City Council. This Manual applies to part-time and temporary employees, except as otherwise provided herein. Where relevant, these policies shall also apply to elected officials, volunteers, and members of citizen boards and commissions. When so stated herein, these policies shall also apply to Members of the Volunteer Fire Department. In the case of employees covered by civil service rules, civil service rules shall take precedence over any provisions of this Personnel Manual which are inconsistent with such civil service rules. In the case of employees covered by the La Vista Fraternal Order of Police (FOP) Contract or by any other collective bargaining agreement, the collective bargaining agreement shall take precedence over any provisions of this Personnel Manual which are inconsistent with such collective bargaining agreement. Members of the Volunteer Fire Department shall not be considered City employees.

Whenever any provision of this Manual states that the City Administrator or the City Clerk may or shall make a determination, give or provide a notification, or take any other action, the City Administrator or the City Clerk (as the case may be) may authorize his or her representative or designate to make such determination, give such notification, or take such other action.

***NOTHING IN THIS MANUAL SHALL CONSTITUTE A CONTRACT OF EMPLOYMENT BETWEEN THE CITY AND ANY EMPLOYEE, NOR AN OFFER TO ENTER INTO ANY SUCH CONTRACT.***

## PERSONNEL RULES AND REGULATIONS

<b>SECTION II: DEFINITIONS</b>			
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 14-017</b>
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>	<b>DATE:</b>	<b>FEBRUARY 18, 2014</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-058</b>		
<b>DATE:</b>	<b>JUNE 4, 2002</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>		
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>		

**Administrative Leave:** A non-disciplinary leave of absence with or without pay granted in unique circumstances by the City Administrator or his or her designee. The City Administrator shall give notice of such leave to the Mayor and City Council at the next following regularly scheduled meeting of the City Council at any time such leave is granted.

**Allocation:** The establishment of a position in a department budget.

**Anniversary Date:** The date (day and month) an employee begins employment with the City.

**Appointing Authority:** The officer, individual or entity given authority by City ordinance or state statute to appoint or remove an employee or member from his or her position or office.

**Appointment:** An accepted offer to a person of a position of employment, on either a full-time, part-time or seasonal basis.

**Call Out Pay:** Compensation paid to employees who are called out to work during off-duty hours.

**Class:** One or more positions sufficiently similar in respect to assigned work duties and responsibilities that the same class title may be reasonably and fairly used to designate each position allocated to the class, that the same minimum education and work experience qualifications may be required and that the same pay range may apply with equity.

**Classification:** The assignment of a position to an appropriate class on the basis of type, difficulty, and responsibility of work performed.

**Class Series:** A number of classes or positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties, degree of responsibility involved and the amount of training and experience required. Such classes constitute a series.

**Class Specifications:** A written statement of the characteristics, duties, responsibilities and qualification requirements that distinguish a specific class from other classes.

**Class Title:** The name assigned to a class.

**Compensation:** The ranges of pay and benefits which have been established for the various positions identified in the compensation plan and in other personnel policies.

**Compensation Plan:** The official schedule of pay approved by the City Council.

**Continuous Employment:** The time from original employment to the current date of employment excluding the calendar days when an employee is absent without leave or when an employee is under suspension. An employee who returns to work following a resignation or a discharge shall be considered as a new employee and previous employment will not be considered a part of continuous employment.

**Court Time Pay:** Compensation paid to employees who are required to appear in court in connection with employment duty assignment when the appearance is during off duty hours.

## **PERSONNEL RULES AND REGULATIONS**

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**Demotion:** The movement of an employee from a position in one class to a position in the same or another class having a lower maximum salary rate because of disciplinary reasons, incapacity to perform the work, inefficiency or unsatisfactory work performance.

**Department:** A major functional unit of the City of La Vista governmental structure.

**Department Head:** The officially appointed head of any department who is directly responsible for the administration of that department, including City Administrator, Assistant City Administrator, City Clerk, Community Development Director, Public Works Director, Recreation Director, Police Chief, Library Director, Finance Director, and Director of Public Buildings and Grounds.

**Dismissal:** The separation of an employee from employment for such cause as the City Administrator deems sufficient to warrant such action.

**Emergency:** A sudden and unforeseen happening that requires the unscheduled service of an employee to protect health, welfare, safety or property of the City, the community or persons within or near the community.

**Eligible:** A person who has successfully met required qualifications for a particular position or a particular benefit.

**Eligibility List:** A list ranking of persons who are qualified for City employment in order of overall qualification for the respective position. Eligibility lists and the names thereon shall remain valid for one (1) year from date of issuance.

**Employee:** A person who is employed by the City and compensated through the official payroll for services provided. Persons paid on a fee basis are not included. Persons may be employed on a full-time, part-time or seasonal basis, and are further categorized as regular or temporary employees. Part-time, seasonal and temporary employees are

not eligible for employment benefits provided to full-time employees except as expressly provided in this Manual.

**Examination:** The process of testing, evaluating and investigating the job-related skills, abilities and qualifications of applicants and employees.

**Exempt Employee:** Any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and limited in the *Fair Labor Standards Act*, 29 U.S.C. Sections 201 *et seq.*, and federal regulations promulgated pursuant thereto [29 C.F.R. Part 541], and any other employee exempt from the overtime pay requirements of the *Fair Labor Standards Act*.

**FOP Contract:** The labor agreement negotiated between the City and the La Vista Fraternal Order of Police, as amended from time to time.

**Full-Time Employee:** An employee who is expected to consistently and regularly work a minimum of forty hours per week for more than sixteen consecutive weeks.

**Grievance:** A disagreement relating to employment and working conditions or relating to relationships between an employee and his supervisor or other employees.

**Holiday:** The twenty-four (24) hour period starting at 12:01 a.m. and ending at 11:59 p.m. of a day observed by the City as a holiday.

**Immediate Family:** Includes an employee's spouse, child, stepchild, parent, parent-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, grandparent, grandparent-in-law, grandchild, or legal dependent.

**Lay Off:** The separation of a non-exempt employee made necessary by lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee.

**Leave:** An authorized absence from regularly scheduled work hours which has been approved by

## PERSONNEL RULES AND REGULATIONS

proper authority.

**Longevity Pay:** Compensation paid to employees according to length of continuous full-time service in addition to base pay.

**LVFOP:** La Vista Fraternal Order of Police.

**Merit Pay Increase:** An increase in pay as established in the compensation plan which may be granted to an employee for meritorious service based on recommendation of the supervisor and approval of the City Administrator.

**Non-Exempt Employee:** An employee who is not an exempt employee.

**Overtime:** Authorized time worked in a workweek by a non-exempt employee in excess of the number of hours of work comprising the employee's standard work week.

**Paid Leave:** Any form of leave allowed to full-time employees for which compensation is provided which, depending on circumstances, may include vacation, personal, sick leave, funeral, civic duty leave and certain military leaves.

**Part-Time Employee:** An employee who normally does not regularly work more than twenty-eight (28) hours per week and in no case works more than 1,456 hours in a year.

**Pay Grade:** The identifying number for a single rate or a range or pay rate as established in the salary grade table.

**Pay Period:** Employees are paid on a bi-weekly basis. The pay period is established in the annual compensation ordinance.

**Pay Reduction:** A decrease in pay. A pay reduction may result from demotion or reallocation of a position to a lower grade.

**Per Diem:** The maximum dollar amount per day per employee that the City will reimburse for actual food costs, including gratuity, related to approved

travel and training. The City will not reimburse the cost of alcoholic beverages.

**Performance Evaluation:** A written appraisal of the work performance of an employee in terms of actual work requirements.

**Permanent Employee:** A regular employee who has satisfactorily completed the initial and any extended initial probationary period.

**Personnel:** A term to collectively refer to exempt and non-exempt employees.

**Personnel Board:** The City Personnel Board established and created by City ordinance.

**Probationary Increase:** A one step pay increase granted to a regular employee who has satisfactorily completed the initial and any extended initial probationary period.

**Probationary Period:** A test period during which a regular employee, duly appointed or promoted, is required to demonstrate his or her abilities by actual performance of the duties of the position to which he/she is appointed or promoted.

**Promotion:** The movement of an employee from one position to another position having a higher maximum pay rate.

**Regular Employee:** An employee who is not a temporary employee.

**Reprimand:** A formal disciplinary action designed to advise, caution, admonish or warn an employee and also to lead, guide, direct and instruct the employee in how to correct and avoid repeating a mistake, infraction, deficiency or problem.

**Retirement:** Voluntary action of an employee to withdraw from active employment by the City, for a reason other than obtaining another full-time regular position with the City.

**Seasonal Employee:** An employee who is

## **PERSONNEL RULES AND REGULATIONS**

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designated as a seasonal employee at the time of appointment, and whose assignment will not exceed twenty-six (26) consecutive weeks. No seasonal employee shall work more than 1,456 hours in a year.

**Separation:** The cessation of employment by reason of disqualification, end of temporary assignment, lay-off, resignation, retirement, dismissal or death.

**Shift Worker:** An employee whose normal work day consists of an eight (8) hour, ten (10) hour or twelve (12) hour shift, which is part of an operation or activity conducted 24 hours per day on a year round or other prolonged basis.

**Standard Work Week:** Schedule of operations for respective departments within the City:

1. Non-Police – Sunday through Saturday forty (40) hours per week.
2. Police Department - Sunday through Saturday, according to shift assignments - eighty (80) hours per two week pay period.

**Supervisor:** An employee having authority to, in the interest of the City, direct the work efforts of other employees, evaluate their performance, and recommend such actions as hiring, transfer, promotion, discipline and termination.

**Suspension:** A form of discipline or administrative action consisting of relieving an employee from work with or without pay for a period of time.

**Temporary Employee:** An employee who is designated as a temporary employee at the time of appointment or movement to a temporary position.

**Transfer:** The movement of an employee from one department, division or unit of municipal government to another class having the same maximum salary rate, involving the performance of similar duties and requiring essentially the same

qualifications.

**Vacancy:** A duly created position which is not occupied and for which funds have been provided.

**Volunteer:** A person who provides services to the City without compensation.

**Workers' Compensation:** A system established and limited by Nebraska state statutes to provide defined benefits respecting covered employees who sustain injury or death by accident, or who contract occupational disease, arising out of and in the course of employment, and who are not willfully negligent at the time of injury.

<b>SECTION III:</b>	<b>GENERAL PROVISIONS</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 21-055</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 96-051</b>	<b>DATE:</b>	<b>MAY 18, 2021</b>
<b>DATE:</b>	<b>MAY 21, 1996</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 97-092</b>		
<b>DATE:</b>	<b>JULY 15, 1997</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 98-092</b>		
<b>DATE:</b>	<b>MAY 19, 1998</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>		
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>		
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>		

**3.1      Organization for Personnel Administration:**

- (1)     **Mayor-City Council:** The Mayor and the City Council have ultimate policy-making authority for the City of La Vista in matters pertaining to personnel administration.
- (2)     **The City Administrator:** The function of the City Administrator is to aid in the formulation of personnel policies, to prescribe procedures and to administer those policies and procedures with the aim of facilitating personnel administration for operating all City departments. The City Administrator is charged by the City Council to fairly administer the personnel program which shall include: recruitment, interviewing, job testing (where applicable), eligibility lists, appointments based on merit, the formulation and interpretation of personnel policies, maintenance and administration of the classification plan and pay plan, maintenance of employee records, supervision of the grievance procedures, promoting training programs and fostering good employee relations. The City Administrator shall also be responsible for administering discipline concerning City employees as provided in this Manual, and accomplishing such other personnel matters as deemed appropriate by the Mayor and City Council.

**3.2      Administration of the Rules:** The City Administrator is charged with the responsibility for the administration of these rules.

**3.3      Departmental Regulations:** These rules shall not be construed as limiting in any way the power and authority of any Department Head to make departmental rules and regulations governing the conduct and performance of employees. However, departmental rules and regulations shall not conflict with provisions of these rules. Departmental rules and regulations shall have the force and effect of rules of that department and disciplinary action may be based upon any breach of those rules and regulations. The City Administrator shall be provided copies of all departmental rules and regulations and shall have the authority to rescind any departmental rule or regulation.

**3.4      Political Activities:** Unless specifically prohibited from doing so by federal or state law, City employees may participate in local, state and federal political activities, provided they do so during

their non-working time and do not wear City uniforms or City clothing while participating in such activities. No City employee shall, simultaneously with such City employment hold the office of Mayor or City Council Member of the City. Any City employee elected or appointed to the office of Mayor or of City Council Member of the City shall be deemed, upon accepting and assuming such office of Mayor or City Council Member of the City, to have automatically and simultaneously resigned his or her position of employment with the City. No employee of the City shall be appointed as a member of any citizen board, commission or committee appointed by the Mayor or the City Council unless such appointment is required by ordinance or statute as a part of the composition of the board, commission or committee.

**3.5 Prohibition of Discrimination:**

- (1) No employee or applicant for employment with the City shall be appointed, promoted, demoted, removed, or advanced on any basis or for any reason other than qualification, merit and experience for service or lack thereof. An individual with a disability will be evaluated only on his or her ability to perform the essential functions of the position in question, with or without reasonable accommodation.
- (2) No employee shall use, or promise or attempt to use, directly or indirectly, any official authority or influence to secure or attempt to secure, for any person, an unmerited appointment or unmerited advantage in appointment to a position with the City or an unmerited increase in pay or any other unmerited advantage or benefit in employment in any such position.
- (3) No employee or appointing authority shall unlawfully discriminate against any individual in appointment, transfer, dismissal, discipline, compensation, promotion or other terms and conditions of employment because of race, color, religion, sex, national origin, age, disability, marital status or any other protected classification.

**3.6 Diversity and Inclusion Statement**

The City of La Vista is committed to a work environment that values diversity and inclusion. We believe that employees benefit from a diverse and inclusive work environment where they feel supported, welcomed, and valued. Employees should feel comfortable and encouraged to bring their own unique capabilities, experiences, and characteristics to their work in order to be productive, innovative, and able to achieve to their fullest potential. We will strive to proactively attract, hire, and maintain a diverse workforce that reflects our city's residents. We will continue to partner with community associations and groups so that the voices of our residents are heard and reflected in the work we do.

**3.7 Unlawful Acts Prohibited:**

- (1) No employee or applicant for a position shall willfully make any false statement, certificate, mark, rating, or report in regard to any application for employment, testing, certification or appointment held or made under these rules or ordinances of the City of La Vista, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or the rules and regulations made thereunder.

(2) No person seeking appointment or promotion with the City shall either directly or indirectly give, promise, render or pay any money, service or other thing of value to any person for or on account of or in connection with, his/her test, appointment, proposed or desired appointment, promotion or proposed or desired promotion.

### 3.8 Nepotism Policy

Familial and personal relationships between employees create circumstances in which biased conduct, conflicts of interest, breaches of confidentiality, sexual harassment, and other unacceptable situations may occur. The City of La Vista therefore restricts and places conditions upon the employment of individuals who share familial or personal relationships.

The restrictions and conditions detailed in this Nepotism Policy apply to both current City employees and applicants for City employment. The City Administrator shall have final and discretionary authority regarding the interpretation and applicability of the provisions of this policy.

#### (1) Definitions

(A) **“Employee”** includes any full-time regular, part-time regular, temporary, and seasonal employee of the City. “Employee” also includes an applicant for employment by the City. “Employee” does not include an employee within the Police Department if, but only to the extent that, the provisions of the Civil Service Act guarantee protected job status to the employee.

(B) A **“Familial Relationship”** exists between an employee and the employee’s spouse, parents, children, siblings, grandchildren, grandparents, aunts and uncles (siblings of a parent), nieces and nephews (children of siblings of a parent), great-grandparents, and great-grandchildren. A familial relationship also exists between the employee and the employee’s spouse’s parents, children, siblings, grandparents, and grandchildren, as well as any spouse of the employee’s parents, children, siblings, grandparents, or grandchildren. A familial relationship, as defined above, exists without regard to age or dependent status, and regardless of whether the relationship exists as a result of blood, marriage, or legal adoption.

(C) A **“Personal Relationship”** exists between employees engaged in a romantic or sexual relationship. This includes casual dating, serious dating, casual sexual involvement, and any other conduct or behavior normally associated with romantic, intimate or sexual relationships. This definition encompasses any employees engaged in such a relationship without regard to either employee’s gender or sexual orientation.

(D) A **“Condition of Conflict of Interest”** exists where a familial or personal relationship might in any way induce or encourage action that contravenes or could contravene an employee’s duty to act in the best interest, financial or otherwise, of the City of La Vista.

(E) **“Elected Official”** means an individual elected or appointed as Mayor or as a member of the City Council.

**(2) Grandfather Clause**

As of the date of adoption of this policy, some employees may share familial or personal relationships with elected officials or other employees. These individuals will be “grandfathered” under this policy, which means they will be permitted to continue their employment with the City as long as the employment status and position(s) of employment do not change, the relationship does not result in interpersonal conflict that interferes with job performance or the working environment, and no act of improper or unfair favoritism occurs. Any future changes to employment status and/or position(s) will be governed by the requirements and restrictions of this policy.

**(3) Nepotism in Hiring**

**(A) Disclosure**

An applicant for employment must disclose, on his or her application, all familial and personal relationships that exist between the applicant and any elected official or employee of the City. Failure to make a required disclosure will render the applicant ineligible for employment. If the non-disclosure is discovered after the applicant has been employed by the City, the non-disclosure may result in disciplinary action, up to and including termination, at the discretion of the City Administrator.

**(B) Prohibited Relationships**

**(i) Relationships with Elected Officials**

No individual who shares a familial or personal relationship with an elected official may be offered or accept employment with the City.

**(ii) Relationships with Mayoral Appointees**

No individual who shares a familial or personal relationship with a Mayor-appointed employee may be offered or accept employment with the City.

**(iii) Relationships with Managerial and Supervisory Employees**

No individual who shares a familial or personal relationship with a managerial or supervisory employee may be offered or accept a position of employment which places the individual within and under the managerial or supervisory employee's chain of command. No managerial or supervisory employee of the City shall supervise, conduct a performance review of, or in any other manner affect the advancement, compensation, hours, assignment(s), or other terms and conditions of employment of an employee with whom the managerial or supervisory employee has a familial or personal relationship.

**(iv) Department Assignment**

No individual who shares a familial or personal relationship with a City employee may be offered or accept employment within the same department as the employee, regardless of the employee's seniority or supervisory level.

**(v) Exemption of Seasonal and Temporary Positions**

This policy does not apply to seasonal and temporary positions in certain programs within the Public Works and Recreation Departments, as designated or approved by the Human Resources Director.

**(C) Condition of Conflict of Interest**

The employment of an individual sharing a familial or personal relationship with a City employee, even if not expressly prohibited by this policy, may present a condition of conflict of interest. No individual who shares a familial or personal relationship with an employee shall be offered employment, accept employment or be allowed to continue in employment with the City, if a condition of conflict of interest exists. In any situation in which the Human Resources Director deems that a condition of conflict of interest may exist the Human Resources Director shall advise the City Administrator, who shall make the final determinations as to whether a condition of conflict exists and any appropriate action to be taken to eliminate the conflict.

**(4) Nepotism in Current Employment**

**(A) Required Disclosures**

When seeking a different position in City employment, an employee must disclose the name and assignment of any elected official and of any other City employee with whom the employee shares a familial or personal relationship. This disclosure must be made in writing with the individual's application for the different position or, if no formal application process is involved, the disclosure must be made in writing to the hiring supervisor before the selection is made.

Whenever a new familial or personal relationship is created between two employees or an employee and an elected official, the City employee (or both City employees, if applicable) shall disclose the relationship in writing to his or her department manager within 30 working days of creation of the relationship. The Department Manager shall then consult with the Human Resources Department to determine whether a relationship is prohibited and coordinate any further action that may be appropriate.

Failure to make a required disclosure will render an employee ineligible for transfer, promotion, or re-assignment, and may result in disciplinary action, up to and including termination, at the discretion of the City Administrator.

**(B) Prohibited Relationships**

**(i) Relationships with Elected Officials**

Any employee who develops a personal relationship with an elected official must tender a written resignation within 90 days. This does not include relationships that exist prior to the election of an official to office.

**(ii) Relationships with Mayor-Appointed or Council-Appointed Employees**

A non-appointed employee who comes to share or who develops a personal relationship with an appointed employee, must tender a written resignation within 90 days after the date the personal relationship was created. If a resignation is not tendered within such period, the Human Resources Director, in coordination with the City Administrator and the appropriate Managing Director, will terminate employment with the non-appointed employee.

In the case both employees are appointed employees, the City Administrator will advise the Mayor and City Council of the situation. The Mayor and City Council will select the appointed employee to dismiss.

**(iii) Relationships with Managerial and Supervisory Employees**

An employee who comes to share a familial or personal relationship with a managerial or supervisory employee (including but not limited to a Managing Director, Department Director or Department Head) may not occupy, be offered, or accept a position of employment with the City which places the employee within the chain of command or line of supervision of the managerial or supervisory employee, or which permits either employee to supervise or be supervised by the other. No managerial or supervisory employee shall supervise, conduct a performance review of, or in any other manner affect the advancement, compensation, hours, assignment(s), or other terms and conditions of employment of a City employee with whom the managerial or supervisory staff employee has a familial or personal relationship.

**(iv) Department Assignment**

Incumbent employees who share a familial or personal relationship will not normally be permitted to work in the same department. Prior written authorization from the Managing Director and the City Administrator shall be required for any employees who share a familial or personal relationship to work in the same department.

**(C) Condition of Conflict of Interest**

The employment of individuals sharing a familial or personal relationship, even if not expressly prohibited by this policy, may present a condition of conflict of interest. No employees who share a familial or personal relationship shall be employed in any capacity which permits such a conflict to exist or which in any way may pose a detriment to the interests of the City. In any situation in which the Human Resources Director deems that a condition of conflict of interest may exist, the Human Resources Director shall advise the City Administrator, who shall make the final determination as to whether a condition of conflict exists and any appropriate action to be taken to eliminate the conflict.

**(5) Resolution of Prohibited Relationships**

If any of the prohibitions of this policy apply, and timely disclosure of the relationship has been made, a decision shall be made as soon as practicable after the disclosure of a relationship occurs. The resolution may include, but is not limited to:

- (A) Voluntary movement of either (or both) individuals to open and available City position(s) for which the individual(s) is/are qualified;
- (B) Mandatory (ordered) re-assignment of one of the employees to another position in another department (if available); or
- (C) Resignation or dismissal of one of the employees.

Positions to which an employee may voluntarily move or be mandatorily re-assigned are subject to availability and employee qualifications.

If mandatory re-assignment or dismissal is determined to be necessary and only one department is involved, the Managing Director will make the decision as to which employee will be reassigned or dismissed. If more than one department is involved, the decision will be made by the Managing Directors of the departments in which the employees involved are employed, in coordination with the Human Resources Director. In all cases, however, the City Administrator retains the prerogative and discretion to review the decision(s) made and to approve, disapprove, or modify any decision(s) made.

If the City determines there is no suitable course of action that would remedy a situation that is contrary to this policy and which would allow both employees to remain employed by the City, and if neither employee is willing to resign to remedy the situation, the City Administrator will make the final decision as to which employee's employment will be terminated.

Any resolution of a prohibited relationship will comply with Nebraska Revised Statute 49-1499.03.

**(6) Date of Adoption**

This policy was adopted by action of the Mayor and City Council on May 18, 2021.

3.9 **Residency and Travel Time Requirements:** Persons holding certain positions of employment with the City shall, as a condition of employment, meet residency requirements.

- (1) **Residency — Appointed Officials:** The City Administrator and Police Chief shall reside within the City of La Vista or the zoning jurisdiction of the City of La Vista.
- (2) **Travel Time — Appointed Officials:** The Public Works Director shall reside within twenty (20) minutes travel time by motor vehicle to the public works facility. Residency within the zoning jurisdiction of the City of La Vista shall in all cases satisfy the requirements of this policy. The City Administrator shall make the determination of distances and locations that are within the radius of the allowed travel time, taking into account all then existing facts and circumstances of the particular case.
- (3) **New Hires & Transfers:** The City Administrator may establish a period of time up to a maximum of 24 months from the date of hire/transfer/promotion for an employee to comply with the residency and travel time requirements as provided herein.

3.10 **Outside Employment:** Employees of the City of La Vista may obtain outside employment if the outside employment does not conflict with the employee's normal working hours for the City, the employee's efficiency in his/her City work performance is not affected, and there is no conflict with the interest of the City. The employee shall advise his/her City department head of the nature of the outside employment, hours involved, and any other appropriate information requested. In any situation in which an extra City duty or extra City work hours are necessitated by an employee's position with the City, City work will take priority over the employee's outside employment.

The following activities, although not all-inclusive, are considered to be in conflict or incompatible with City employment:

- (1) Any employment, enterprise or activity which involves the use for private gain of the City's time, facilities, equipment or supplies, or the prestige or influence of a City office or equipment. This provision shall not apply to police-related off-duty employment of uniformed police officers in accordance with established policy.
- (2) Any activity which involves receipt or acceptance by an employee of any money or other consideration from anyone other than the City for the performance of an act or service which the employee is required or expected to render in the regular course of his/her City employment or his/her duty as a City employee.
- (3) Any outside activity which involves performance of a task or activity which may later be subject to the control, inspection, review or enforcement by the employee or the City department by which he/she is employed.

- (4) Any outside activity consisting of a business partnership between employees in the same City department.
- (5) Any activity which involves so much of the employee's time that it impairs his/her attendance or efficiency in the performance of his/her duties as a City employee.

The City Administrator shall make the final determination as to whether a specific activity is prohibited.

**3.11 Appearance and Conduct:** Employees of the City of La Vista shall:

- (1) Maintain a clean, well-groomed appearance in keeping with their positions and conducive to good public relations. Department heads shall develop, for their respective departments, requirements related to dress, personal appearance and hygiene.
- (2) Treat their supervisors with appropriate respect for the positions they hold and carry out all lawful directives and instructions to the best of their abilities without delay or argument.
- (3) Serve the public in a courteous, impartial, business-like manner and conduct themselves respectfully during work hours and in the performance of their duties. Rudeness or courtesy toward members of the public is prohibited.
- (4) Be ethical, impartial, just and honorable in all their relations with each other. Employees shall not make false reports or gossip to the discredit or injury of another City employee or concerning City matters. Employees shall not act in a manner calculated to create any disturbance or dissension within City departments, including fighting.
- (5) Not consume, be under the influence of, or have in their possession while on duty, any alcoholic beverage or controlled substance (excluding prescription medicines being taken as directed by a physician).
- (6) Not harass, threaten or seek to intimidate or bully fellow employees or members of the public. The City will not tolerate any behavior toward fellow employees or members of the public that threatens physical or bodily harm or injury, harmful or offensive bodily contact or damage to public or private property. (This will not be interpreted to prohibit the use of or threat to use lawful and appropriate force in appropriate circumstances by members of the La Vista Police Department as may be allowed by Police Department rules and policies.)
- (7)
  - (A) Not at any time, while on City property or within City buildings or facilities, possess any firearm or other weapon on their persons (or in any package, container or vehicle that is in their possession or custody or under their control).
  - (B) Not at any time while on duty for the City, at any location, possess any firearm or other weapon on their persons (or in any package, container or vehicle that is in their possession or custody or under their control).

- (C) As used in the two preceding subparagraphs, “weapon” shall include but not be limited to any knife with a blade longer than three inches that is not the property of the City.
- (D) This prohibition on possession of weapons shall not apply to (a) City police officer to the extent he or she is required or ordered to carry firearms or other weapons as part of the duties and responsibilities of his or her employment by the City, or (b) City employee to the extent he or she is granted permission by his or her Department Head to possess a specific item while on duty. Example: The Department Head may grant a maintenance worker permission to carry in plain view a sheath knife having a blade longer than 3 inches in length for use in performing the maintenance worker’s job duties, or (c) Qualified active and retired law enforcement when they meet all requirement of the Federal H.R. 218 “Law Enforcement Officer Safety Act”.

Violation of any of the rules set forth in this Manual with respect to employee conduct or behavior may result in disciplinary action up to and including termination of employment.

- 3.12 **Attendance:** Employees shall be in attendance at their assigned places of work in accordance with the policies or their particular assignments regarding hours of work, holidays and leave. If an employee, for some unavoidable reason, cannot report for work, he/she shall notify his/her supervisor or department head as soon as possible. Except in unavoidable circumstances, such notice is required prior to the time the employee is scheduled to commence work, and absences from work are to be reported via an employee’s time off request submission in the timekeeping system. Noncompliance with these policies may result in disciplinary action.
- 3.13 **Hours of Work:** The normal work week is five (5) days of work, eight (8) hours per day for all employees except those of the Police Department. The FOP contract references the procedure by which the City establishes the normal work week for the Police Department. Each department shall establish and post work schedules for its employees in accordance with the needs of the department. Employees are subject to call out (i.e., being called in to work while off duty) as circumstances warrant. An employee’s failure to report when so called out may result in disciplinary action. Each department head shall advise the City Administrator of the department’s work schedule.
- 3.14 **Repair and Use of City Property:** Any employee of the City of La Vista found to be responsible for damage to or loss of City property through negligence or abuse shall be subject to disciplinary action and may be required to reimburse the City for such damages or loss. No City equipment, materials or supplies shall be removed from the City’s possession without the approval of the supervisor, department head or City Administrator.
- 3.15 **Use of City-Owned Vehicles:** Department heads and other employees as designated by the City Administrator shall be allowed to use city owned vehicles as transportation to their homes from their places of work in addition to use during normal duty hours. As an essential job function, employees may also be required to operate/drive city-owned motor vehicles during normal duty hours. Such vehicles shall not be used for other than official city business. They shall be kept clean and driven in a manner so as to conform with existing traffic regulations and not bring discredit upon the city.

Operators of city owned vehicles must possess a valid, current operators' license in accordance with state laws. The City may establish procedures to routinely inspect such licenses. Operators are expected to drive safely and observe all traffic laws. Seat belts must be worn by employees at all times while driving a City vehicle, while a passenger in a City vehicle, or while conducting City business utilizing a vehicle. Employees who receive a traffic ticket while conducting City business will be responsible for paying any associated fine and may be subject to disciplinary action.

Employees who have an accident with a city-owned vehicle shall first notify a law enforcement agency and then their supervisor or department head. This shall be done regardless of how minor the accident may be.

The City Administrator or his/her designee will review the ability of an employee to operate a city-owned motor vehicle if an employee has been involved in two or more traffic accidents and/or has received two or more moving violations while operating a city-owned vehicle within a twelve month time frame. The review may result in disciplinary action which may include but is not limited to driver's safety training, suspension from use of city-owned vehicles, suspension from work or demotion.

If driving a City vehicle is part of an employee's job duties for the City, the employee may be subject to disciplinary or other job action – such as termination of employment or transfer to a vacant position (with any applicable pay reduction) – if the City's insurer advises the City that the City will no longer have insurance coverage for accidents involving a vehicle operated by the employee.

3.16 **Safety:** Department heads shall ensure that safety rules and regulations are posted properly and that all employees of the department are trained to work safely. Designated City personnel shall periodically conduct safety inspections of work sites to detect hazardous areas or practices for correction as appropriate. A record of such inspections and results thereof shall be maintained by the department head.

Employees are expected to know and observe prudent safety precautions at all times, to wear required Personal Protective Equipment, to observe all posted safety rules and regulations and to keep the work place neat and clean.

(1) **Safety Committee(s):** In accordance with Sections 48-443 through 48-445 of the Nebraska Revised Statutes, the City has established one or more Safety Committees consisting of management and non-management personnel. The duties of the committee(s) shall be in accordance with the cited Nebraska statutes and the rules and regulations promulgated thereunder by the Nebraska Department of Labor (Title 230, Chapter 6, of the Nebraska Administrative Code).

3.17 **Reporting Accidents and Injuries:** Employees shall report all accidents and injuries to their supervisors or department heads as soon as possible after the accident. Injuries of a minor first-aid nature may be treated at the work site or department office, but must be reported. Rescue squad services shall be used to transport employees to a hospital if the accident or injury results in the incapacitation of the employee. Within twenty-four (24) hours of any accident or incident the City employee or his/her supervisor shall file an accident-injury report with the City Clerk and Human

Resources Department. As stated in 3.14, employees involved in an accident with a city-owned vehicle must notify a law enforcement agency and their supervisor or department head, regardless of how minor an accident may be.

- 3.18 **Selling and Peddling:** No peddling, solicitation or sales for charitable purposes or other reason shall be allowed among or by City employees during working hours unless approved by the City Administrator.
- 3.19 **Conflict of Interest:** No employee shall engage in any activity or enterprise which conflicts with his/her duties as a City employee or with the duties, functions and responsibilities of the department in which he/she is employed or volunteers.

No employee of the City shall have any financial interest in the profits of any contract, service or other work performed by or for the City; nor personally profit directly or indirectly from any contract, purchase, sale or service between the City and any person or company; nor personally or as an agent provide any surety, bail or bond required by law or subject to the approval of the City Council. No officer or employee shall accept any free or preferred service, benefit, or concession from any person or company, other than a service, benefit or concession offered to members of the public-at-large. Violation of any of these provisions may result in disciplinary action.

- 3.20 **Maintenance of Records:** The City Administrator shall be responsible for maintaining records concerning each employee, to include pertinent personnel data such as name, address, telephone number, title of position held, the department to which assigned, current pay rate and changes in employment status and performance evaluations. Records shall also include information relative to completion of training schools, professional and technical courses, accomplishment of work, conformance to expected standards, awards and such other information as shall be deemed appropriate. Each employee shall be advised as to the content of his/her record upon request.

Personnel records shall be treated as confidential information not to be released without signed authorization of the employee except as required by law. However, internal release and use of personnel records by authorized offices and officers of the City is permitted.

- 3.21 **Reporting Changes in Name, Address and Dependents:** Employees shall report to their department head in writing any change of name and any change of dependents. Also, to be reported for tax and insurance purposes are any changes in address, telephone number or information which will have an impact on the personnel record of the employee. Department heads shall, in turn, notify the Human Resources Department of such changes.
- 3.22 **Promotion:** Insofar as determined by the City Administrator to be consistent with the City's interest, higher positions in a given department will be filled by promotions from among the lower ranks of employees within the same department. The factors in determining promotions will include, but not be limited to: competitive promotional examination where applicable, efficiency of service, education, experience and commitment to the City. This practice is observed so that both employees and the public will regard City service as a career; efficiency and ability will be recognized and turnover of personnel will be minimized.

3.23 **Transfer:** City employees shall have the privilege of requesting a transfer to another department whenever there is an existing vacancy for which they are qualified. The City Administrator will determine which employees are qualified for the vacancy and ascertain whether they are available for temporary or permanent transfer by consulting with the department head and receiving his/her recommendation based on the needs of the department. In all cases, needs of the department and of the City will prevail.

3.24 **Equal Employment Opportunity:** The City of La Vista is an equal opportunity employer. Unlawful discrimination on the basis of race, color, sex, national origin, religion, political affiliation, age, genetic information, marital status, sexual orientation, or gender identity with respect to terms and conditions of employment, including but not limited to recruitment, selection, hiring, promotion, demotion, lay off, recall, transfer and dismissal is prohibited. Discrimination on the basis of disability is also prohibited, except where the applicant or employee is unable to perform the essential functions of the position with or without reasonable accommodation, where a requested or necessary accommodation would impose an undue hardship on the City's operations or where a direct threat to health or safety would otherwise be presented.

3.25 **Employee Suggestions:** Employee and volunteer suggestions for improvement of City services are encouraged. The City Administrator and department heads shall take action to encourage and facilitate employee and volunteer suggestions. Suggestions submitted at the department level will be forwarded to the City Administrator by the department head. All signed, written suggestions shall receive a reply.

3.26 **Harassment Prohibited:**

- (1) The following policy is written primarily in terms of "sexual harassment." However, harassment of employees on the basis of or because of race, color, religion, age (age 40 or older), national origin, disability, genetic information, marital status, sexual orientation or gender identity is similarly unlawful and prohibited by the City. The following policy and procedures will be deemed to prohibit and apply to all such forms and bases of harassment.
- (2) Sexual harassment in the workplace is unlawful and will not be tolerated by the City. Sexual harassment can fall into one or both of two categories: "quid pro quo" harassment (one thing in exchange of another) and "hostile environment" harassment.

"Quid pro quo" sexual harassment typically involves a supervisor using his or her supervisory authority to obtain sexual favors from an employee in exchange for the granting of favorable on-the-job treatment. "Hostile environment" sexual harassment most often arises when an employee is subjected to an intimidating, hostile or offensive work environment because of offensive sexually-based or sexually-oriented physical or verbal conduct. It is important to understand that "hostile environment" harassment includes harassment "because of" sex or gender, even if the harassing behavior itself is not in any way related to sex or sexuality. Similarly, harassing behavior toward a member of one race "because of" that person's race is prohibited, even if the "content" of the harassing behavior itself is not in any way related to race.

- (3) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are considered sexual harassment (a) when submission to such conduct is made a

condition of an individual's employment; (b) when an individual's submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or (c) when such conduct has the purpose and/or the effect of unreasonably interfering with an individual's work performance through the creation of an intimidating, hostile or offensive working environment.

Anything that a reasonable person may perceive to be sexually (or racially, etc.) offensive may be unlawful harassment. Examples include (but are not limited to): offensive or vulgar jokes or language; inappropriate physical contact; comments, questions or innuendoes of a sexual nature; and the display of "pin-ups" or sexually-oriented pictures.

- (4) Employees who believe themselves to be victims of sexual or other unlawful harassment or who are aware of such harassment should immediately report such incidents to a supervisor or the Human Resources Director. An employee victim of harassment may discuss the offensive conduct with the offender(s) before reporting it to management, but is not required to do so. Further, the employee victim may make a complaint directly to the City Administrator or Mayor, if necessary to permit the employee to avoid having to discuss the matter with the offender(s).

The City will promptly and thoroughly investigate complaints or reports of sexual (or other) harassment. When warranted by the investigation, the City will take immediate and appropriate corrective action. Such action may include disciplinary action against the offender(s), which may range up to and include dismissal from employment, depending upon the severity of the conduct as assessed by the City. To the extent lawful and realistically feasible, the City will endeavor to handle harassment complaints in a manner that is as discreet and confidential as the circumstances allow; however, because of the nature of such situations, absolute confidentiality cannot be guaranteed.

- (5) No retaliation will be permitted against an employee who in good faith registers a complaint or reports a sexual (or other prohibited) harassment incident, or against any employee who in good faith provides testimony as a witness or who otherwise provides assistance to any complaining or reporting employee, or who in good faith provides assistance to the City in connection with the investigation of any complaint or report of harassment.
- (6) After the City has taken appropriate corrective action to resolve a complaint or report of harassment, the City may make follow-up inquiries after an appropriate interval to ensure that the harassment has not resumed and retaliation has not been suffered. However, victims and witnesses are not required to wait for follow-up. If harassment resumes or retaliation occurs, the victim or witness is encouraged to contact his/her supervisor, or the City Administrator, or any other appropriate City representative or official immediately, that the City might promptly and effectively act.

## **PERSONNEL RULES AND REGULATIONS**

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**SECTION IV: CIVIL SERVICE**  
**ADOPTED: RESOLUTION NO. 96-012**  
**DATE: FEBRUARY 6, 1996**  
**READOPTED: RESOLUTION NO. 05-159**  
**DATE: DATE: DECEMBER 20, 2005**

4.1 **Civil Service Commission:** The Civil Service Commission shall have jurisdiction over all full-time police officers of the City, including the Chief of Police. The Commission is charged with the testing and certification for appointment and promotion, and the review of disciplinary actions concerning, any employee covered by civil service within the Police Department. All appointments and promotions to the Police Department shall be made solely on merit, efficiency, and fitness, including ability to perform the essential functions of the position in question, which shall be determined by open, competitive examination and impartial investigation. A list or lists of persons eligible for appointments or promotions within the Police Department shall be continuously maintained by the Commission. Once compiled, each such list shall be effective for the period of time established by the City Administrator. Pursuant to state statutes, the Civil Service Commission of the City of La Vista has also adopted detailed Rules and Regulations regarding its operations and functions. In respect to members of the Police Department covered by Civil Service, should there be any conflict between the Rules and Regulations in this Manual or the Rules and Regulations of the Civil Service Commission and the Nebraska state statutes governing civil service, the statutes shall govern and control.

**SECTION V: SELECTION AND APPOINTMENT**

<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 97-018</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 09-072</b>
<b>DATE:</b>	<b>FEBRUARY 4, 1997</b>	<b>DATE:</b>	<b>AUGUST 4, 2009</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 14-017</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>	<b>DATE:</b>	<b>FEBRUARY 18, 2014</b>

5.1 **General Policy:** In making appointments, primary consideration will be given to the capabilities of candidates to perform essential functions with a high degree of efficiency and effectiveness, without unlawful regard to political affiliation, religion, race, sex, age, marital status, national origin, disability or other protected class.

5.2 **Hiring/Selection Process:** Department heads will notify the City Administrator as far in advance as possible of any requirements for additional personnel, setting forth such information as the number of additional employees desired; education, training, experience, skills and other qualifications required; and other qualifications preferred. Upon receiving such notice, the City Administrator shall review the request for feasibility of filling the vacancy by promotion from within the department or transfer of employees from another department. Hiring, promotions, and transfer procedures for the police department shall conform to the procedure established by the Civil Service Commission in accordance with state statutes. If there are no suitable employees available for promotion or transfer to the position, the vacant position will be filled by appointment. The City Administrator will initiate the selection process which may include some or all of the following steps:

- (1) Public announcement of the vacancy and notification of job placement agencies.
- (2) Receive applications.
- (3) Screen applicants for qualifications.
- (4) Administer employment examinations where applicable.
- (5) Conduct personal interview as appropriate.
- (6) Receive recommendation of department head.
- (7) Offer of employment , conditional upon passing a drug test and a job-related physical, as applicable.
- (8) Drug test and physical examination performed.
- (9) Make appointment.
- (10) City Council approval, if required

5.3 **Applicants for Employment:** All applicants for employment must be eligible to be lawfully employed in the United States, be at least sixteen (16) years of age, and be able to perform with or without reasonable accommodation the essential functions of the position for which application is made.

5.4 **Military Service Credit:** A veteran who has equaled or exceeded the minimum qualifying standards established by the City Administrator for initial employment by the City in a vacant position shall have

five percent (ten percent, in the case of a disabled veteran) added to his or her passing score on any examination administered for the position if a claim for such preference is made on the application for employment. The definitions set forth in section 48-225 of the Nebraska Revised Statutes, as amended from time to time, shall apply in interpreting this provision. Those definitions presently are:

- (1) “Veteran” means any person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions);
- (2) “Full-time duty” means duty during time of war or during a period recognized by the United States Department of Veterans Affairs as qualifying for veterans benefits administered by the department and that such duty from January 31, 1955, to February 28, 1961, exceeded one hundred eighty days unless lesser duty was the result of a service-connected or service-aggravated disability;
- (3) “Disabled veteran” means an individual who has served on active duty in the armed forces of the United States, has been discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) therefrom, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the United States Department of Veterans Affairs or a military department.

5.5 **Disqualification by Reason of Felony Conviction:** Applicants for employment may be disqualified on the basis of a prior felony conviction if, taking account of all the facts and circumstances, the City Administrator determines there is a relationship between the nature of the offense and the position in question or that disqualification is warranted by business necessity.

5.6 **Disqualification:** The City Administrator may refuse to interview or test an applicant or, after testing when required, may disqualify such applicant, remove his/her name from an eligibility list, or consult with the appointing authority in taking steps to remove such person already appointed, if the applicant:

- (1) Does not meet the qualifications established for the position;
- (2) Is unable to perform the essential functions of the position, with or without reasonable accommodation, or if a requested or necessary accommodation would impose an undue hardship on the City’s operation, or if employment of the applicant would pose a direct threat to health or safety;
- (3) Has made a false statement of material fact in the application process;
- (4) Has used or has attempted to use political pressure or bribery to secure an advantage in the appointment;

- (5) Has directly or indirectly obtained information regarding the employee examination, to which, as an applicant, he/she was not entitled or authorized to receive and which conferred an unfair advantage on him or her in the examination process;
- (6) Has failed to submit his/her application correctly or within the prescribed time limits;
- (7) Has taken part in the compilation, administration or correction of an examination pertaining to a position for which he/she is an applicant;
- (8) Has previously been dismissed from a position in the City service for cause or resigned while charges for dismissal for cause were pending;
- (9) Has taken for another or allowed another to take for him/her all or part of any qualification examination, or has cheated in any other way on any such examination;
- (10) Has failed to pass a pre-employment drug test or refused to consent to such test as detailed in the City of La Vista Drug Testing Policy as attached; or
- (11) Has otherwise violated the provisions of these rules.

5.7 **Part Time Appointments:** Part-time employees shall not normally work more than 28 hours in any calendar week and no part-time employee shall work more than 1,456 hours in a year. Prior to the time that a former part-time City employee shall be rehired by any City Department in either a seasonal or part-time position, the employee must have a break in service from City employment that is either (a) if the employee worked for twenty-six consecutive weeks, then the break in service must be greater than or equal to twenty-six (26) consecutive weeks or (b) if the employee worked for less than 26 consecutive weeks, then the employee may be rehired if (i) the employee's break in service was at least four (4) consecutive weeks; and (ii) the employee's break in service is longer than the employee's immediately preceding period of employment with the City. The above reemployment time limit rules for former part-time employees may be waived by the Human Resources Department based on the number of hours the part-time employee previously worked with the City in the same year but in no instance will such employee be allowed to work more than 1,456 hours in a year.

5.8 **Seasonal Appointments:** Seasonal assignments shall not exceed twenty-six (26) weeks and no seasonal employee shall work more than 1,456 hours in a year. Upon completion of their seasonal assignment, such employee shall have their employment with the City terminated. Before being allowed to be rehired by any City Department in either a seasonal or part-time position, a former seasonal employee must have a break in service from City employment that is either (a) if the employee worked for twenty-six (26) consecutive weeks, then the break in service must be greater than or equal to twenty-six (26) consecutive weeks or (b) if the employee worked for less than 26 consecutive weeks, then the employee may be rehired if (i) the employee's break in service was at least four (4) consecutive weeks; and (ii) the employee's break in service is longer than the employee's immediately preceding period of employment with the City.

5.9 **Probationary Period:** All appointments and promotions to employment with the City of La Vista are made subject to a satisfactory completion of a probationary period, during which the employee's performance will be subject to close review.

- (1) **Purpose:** The probationary period shall be utilized by the department head as an opportunity to observe the new or promoted employee's work and work habits, to train and aid the employee in adjustment to his/her position and to disqualify from further service in the position any employee whose work performance fails to meet satisfactory work standards.
- (2) **Duration:** All original and promotional appointments shall be tentative and subject to an initial probationary period of twelve (12) calendar months of actual service. The City Administrator may direct an additional three (3) month extension of the probationary period for any reason that the City Administrator deems adequate. The duration of the probationary period for positions covered by the Civil Service Ordinance shall be established in the rules and regulations of the Civil Service Commission.
- (3) **Transfer During Probationary Period:** An employee who is transferred to another position in the same or different class prior to the completion of his/her initial or extended probationary period shall complete that probationary period in the new position, but shall not be required to re-commence a new twelve-month probationary period. Verification of satisfactory employment in the new position by the department head will also constitute verification of satisfactory service in the former position.
- (4) **Dismissal During Initial or Extended Probationary Period:** At any time during the initial or extended probationary period, the appointing authority may remove and separate from employment an employee who, in the judgment of the appointing authority, is not performing satisfactorily. The appointing authority shall report the removal and the reasons there for to the employee concerned.
- (5) **Lay-off During Initial or Extended Probationary Period:** If, at any time during the initial or extended probationary period, an employee is about to be laid off because of reduction in force, the appointing authority, with the consent of the employee, may transfer such employee in lieu of lay-off if the employee is otherwise eligible and work is available in a lower or equivalent class. The initial or extended probationary period of an employee transferred in lieu of lay-off during such period shall include the period of probation served in the former class. No transfer of this kind shall be made if it will result in the separation of any other employee with longer service to the City. Employees accepting a transfer in lieu of lay-off shall have first opportunity at reinstatement in the original position if a vacancy subsequently occurs in the original position.
- (6) **Demotion During Probationary Period:** Permanent non-exempt employees of the City shall serve a new probationary period when promoted to a different position. If such an employee is removed from the promotional position during the new probationary period for reasons other than misconduct, as determined by the City Administrator, the employee shall be reinstated to his/her former or a comparable position at his/her former pay rate and benefits.

## **PERSONNEL RULES AND REGULATIONS**

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- (7) **Satisfactory Completion of Probationary Period:** The department head shall notify the City Administrator, normally at least ten (10) days prior to expiration of the initial or extended probationary period, whether the department head recommends that the employee be continued in the position. Except as provided in this paragraph, no employee shall be deemed to have satisfactorily completed his/her initial or extended probationary period, nor shall such period be deemed to have ended, until such facts have been confirmed in writing by the City Administrator. An employee who has not received such written confirmation by the scheduled expiration of his/her initial or extended probationary period may at any time thereafter submit a written request to the City Administrator for such confirmation. The City Administrator shall then, within ten (10) business days after receipt of the employee's request for confirmation, confirm in writing whether the employee has satisfactorily completed the probationary period and whether the period has ended, or take other appropriate action (such as: separating the employee, demoting the employee to the position from which transferred or to a comparable position, extending the employee's initial probationary period, etc.). If the City Administrator does not so notify the employee in writing or take such other appropriate action within ten (10) business days after documented receipt of the employee's written request for confirmation, the employee shall be deemed to have satisfactorily completed the probationary period and the period shall be deemed to have ended as of the eleventh (11th) business day after the documented receipt by the City Administrator of the employee's request for confirmation.
- (8) **Appeal Rights of Probationary Period:** An employee who is demoted, disqualified from further service or dismissed during the initial or extended probationary period shall not have the right to appeal to the Personnel Board regarding any such action.
- (9) **Accrual of Sick Leave and Annual Leave:** Probationary employees shall accrue both sick and annual leave beginning on the date of appointment. Use of accrued sick leave during the probationary period is allowed. Use of accrued annual leave during the probationary period is allowed after six months of service.

**SECTION VI: CLASSIFICATION PLAN**  
**ADOPTED: RESOLUTION NO. 96-012**  
**DATE: FEBRUARY 6, 1996**  
**READOPTED: RESOLUTION NO. 05-159**  
**DATE: DECEMBER 20, 2005**

**6.1 The Classification Plan:** A position classification plan, graded and based according to assigned work duties and responsibilities, shall be developed and maintained by the City Administrator to provide standardization and appropriate classification of all positions in the City service. With the approval of the Mayor and City Council, new classes may be established, combined or abolished.

**6.2 Purposes of the Classification Plan:**

- (1) To develop written descriptions, including performance criteria, for all classes;
- (2) To provide the fundamental basis of the compensation program and other aspects of the personnel program;
- (3) To provide uniform and meaningful titles for all positions;
- (4) To establish qualification standards for each class and a basis for recruiting, testing and other selection purposes;
- (5) To provide appointing authorities with a means of analyzing work distribution, areas of responsibility, lines of authority, and other relevant relationships between individual positions and groups of positions;
- (6) To assist appointing authorities in determining personnel service costs and projections for annual budget requirements;
- (7) To provide a basis for developing standards of work performance;
- (8) To provide equal pay for equal work;
- (9) To establish lines of promotional opportunity;
- (10) To indicate employee training needs and development potential; and
- (11) To standardize class titles so that each indicates a definite range of duties and responsibilities and has the same meaning throughout the Classified Service.

**6.3 Administration of the Classification Plan:** The City Administrator shall conduct position classification studies whenever he/she deems it necessary or the duties and responsibilities of existing positions have undergone significant change. In addition, a classification study will be made when the City Administrator is notified or recommends that new positions be established or upon request of the

department head or affected employee if the classification of such position has not been reviewed within the last twelve (12) months. If the City Administrator finds that a substantial change in organization, creation or change of position or other pertinent conditions make necessary the amendment of an existing class, he/she may amend the classification plan subject to review of the Mayor and City Council.

6.4 **Classification of Positions:** The classification plan shall consist of:

- (1) An outline of classes of non-exempt positions in the City Service arranged in appropriate occupational groups.
- (2) Class specifications in such form as prescribed by the City Administrator.
- (3) A grouping in classes of positions which are approximately equal in skills, duties, effort and responsibility, which are performed under similar working conditions and require the same general qualifications, and which can be equitably compensated within the same range of pay.
- (4) Class titles, general function of each class and a description of the essential functions of each class or position.

Class titles are to be used in all personnel, accounting, budget, appropriation and financial records. No person will be appointed to or employed in a non-exempt position under a title not included in the classification plan.

Class specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are to be descriptive and illustrative of the essential functions and the kind of work performed, but not necessarily inclusive of all duties performed.

The classification plan is to be used:

- (1) As a guide in recruitment and examining candidates for employment;
- (2) In determining lines of promotion and in developing employee training programs;
- (3) In determining compensation rates for various types of work;
- (4) In determining personnel service items in departmental budgets; and
- (5) In providing uniform job terminology understandable by City officials, employees and the general public.

6.5 **Transfer of Employee:** The status of an employee permanently transferred to another position shall be determined by the City Administrator whenever a classification action is involved.

**SECTION VII: THE COMPENSATION PLAN**

<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 03-123</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>DATE:</b>	<b>DECEMBER 2, 2003</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 97-130</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 04-126</b>
<b>DATE:</b>	<b>OCTOBER 21, 1997</b>	<b>DATE:</b>	<b>DECEMBER 21, 2004</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 99-155</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>NOVEMBER 2, 1999</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 07-099</b>
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>	<b>DATE:</b>	<b>SEPTEMBER 18, 2007</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 01-159</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 07-128</b>
<b>DATE:</b>	<b>NOVEMBER 20, 2001</b>	<b>DATE:</b>	<b>DECEMBER 18, 2007</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 09-072</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>	<b>DATE:</b>	<b>AUGUST 4, 2009</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 03-097</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 23-020</b>
<b>DATE:</b>	<b>OCTOBER 21, 2003</b>	<b>DATE:</b>	<b>FEBRUARY 7, 2023</b>

7.1 **General Policy:** The City of La Vista operates under a uniform and equitable pay plan, consisting of minimum, intermediate and maximum rates of pay for each class of positions. A Pay for Performance (PFP) compensation program has been adopted for all employment positions in the City with the following exceptions:

- a. Employment positions covered as part of a collective bargaining agreement, except to the extent otherwise provided in the agreement.
- b. Any temporary employment position such as seasonal positions.
- c. Any employment position covered by an express employment contract, except to the extent otherwise provided in the contract.

The pay plan is directly related to the classification plan and is determined with due regard to: the skills, duties, effort and responsibilities of each class; required qualifications; prevailing rates of pay for comparable work in other public and private institutions located comparably to the City; the cost of living; the financial condition of the City and other relevant considerations.

7.2 **Procedures:** The City Administrator shall be responsible for the development, maintenance, and continued administration of the compensation plan as adopted by the Mayor and City Council. Prior to the preparation of the annual budget, the City Administrator shall make a comparative study of factors affecting the compensation policies of the City of La Vista. On the basis of such study, the City Administrator shall recommend to the Mayor and City Council such changes in pay ranges and rules as may be warranted to maintain the fairness and adequacy of the compensation plan.

7.3 **Pay Rates for New Employees:** The following procedures shall apply in establishing compensation rates for new employees:

- (1) A new employee shall be hired at the minimum of the position grade range unless the employee possesses special qualifications.
- (2) A department head, with the approval of the Human Resources Department, may recommend to the City Administrator that a new employee with special qualifications be assigned a starting rate of

compensation of up to the mid-point of the position grade range if the department head determines that the employee will be likely to satisfactorily perform all of the position responsibilities within a comparatively short period of time (i.e., two or three months) after commencement of employment.

- (3) In exceptional circumstances, the City Administrator may approve a starting rate of compensation above the mid-point of the position grade range.
- (4) The existence of an approved position and the new employee's starting rate of compensation must be approved by the City Administrator.

7.4 **Frequency of Salary Increases:** Employees who satisfactorily complete their initial probationary period and receive a satisfactory performance appraisal will be eligible for an increase in compensation of three (3) percent. If such initial probationary period is extended by the City Administrator, such pay increase shall not be granted until the employee has satisfactorily completed the extended initial probationary period. A newly hired police employee — for whom the probationary period is established by rule of the Civil Service Commission — will receive a one step probationary increase effective twelve months after the employee begins employment with the City, even though the employee may not have then completed the probationary period established by Civil Service Commission rule. Additional within range increases may be granted at one (1) year intervals from the hire/promotion date for employees hired/promoted after October 1, 2009 and at one (1) year intervals from the previously existing performance appraisal date for employees hired prior to October 1, 2009. Within range increases will be based on performance and must be approved by the City Administrator upon written recommendation and certification of the employee's department head that the employee's service has been meritorious.

The department head's recommendation shall be in the form of a personnel action form and shall include the following information and be based upon the following and other pertinent considerations:

- (1) The employee's position, present salary and range.
  - (a) The new compensation level recommended by the department head, which shall not exceed the range maximum.
- (2) The employee's present compensation level.
- (3) The employee's performance appraisal.

7.5 **Pay Increases and Reductions; Effective Date:** Pay increases resulting from a promotion or performance increase will become effective at the beginning of the next pay period following the approval of such increase. Reduction in pay as a result of voluntary or involuntary demotion from a position in one class to a position in a class having a lower pay range, or reduction in salary within a class for a disciplinary reason, shall become effective at the beginning of the next pay period following approval of such action by the City Administrator.

7.6 **Pay Day:** Employees shall be paid on a bi-weekly basis via direct deposit of funds into the account(s) specified by the employee. Direct deposit of funds will be made on the Friday following the end of the

pay period. When payday falls on a banking holiday, the direct deposit will be issued the day prior to the holiday.

7.7 **Pay Computation:** Net pay shall be calculated by subtracting all applicable deductions from the gross pay. When authorized by the employee or required by law, the following deductions shall be made from the employee's pay:

1. Federal Income Tax Withholding
2. State Income Tax Withholding
3. FICA - Social Security Withholding
4. Medicare Withholding
5. Retirement/Pension
6. Insurance Participation(s)
7. Optional - Credit Union
8. Any Other Deductions Required by Law or Authorized by the Employee and the City Administrator.

7.8 **Reporting of Time Worked:** Time worked on the job by non-exempt employees shall be reported on time reports by rounding to the nearest one-quarter hour. This shall mean that one to seven (1 – 7) minutes shall be rounded back to the prior quarter hour and eight to fourteen (8 – 14) minutes shall be rounded up to the next quarter hour.

7.9 **Incomplete Pay Period:** A non-exempt employee who is absent from work shall not be paid for the absence, unless such absence is authorized or allowed as paid leave as herein provided and is approved by the department head and City Administrator.

An exempt employee will normally receive his/her full salary for any week in which he/she performs any work without regard to the number of hours or days worked. However, proportionate reductions of compensation will be made:

- (1) If the employee is placed on leave without pay for personal reasons.
- (2) If the employee is ill or injured and accrued and otherwise applicable leave is not used by the employee because:
  - (a) Permission for its use has not been sought by the employee or has been sought and denied;
  - (b) Accrued leave has been exhausted; or
  - (c) The employee chooses to use leave without pay.
- (3) If the employee is absent without prior permission (absent without leave).
- (4) If the employee begins working later than the beginning of the work week during his/her initial week of employment or if the employee ceases working sooner than the end of the work week during his/her terminal week of employment.

Exempt employees will not suffer a pay reduction on account of jury duty, attendance as a witness or temporary military leave, but to the extent otherwise permitted by law, City pay may be reduced by the amount of any pay or fees received by the employee for the jury duty, witness attendance or temporary military leave.

7.10 **Overtime Pay:** Overtime work for non-exempt employees shall be discouraged except when necessary to safeguard public health, safety or property. When overtime work is necessary it shall be authorized in advance by the respective department head or City Administrator. Overtime compensation is awarded to non-exempt employees at a rate of one and one-half times the employees' hourly rate for all hours worked in excess of 40 hours in a standard work week. Holiday, pre-approved vacation and personal leave taken by employees shall be considered hours worked in computing overtime. However, sick leave taken, funeral leave taken, or any other leave time earned and taken shall not be considered as hours worked in computing overtime. Pre-approved for the purposes of this subsection, in the case of vacation and personal leave, shall mean leave approved prior to the beginning of the work period or 48 hours in advance if leave is taken in less than 4 hour increments. . Overtime is paid by rounding hours worked per day and per shift to the nearest one-quarter hour. This shall mean that one to seven (1 – 7) minutes shall be rounded back to the prior quarter hour and eight to fourteen (8 – 14) minutes shall be rounded up to the next quarter hour. For purposes of determining hours worked in a workweek by a non-exempt employee, the workweek will be deemed to begin and end at the midnight separating Saturday from Sunday.

Overtime pay for employees subject to the FOP contract or another collective bargaining agreement or individual written employment agreement with the City shall be fixed and governed by ordinance or resolution of the City Council. All other employees shall be subject to the policies herein stated.

Exempt employees are not eligible for and are not paid overtime compensation.

7.11 **Compensatory Time Leave in Lieu of Overtime Pay (Comp Time Leave):** In lieu of receiving monetary compensation for overtime hours worked as provided in this Section, any permanent full-time non-exempt employee may individually choose to accumulate Compensatory Time Leave in Lieu of Overtime Pay ("Comp Time Leave"), under the conditions and subject to the restrictions of this Section 7.

- (1) If chosen by the employee, accrual of Comp Time Leave will be allowed at the rate of one and one-half times the number of overtime hours worked. To choose Comp Time Leave, the employee must clearly indicate on his/her timecard that the overtime hours worked are to be compensated in Comp Time Leave. If there is no such clear indication on the employee's timecard, the overtime hours worked will be compensated in pay at the employee's overtime rate.
- (2) An employee will be allowed to use accrued and unused Comp Time Leave within a reasonable time after the employee requests to use such leave if the requested use of the time off does not unduly disrupt the operations of the City or the Department. This will be interpreted by the City, and the employees to mean:

- (a) Comp Time Leave may be taken only with the approval of the Department Head and only if the requested use of the time off would not unduly disrupt the operations of the City or the Department. Factors to be considered in this regard include (1) the normal schedule of work, (2) anticipated peak workloads based on past experience, (3) emergency requirements for staff and services, and (4) the availability of qualified substitute staff.
- (b) Comp Time Leave shall not be taken in increments of less than one hour.
- (c) Employees will be allowed to use accrued and unused Comp Time Leave during the initial probationary period.

(3) Comp Time Leave may not be accrued beyond a total of seventy-five (75) Comp Time Leave hours during any fiscal year (i.e., the Comp Time Leave which would be awarded for 50 overtime hours worked). If an employee has seventy-five (75) hours of Comp Time Leave accrued and unused, no additional Comp Time Leave hours may be accrued, and overtime hours worked by the employee will be compensated in overtime pay.

(4) An employee may request to be paid for accrued Comp Time Leave at any time by submitting a request in writing to the Payroll Department. If the request is made at least three (3) business days prior to preparation of the next payroll, payment will be made by the City with the next regular payroll after the request is made. Whenever the City pays an employee for Comp Time Leave, payment will be at the employee's then current regular hourly rate of pay; provided, however, that when an employee's employment terminates, payment for accrued Comp Time Leave shall be made at the greater of (a) the employee's final regular hourly rate of pay or (b) the average regular hourly rate received by the employee during the last three years of employment.

(5) Whenever an employee uses any accrued Comp Time Leave, the use shall be reported by the employee on a *Request for Time Off* form in the category designated.

(6) At the end of each fiscal year, any Comp Time Leave accrued but not used by the end of the final full pay period in the fiscal year (September), will be paid by the City to the employee and the employee's accrued Comp Time Leave balance will be reduced to zero.

(7) The Department Head may, by not later than the 5<sup>th</sup> day of any calendar month, request an employee to schedule with the scheduling officer the employee's use of a designated number of hours of accrued Comp Time Leave within a calendar month which begins after the date of the request (EXAMPLE: By January 5, the Department Head may request the employee to schedule use by the employee of X hours of accrued Comp Time Leave during the following month of February or during the following month of March or during the following months of February and/or March, and so forth.) If the employee has not, within the two-week period following the date of the request, arranged for the scheduling of the requested use of the Comp Time Leave, the Department Head may schedule the employee to use the Comp Time Leave as requested.

7.12 **Call Out Time:** A non-exempt employee shall be entitled to receive wages at one and one-half times the regular rate of pay when called out to work during off-duty hours. In no case shall such an employee

receive less than two hours pay at one and one-half times the employee's regular rate for each call out. For any call out which requires in excess of two hours of work, such employee shall be reimbursed at time and one-half for the actual minutes worked; provided, that after the first two hours of call out work, any portion of an hour worked in excess of 15 minutes shall be considered a full hour. Inasmuch as all call out time of such employees is compensated at a minimum of one and one-half times the regular rate of compensation, the call out time actually worked shall not be re-counted in determining time worked in the workweek for overtime pay purposes. Time worked beyond the end of the employee's normal quitting time, and time worked prior to the employee's normal starting time by an employee who is called in or directed to report early for service which continues into the employee's scheduled normal work hours, shall not be considered call out time under this paragraph, as it is the intent hereby to provide extra compensation only when the employee is specially called out to perform service which is not merely part of a lengthened work day. This paragraph shall not apply to employees covered by a labor agreement with the City; employees covered by such an agreement shall be paid call out pay as provided in the labor agreement.

7.13 **Travel and Official Expenses:** Prior to traveling outside of the metropolitan area, employees, and volunteers shall receive the permission of their department head and the City Administrator. For travel outside the metropolitan area, the trip and method of travel shall be filed with the City Administrator or his/her designee prior to departure. Travel or official business outside the metropolitan area by an employee or volunteer shall be via public carrier or City-owned vehicle or the most efficient method of travel when practical. Only official travel and training participants may travel in a City-owned vehicle.

While traveling, employees and, volunteers shall be reimbursed for expenses incurred in the performance of official duties. Expense statements with supporting documentation shall be filed with the Finance Director or his/her designee promptly after return by the employee. Travel and official expenses shall not exceed the amount budgeted by the Mayor and City Council.

Employees and volunteers may request a *per diem* in advance of travel and if approved, receipts are not required for reconciliation of actual foods costs. The maximum dollar amount per day per employee or volunteer the *per diem*) that the City will provide for actual food costs, including gratuity, will be established annually by the City Administrator based upon the Federal Per Diem Rates as published by the Bureau of National Affairs, Inc. and recognized by the Internal Revenue Service (IRS). The *per diem* may be reduced by the City Administrator or his/her designee for any meal expenses which are pre-paid by the City through the training or event registration. Employees or volunteers may not purchase any alcoholic beverages with *per diem* funds.

If traveling before 6:30 a.m. and after 7:00 p.m., employees and volunteers may receive reimbursement for breakfast and/or dinner.

Employees and volunteers not issued an advance per diem are required to provide itemized receipts for meals to receive reimbursement. Gratuity must be noted on all requests for reimbursement. Only actual employee or volunteer expenses may be reimbursed. Employees and volunteers will not be reimbursed for the purchase of any alcoholic beverages. The City may prescribe a form and require the employee to complete such form for reimbursement of travel costs.

7.14 **Pay Rates Upon Transfer:** If an employee is transferred, the employee's rate of pay in the new position shall be determined as follows:

- (1) If the employee's rate of pay in the former position is less than the minimum rate established for the new position, the employee's rate of pay shall be advanced to the minimum of the new position.
- (2) If the employee's rate of pay in the former position exceeds the maximum rate established for the new position, the employee's rate of pay shall be reduced to the maximum rate for the new position, or to an intermediate step as determined by the department head with the approval of the City Administrator.
- (3) If the employee's rate of pay in the former position falls within the range established for the new position, the employee's rate in the new position shall be at least equal to the rate in the former position.

7.15 **Pay Rates Upon Promotion:** If an employee is promoted, the employee's rate of pay in the new position shall be determined as follows:

- (1) If the employee's rate of pay in the former position is less than the minimum rate established for the new position, the employee's rate of pay in the new position shall be at least equal to the minimum for the new position.
- (2) If the employee's rate of pay in the former position falls within the range established for the new position, the employee's rate shall be advanced to a level which would provide at least the equivalent of a five (5) percent increase.

7.16 **Pay Rates Upon Demotion:** If an employee is demoted, the employee's rate of pay shall be determined as follows:

- (1) If the employee's rate of pay in the higher grade exceeded the maximum rate of pay for the position to which the employee is demoted, the employee's rate of pay shall be reduced to the maximum rate of pay for the demotion position.
- (2) If the employee's rate of pay in the higher position was within the pay range established for the position to which the employee is demoted, the employee's rate of pay shall remain unchanged.

7.17 **Longevity Pay:** Any longevity pay established by the then applicable compensation ordinance shall be paid in addition to the employee's regular pay.

7.18 **Payment of Accrued Wages, Vacation Leave and Sick Leave Upon Death of an Employee:** Upon the death of an employee, his/her accrued wages, and any accrued but unused vacation leave, shall be paid to his/her surviving spouse unless the employee has previously filed a written designation with the City Clerk that such payment shall be made to the employee's estate rather than to the employee's surviving spouse. If the employee leaves no surviving spouse, such payment shall be made to the employee's estate. No payment shall be made for any accrued but unused sick leave upon the death of an employee, except respecting (1) a regular full-time employee who has completed twenty or more years

of service with the City and who dies while an active employee of the City, and (2) a regular full-time employee who, after October 1, 1999, sustains an injury which is compensable by the City or the City's insurer under the Nebraska Worker's Compensation Act and such injury causes the death of the employee within two years after the date of injury. Any payment made pursuant to the preceding sentence shall be made to the surviving spouse of the employee; provided, such payment shall be made to the employee's estate if the employee leaves no surviving spouse or if, prior to his or her death, the employee has filed with the City Clerk a written designation of his or her estate as beneficiary of such payment.

**7.19    Temporary and Regular Part-Time Employees:**

- (1) Pay for temporary employees shall be consistent with the duties and responsibilities of the temporary position. Such pay shall be determined by the City Administrator and shall normally be an hourly rate of pay.
- (2) Pay for regular part-time employees shall be based on the number of hours worked per day multiplied by the established hourly pay rate. Such pay shall normally be established proportionate to the regular full-time pay rate for the position.

**7.20    Wages in Advance:** No advance of earnings, including accrued vacation leave, shall be made.

**7.21    Termination Pay:** An employee who is dismissed or voluntarily resigns shall receive his/her final paycheck on the first regularly scheduled payday following termination of his/her employment. An employee shall be paid for all unused accrued vacation time upon termination. No employee shall be paid for any unused sick leave upon termination of his/her employment, except as follows:

- (1) An employee who voluntarily retires after twenty or more years of service with the City and has no disciplinary action pending against him/her at the time of his/her retirement shall be paid for his/her accrued and unused sick leave.
- (2) An employee who began his/her employment with the City on or after January 1, 2005, or who began his/her employment prior to January 1, 2005 but elected to waive his/her eligibility for emergency sick leave on or before January 31, 2005, subject to any restrictions established in Section VIII, shall be paid for any unused sick leave according to the following sliding schedule:
  - (a) After 10 years of employment – 100% of sick leave hours accrued over 660 hours;
  - (b) After 15 years of employment – 100% of sick leave hours accrued over 440 hours;
  - (c) After 20 years of employment – 100% of sick leave hours accrued up to 880 hours.

**7.22    Pay During National Guard or Reserve Active Duty:**

- (1) State of Nebraska Non-Emergency Active Service: All employees who are active members of the National Guard or other military reserve component (Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve or Coast Guard Reserve) shall be entitled to a military leave of absence from their respective City duties at their full regular City pay or compensation when employed with or without pay on a non-emergency basis under the orders or authorization of competent authority in the active service of the state or of the United States, for not to exceed the Limitations set forth in

this paragraph. Such military leave of absence may be taken in hourly increments and shall be in addition to the employee's regular annual leave. Limitations: (1) A City employee who normally works or is normally scheduled to work 120 hours or more in three consecutive weeks shall be eligible to receive such a military leave of absence of up to 120 hours each fiscal year. (2) A City employee who normally works or is normally scheduled to work less than 120 hours in three consecutive weeks shall be eligible to receive such a military leave of absence each fiscal year equal to the number of hours he or she normally works or would normally be scheduled to work, whichever is greater, in three consecutive weeks. See also, subsection 8.1(5) of this Manual.

(2) **State of Nebraska Emergency Active Service:** If such an employee is ordered into active service of the state pursuant to a declaration of an emergency by the Governor of Nebraska, the employee shall be entitled to a state of emergency leave of absence until the employee is released from active service of the state by competent authority. During a state of emergency leave of absence because of the call of the Governor, the employee shall receive his or her normal City salary or compensation less the state active-duty base pay he or she receives in the active service of the state. Such an employee may alternatively choose to receive his or her full City salary and to remit his or her military compensation to the City. See also, subsection 8.1(5) of this Manual.

7.23 **Re-employment:** A former employee who is re-employed shall once again serve an initial probationary period regardless of whether he/she had probationary or permanent status prior to separation. Such initial probationary period may be extended in the same manner as any other initial probationary period.

7.24 **Annual Salary Survey:** The City, to remain competitive in the labor market, shall recognize changes in the cost of living and other variables in the compensation structure by adjusting the salary ranges or by re-classification of positions. It shall be the responsibility of the City Administrator to determine appropriate adjustments to the salary ranges annually by analyzing the following general trends:

- (1) Regional, state and municipal compensation trends.
- (2) National compensation trends.
- (3) Local compensation trends.
- (4) Impact of area union contracts on pay scales.
- (5) Cost of living indices.

The City Administrator in coordination with appropriate department heads shall develop a compensation budget recommendation for each department. The City Council shall review the budget recommendation and establish the annual adjustment to the salary ranges and the base factor for performance pay increases, the allocation of compensation increases for each department, and the percentage guideline amounts to apply consistently with employee performance ratings. No compensation increases shall be effective until approved or authorized by the City Council.

7.25 **Budget-Required Furloughs**

- (1) This Section 7.26 applies to and regarding all City employees.
- (2) As used in this Section 7.26, the terms "budget-required furlough" and "furlough" mean a period or periods of time during which, due to budget restriction or constraint or other need of the City to reduce expenditures, the City temporarily does not schedule an employee to work or to perform

any employment service for the City, or temporarily relieves an employee from duty, and for which period or periods of time the employee will not be and is not compensated by the City. The terms “budget-required furlough” and “furlough” do not include a reduction in the City’s workforce that is intended to be permanent or for an indefinite period of time.

- (3) The City Administrator may impose furloughs on City employees for reasons of budget restriction or constraint, or other need of the City to reduce expenditures. The City Administrator will provide notification to the City Council prior to the imposition of any furloughs.
- (4) In all instances, furloughs shall be scheduled so as to minimize any undue disruption or delays in City operations or the provision of City services.
- (5) Furloughs may be imposed on groups of employees or on individual employees at the same time or at different times.
- (6) Furloughs imposed on employees within a City department shall be imposed on and distributed among the employees within that department so that during a fiscal year, the burden and impact of such furloughs will be approximately evenly borne, to the extent reasonable and practicable, by all of the employees within that department or by all of the employees of the same classification or classifications within that department. This subparagraph shall not apply, however, if the City Administrator determines that so distributing required furloughs among employees would be contrary to the needs of the City for services of employees having particular skills or would unduly disrupt or delay City operations or the provision of City services. In that connection, the City Administrator may exempt designated employees from furlough in order to maintain City services or for other necessary business reasons.
- (7) A furlough may be imposed in a single continuous segment of time (such as sixteen hours consisting of two consecutive workdays) or may be spread over a longer period of time (such as sixteen hours consisting of two hours in each of eight different workweeks), as the City Administrator deems appropriate. In that connection, the City Administrator will endeavor to minimize or diffuse the economic impact of a furlough on an employee to the extent that the City Administrator determines such impact may be minimized or diffused without unduly disrupting or delaying City operations or the provision of City services.
- (8) No furlough or furloughs imposed on any individual employee under this Section 7.26 may exceed, in total, eighty (80) hours of furlough during any fiscal year of the City, without the express approval of the City Council.
- (9) At the end of any period of furlough, the employee shall return to the position held by the employee prior to the furlough. Failure to promptly report and return to work at the end of a furlough period may result in disciplinary action, up to and including dismissal from employment.
- (10) A furlough shall have no effect on performance evaluations, pay rate increases, City contributions to employee insurance during a furlough period, sick leave accruals or vacation leave accruals during a furlough period. A period of furlough shall not constitute a break in service.

- (11) A furlough is not a disciplinary action. The City Administrator may impose furloughs on City employees only for reasons of budget restriction or constraint, or other need of the City to reduce expenditures. Disciplinary matters shall be addressed under other applicable provisions of this Personnel Manual or under applicable civil service laws and regulations, and not under this Section 7.26.
- (12) This Section 7.26 is intended to comply with the Fair Labor Standards Act regulation, 29 C.F.R. §541.5d (b), which permits furloughs for budgetary reasons without affecting the exempt status of certain salaried employees except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

**7.26 Reduction in Force Policy for Police Department Employees.**

- (1) As used in this Policy, "reduction in force" and "reduction" shall mean the implementation of a decision of the Mayor and City Council that the need exists to reduce, within the Police Department of the City, the number of full-time employees ("Employees") or the number of non-vacant full-time employment positions ("Employment Positions") on a permanent basis or for an indefinite period of time.
- (2) The City Administrator shall make a preliminary determination that a reduction in force is necessary and of the ranks or pay grades of the Employees or Employment Positions to be reduced, as well as the number of Employees to be affected by the proposed reduction.
- (3) The City Administrator shall present the proposed reduction to the Mayor and City Council, with an explanation of the reasons for the proposed reduction as well as a recommendation regarding the ranks or pay grades of the Employees or Employment Positions proposed to be reduced and the numbers of Employees proposed to be reduced.
- (4) The Mayor and City Council will then approve, reject or modify the City Administrator's proposed reduction and recommendations, and adopt an appropriate resolution or motion regarding the proposed reduction.
- (5) In accordance with the resolution or motion adopted by the Mayor and City Council, the City Administrator shall select any Employees to be reduced. In selecting such Employees, the City Administrator shall consult with the Chief of Police, and the City Administrator and Chief of Police shall consider such selection factors as they deem appropriate. However, in accordance with the provisions of Nebraska statutes and of the City Code of Ordinances, the City Administrator and Chief of Police must at a minimum consider each of the following factors, giving to the various factors such weight as the City Administrator and Chief of Police consider prudent and advisable under the circumstances:
  - (A) The multiple job skills recently or currently being performed by the Employee;
  - (B) The knowledge, skills, and abilities of the Employee;

- (C) The performance appraisal of the Employee, including any recent or pending disciplinary actions involving the Employee;
- (D) The employment policies and staffing needs of the Police Department together with contracts, ordinances, and statutes related thereto;
- (E) Required federal, state, or local certifications or licenses; and
- (F) Seniority.

(6) The City Administrator shall notify each Employee who is to be affected by a reduction, as well as any certified or recognized collective bargaining representative of such Employee, at least thirty (30) calendar days before the proposed effective date of the reduction.

(7) An Employee reduced in force shall be considered to have been released from service with honor and shall upon request be provided a letter to that effect.

(8) A reduced Employee shall have a preferred right of re-appointment to a full-time position of employment within the Police Department that becomes vacant or is newly created within two (2) years after the effective date of the reduction of the Employee ("Recall Position"). This right of recall shall be limited to Recall Positions for which the Employee is qualified, as determined by:

- (A) Previous full-time employment with the City; and
- (B) Current ability to perform the essential functions and duties of the available Recall Position, with or without reasonable accommodation.

Reduced Employees shall be recalled for such re-appointments on the basis of length of full-time service, with the reduced Employee having the greatest length of full-time service being recalled first.

(9) As used in this policy, "length of full-time service" means continuous length of service in the rank or classification of the available Recall Position without a break or interruption of service. The following shall not constitute a "break or interruption of service" under this definition:

- (A) Any suspension for disciplinary reasons;
- (B) Any leave of absence due to furlough imposed by the City or due to military duty;
- (C) Any absence while on authorized leave with pay or with City-provided disability or workers' compensation benefits; and
- (D) Any absence while on authorized leave without pay for sixty (60) calendar days or less.

Except as stated otherwise in this subsection 7.27(9), any absence while on authorized leave without pay for more than sixty (60) calendar days shall reduce the Employee's "length of full-time service" by the entire period of the leave of absence.

- (10) The following procedure shall be used in recalling qualified Employees to Recall Positions within the two (2) year period during which they have preferred rights:
  - (A) If the City Administrator determines that a Recall Position for which a reduced Employee has a right of recall is or will become available, the City Administrator shall notify the reduced Employee in writing of the availability of the Recall Position and its commencement date. The City Administrator shall further notify the reduced Employee that the reduced Employee has ten (10) calendar days from the date of the City Administrator's notice in which to communicate to the City Administrator the reduced Employee's acceptance of the offered Recall Position. The City Administrator's notice will be deemed to have been given on personal delivery to the Employee, or on the mailing of the notice to the reduced Employee by certified mail at the most recent mailing address shown for the reduced Employee in the reduced Employee's City personnel file. Reduced Employees shall have the responsibility of keeping the City Clerk informed of any change of mailing address.
  - (B) If the reduced Employee does not notify the City Administrator, within the ten (10) calendar day period after the date of personal delivery or mailing of the City Administrator's notice, of the reduced Employee's acceptance of the offered Recall Position, or if the reduced Employee makes no response within such ten (10) day period, the reduced Employee shall have waived any right of recall respecting that offered Recall Position as well as any subsequently available Recall Position. The City Administrator shall thereupon follow the same procedure in successively offering the available Recall Position to any other reduced Employee(s) who have recall rights regarding the Recall Position. If there are no other reduced Employees having such recall rights, the Recall Position shall be filled through the usual hiring or promotion procedure.
- (11) A reduced Employee who is recalled under this procedure shall, upon full-time re-appointment, retain benefits, rank, salary grade, and length of service which had accrued to the Employee prior to the reduction, to the extent appropriate to the Recall Position and to the extent that the recalled Employee has not acted to reduce, cancel or impair such benefits (such as by withdrawing retirement plan accounts). Any absence for more than sixty (60) days due to a reduction in force, however, shall not be considered as a period of employment by the City for any purpose.
- (12) If the reduction of an Employee based upon the provisions of this policy would, in the determination of the City solely, place the City in noncompliance with any federal or state law, regulation or order of court, the City may vary its actions from the provisions of this policy as the City may deem necessary to comply with such law, regulation or order of court.
- (13) Cross References: Nebraska Revised Statute §19-1830(9) and (10); La Vista Code of Ordinances §37.15; La Vista Civil Service Commission Rule 6.5.

**7.27      Voluntary Dock Day Program**

- (1) This Section 7.28 applies to and regarding all City employees. It is established pursuant to principles of public accountability, which require that public funds not be used to pay an employee for time not worked except as provided under some form of approved or collectively negotiated paid leave benefit.
- (2) Policy and Effective Dates: It is the policy of the City of La Vista to allow for a Voluntary Dock Day Program (VDDP) to reduce and/or defer payroll costs on a short-term basis. The purpose of the VDDP is to help reduce City expenditures during periods of challenging budget shortfalls, yet maintain critical City services at acceptable levels. The VDDP offers employees the opportunity to pursue educational goals, address family issues or handle other personal needs that require time off from work, without pay but without loss of health benefits or seniority. The VDDP is available to all full-time employees, irrespective of the funding sources for their positions. Department heads may determine, however, which of the two VDDP Options to allow, based on the operational needs of their departments.
- (3) Eligibility: The VDDP is available to all full-time regular employees of the City who have completed at least six (6) full pay periods of employment and who request to participate, subject to approval of their department heads. Part-time, seasonal and temporary employees are not eligible to participate in the VDDP. In addition, employees must be on a paid status at the time of enrollment and on the workday prior to first taking time off under the VDDP. Employees must also ensure that they have performed sufficient compensable work to have adequate wages being paid to them to cover their normal payroll deductions and benefit contribution amounts, as applicable.
- (4) Voluntary Time Off:
  - (a) VDDP Options: There are two VDDP Options for taking voluntary dock leave: (1) An employee's scheduled work hours or workdays may be reduced on a biweekly basis, with a corresponding reduction in pay, or (2) a block of time off may be scheduled as unpaid leave.

The employee and department head will mutually determine the amount of time reduction and the scheduling required (i.e., the reduced work day, work week or scheduled block of time off).
  - (b) Employees participating in the VDDP will be allowed continuation of their employee benefits while on voluntary dock leave. They will retain their full-time work status for benefit purposes. Voluntary dock days will have no effect on the following benefits:
    - (1) Flexible benefit allowance;
    - (2) Medical/dental/vision/life insurance eligibility and coverage;
    - (3) Retirement eligibility; and

- (4) Rate of other pay that is included in the compensation base for pension calculation, except to the extent that such pay is based on the actual number of hours worked. This includes FTO pay, educational incentive pay, etc.
- (c) Voluntary dock leave will not cause a break in service, or a reduction in an employee's service credit for the purposes of seniority, probationary period, retirement, leave accumulation, or anniversary date/merit salary adjustment. VDDP participants who take a block of time off will not lose their seniority and vesting status for the voluntary dock leave period, or any leave accrual(s) during the voluntary dock leave period.
- (e) Payroll taxes and withholdings will be calculated based on the actual hours worked and the actual pay and benefits received. Eligibility for overtime during the voluntary dock leave period will be calculated based on actual hours worked. Voluntary dock leave hours will not count as "hours worked" for overtime pay purposes.
- (f) Voluntary dock leave must be taken in increments of full hours per pay period. For a block of time taken as voluntary dock leave, the leave must be taken in full days. Total voluntary dock leave shall not exceed forty (40) hours in any fiscal year for any single employee.

(5) **Voluntary Dock Day Enrollment:** Department heads are encouraged to promote VDDP in order to reduce departmental expenditures. Department heads may determine, however, which VDDP Options to allow based on the operational needs of their departments.

All eligible employees will be made aware of the VDDP. New hires may enroll during enrollment periods following six (6) full pay periods of employment. Employees must complete the Voluntary Dock Day Program Enrollment and Cancellation Application ("VDDP Agreement"), which must be submitted by the department head to the City Administrator. No employee may take voluntary dock leave unless the request is approved by both the department head and the City Administrator. An employee must request voluntary dock leave at least forty-eight (48) hours in advance of the requested time off.

(6) **Election Changes:** An employee whose VDDP Agreement has been approved may not reduce the approved and scheduled dock leave or cancel the VDDP Agreement unless:

- (a) The employee transfers to another department;
- (b) The employee terminates employment with the City; or
- (c) The employee demonstrates a personal hardship.

Any changes to the VDDP Agreement will require completion of a new VDDP Agreement, which will not be effective unless it is submitted to and approved by both the department head and the City Administrator.

- (7) **Payroll Contributions/Deductions:** Participation in the VDDP will reduce the employees' immediate take home pay. In determining the amount of time off to request, an employee must ensure that he or she has performed sufficient compensable work to be receiving adequate wages from the City to cover the employee's usual required payroll deductions (such as tax withholdings, credit union deposits, deferred compensation contributions and loan payments, union dues, life insurance, dependent care and health care Flexible Spending Accounts, and so forth).
- (8) **Furlough Credits:** If, after the employee has taken voluntary dock leave during a fiscal year, the City Administrator imposes a budget-required furlough under section 7.26 for that same fiscal year, then that employee shall be allowed a credit against the imposed furlough period equivalent to the voluntary dock leave earlier taken by the employee. To the extent of the voluntary dock leave earlier taken, the employee may continue to work during the furlough period (if the employee's department/building is open) or the employee may use accrued vacation, holiday, or compensatory time to receive pay for that credited portion of the furlough period.
- (9) **Cost Savings to City/Advantages to Employees:** The savings to the City from the VDDP include direct salary savings, reduction in FICA/Medicare taxes and reduction in pension contributions in the current fiscal year (both employer portion and employee pick-up). The advantage to the employee is a reduction in work hours to accomplish other personal goals, without loss of employee benefits.

Payroll savings will help to lessen or avert the need for temporary or permanent reductions in force or budget-required furloughs. If a budget-required furlough is imposed, employees who elect to participate in the VDDP will not suffer a double loss of income in the same fiscal year.

**SECTION VIII: EMPLOYEE BENEFITS**

<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 07-100</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>DATE:</b>	<b>SEPTEMBER 18, 2007</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 01-140</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 07-128</b>
<b>DATE:</b>	<b>OCTOBER 2, 2001</b>	<b>DATE:</b>	<b>DECEMBER 18, 2007</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-128</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 09-072</b>
<b>DATE:</b>	<b>DECEMBER 3, 2002</b>	<b>DATE:</b>	<b>AUGUST 4, 2009</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 03-072</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 14-017</b>
<b>DATE:</b>	<b>AUGUST 19, 2003</b>	<b>DATE:</b>	<b>FEBRUARY 18, 2014</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 04-126</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 20-118</b>
<b>DATE:</b>	<b>DECEMBER 21, 2004</b>	<b>DATE:</b>	<b>DECEMBER 1, 2020</b>
<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 23-001</b>
<b>DATE:</b>	<b>DECEMBER 20, 2005</b>	<b>DATE:</b>	<b>JANUARY 3, 2023</b>

8.1 **Request for Leave:** An employee wishing to take any type of leave shall first submit a Request for Time Off form to the department head and/or City Administrator for approval. This requirement applies to all types of leave.

(1) **Sick Leave for Employees Hired Before January 1, 2005 Who Have Not Elected to Waive Their Eligibility for Emergency Sick Leave:**

Full-time regular employees shall accrue entitlement to paid sick leave at the rate of ten (10) hours for each full calendar month of employment. Full-time regular employees shall be allowed to accrue unused sick leave from previous years to a maximum of 880 sick leave hours. An employee shall be credited with one (1) hour of annual vacation leave for each eight (8) hours of sick leave which would otherwise be earned but for the maximum allowable accumulation of sick leave, unless the employee elects to waive his/her eligibility for sick leave.

Earned sick leave may be used for absence necessitated by illness, injury or quarantine. Employees may use sick leave as accrued during the initial probationary period. Paid sick leave may also be used to keep medical or dental appointments. Paid sick leave may also be used for illness in the immediate family to a maximum of five (5) work days in each calendar year.

Paid sick leave shall be used by employees in quarter hour increments (.25/hr.). No full-time non-exempt employee shall be allowed paid sick leave until the department head has approved the sick leave and certified the employee's request to the City Administrator for approval. No full-time exempt employee shall be allowed paid sick leave until the City Administrator has approved the sick leave request. Any full-time employee claiming paid sick leave may be required by the department head and/or the City Administrator to provide a certificate signed by a physician stating the nature and extent of illness.

Paid sick leave shall not be allowed in advance of accumulation. Abuse of paid sick leave may result in disciplinary action. All cases of possible sick leave abuse shall be investigated.

**Emergency Sick Leave:** All paid sick leave days which would otherwise be earned but for the 880 hours maximum allowable accumulation shall be credited to emergency sick leave accounts

established for full-time exempt and full-time non-exempt employees, less any time of the employee credited to vacation leave (namely eight (8) hours of sick leave time which would otherwise be earned but for the maximum allowable accumulation shall be credited as one (1) hour vacation time for the employee and seven (7) hours credited to the appropriate emergency sick leave account). There are two separate emergency sick leave accounts, one for all full-time exempt employees and one for all full-time non-exempt employees. There are not separate accounts for each individual exempt or non-exempt employee. The accounts are only inclusive of hours contributed by current, eligible employees. Emergency sick leave may be allowed to any regular full-time exempt or non-exempt employee after the employee has exhausted his/her individual paid vacation leave, personal leave and sick leave. Allowance of use of the appropriate emergency sick leave account is granted by the emergency sick leave committee for that account.

The emergency sick leave committee for exempt and non-exempt employees shall consist of the City Clerk, the Finance Director, and the requesting employee's Department Head. If the requesting employee is a Department Head, the City Administrator shall participate in the emergency sick leave committee. Employees are required to complete and sign a Sick Bank Request Form and a HIPAA waiver.

The emergency sick leave committee shall regulate the use of emergency sick leave from the reserve. Only employees meeting the established criteria will be processed through the emergency sick leave committee. Prior to allowing use from the reserve, the committee must determine that the applicant has exhausted his/her individual paid vacation, personal, and sick leave accrual and that an emergency situation exists as defined herein. The committee shall determine the number of hours of emergency sick leave to be granted and shall report the same to the City Council and City Administrator. No employee having less than 880 hours of accrued individual sick leave may contribute sick leave hours to an emergency sick leave account.

An "emergency situation" is a set of circumstances respecting which the appropriate committee determines that an employee, due to serious illness, serious injury or other serious medical, physical or mental condition of the employee, reasonably has an extraordinary need for more time off than he or she has available in any form of paid leave days, and that the employee has previously been conscientious and judicious in the use of his or her paid sick leave. It does not include any illness or injury that typically would be expected to cause the employee to be unable to work a duration of less than five weeks (35 consecutive calendar days).

Provisions of the Worker's Compensation law shall apply where illness or injury occurs on the job.

A full time regular employee who is not a member of the Fraternal Order of Police collective bargaining unit would have had to submit a written request to the City Clerk prior to January 31, 2005, to waive their eligibility for emergency sick leave. Upon submission of said written request, the employee became subject to subsection 8.1(2) for all accrual and payout of sick leave.

(2) Sick Leave For Employees Hired Prior to January 1, 2005 Who Have Elected to Waive Their Eligibility for Emergency Sick Leave and For Employees Hired On or After January 1, 2005:

Full-time regular employees shall accrue entitlement to paid sick leave at the rate of ten (10) hours for each full calendar month of employment. Full-time regular employees shall be allowed to accrue unused sick leave from previous years to a maximum of 880 sick leave hours. Unless otherwise established by a collective bargaining agreement, no sick leave accrual or vacation credits are earned by any employee at the maximum of 880 accrued and unused sick leave hours.

Earned sick leave may be used for absence necessitated by illness, injury or quarantine. Employees may use sick leave as accrued during the initial probationary period. Paid sick leave may also be used to keep medical or dental appointments. Paid sick leave may also be used for illness in the immediate family to a maximum of five (5) work days in each calendar year.

Paid sick leave shall be used by employees in quarter hour increments (.25/hr.). No full-time non-exempt employee shall be allowed paid sick leave until the department head has approved the sick leave and certified the employee's request to the City Administrator for approval. No full-time exempt employee shall be allowed paid sick leave until the City Administrator and/or the department head has approved the sick leave request. Any full-time employee claiming paid sick leave may be required by the department head and/or the City Administrator to provide a certificate signed by a physician stating the nature and extent of illness.

Paid sick leave shall not be allowed in advance of accumulation. Abuse of paid sick leave may result in disciplinary action. All cases of possible sick leave abuse shall be investigated.

Emergency Sick Leave: In lieu of an emergency sick leave program, employees in this category are eligible for an alternate sick leave payout schedule as outlined in Section 7.21, Termination Pay.

Provisions of the Worker's Compensation law shall apply where illness or injury occurs on the job.

(3) Vacation Leave: All full-time employees and permanent part-time employees working a minimum of twenty (20) hours per week shall earn paid vacation time as provided herein with the exception of employees subject to the paid vacation leave provisions of the La Vista FOP contract or the Public Works employees' contract.

Exempt Employees: During the first year of employment, all full-time exempt employees shall earn eighty (80) hours of paid vacation time per year. No vacation may be taken until the employee has successfully completed six months of continuous employment with the City. For continuous employment with the City thereafter, an additional eight (8) hours of paid vacation time is earned at the beginning of each calendar year for each additional year of service. All paid vacation time is accrued on a bi-weekly basis. The total paid vacation time earned per year shall not exceed 26 days (208 hours).

Non-exempt Employees: During the first year of employment all full-time non-exempt employees shall earn forty-eight (48) hours of paid vacation time. No vacation may be taken until the employee has successfully completed six months of continuous employment with the City. Starting the second year of continuous employment, paid vacation time will be earned at a rate of 88 hours per year. For continuous employment with the City thereafter, an additional eight (8) hours of paid vacation time is earned at the beginning of each calendar year for each additional year of service. All paid vacation

time is accrued on a bi-weekly basis. The total paid vacation leave earned per year shall not exceed 23 days (184 hours).

**Permanent Part-Time Employees:** After successful completion of six (6) months of continuous employment, permanent part-time employees who work a minimum of twenty (20) hours per week shall earn forty (40) hours of paid vacation time per year. All paid vacation time is accrued on a bi-weekly basis. The total paid vacation time earned per year shall not exceed 5 days (40 hours).

Exempt, Non-exempt, and Permanent Part-Time Employees shall be allowed to accrue unused vacation leave from previous years to a maximum of 220 hours.

**Use of Vacation Leave:**

- (a) Vacation leave may be scheduled or taken only with the approval of the employee's department head and/or the City Administrator.
- (b) Vacation leave will only be approved if it will not be disruptive to the work schedule of the departments concerned and/or the operations of the City.
- (c) Upon satisfactory completion of six months of continuous employment, regular full-time employees and permanent part-time employees shall be entitled to begin using earned vacation leave. Vacation shall be used in quarter hour increments (.25/hr.). Use of vacation leave in increments of less than four hours must be approved at least forty-eight (48) hours in advance and may be taken only at the beginning or at the end of the employee's work day.
- (d) If a day designated as a paid holiday for the employee falls during an employee's vacation, the day shall not be charged as vacation time. An employee who leaves the employment of the City shall be compensated for vacation leave earned and accrued as provided herein.

**(4) Personal Leave and Funeral Leave:**

- (a) **Personal Leave:** A permanent regular full-time employee shall be eligible for two (2) days of paid personal leave per City fiscal year, beginning after the successful completion of six months of continuous service with the City. Personal leave shall not be accrued, and personal leave not used by the end of the final full pay period in the fiscal year (September) for which it is allowed shall be forfeited; provided, however, that the City Administrator may allow a new employee an extension of time within which to use personal leave time, not to exceed six (6) months after the eligibility date.
- (b) **Family Funeral Leave:** A permanent regular full-time employee shall be eligible for paid leave to attend the funeral of a member of the immediate family of the employee, up to but not exceeding five (5) days. An employee may request family funeral leave for a relative not included in the definition of "immediate family". These requests will be considered by Department Heads who shall have the authority to grant or deny said leave. Funeral leave shall not be granted for any other purpose and shall not be accrued. Eligibility begins after the successful completion of six months of continuous service with the City.

- (c) Non-Family Funeral Leave: A permanent regular full-time employee may be allowed paid leave to attend the funeral of an acquaintance/friend. Such leave shall not exceed four (4) hours per funeral, or twelve (12) hours per calendar year. In all cases, the employee must describe his/her relationship with the deceased. Department head and/or City Administrator approval is required for non-family funeral leave. Eligibility begins after the successful completion of six months of continuous service with the City.
- (d) Personal Leave and Funeral Leave shall be used in quarter hour increments (.25/hr.).

(5) Military Leave of Absence:

- (a) Military Leave Pay
  - (1) State of Nebraska Non-Emergency Active Service: See Subsection 7.23(1) of this Manual.
  - (2) State of Nebraska Emergency Active Service: See Subsection 7.23(2) of this Manual.
  - (3) In any case in which this Personnel Manual or Nebraska law require the City to pay an employee respecting an absence due to military service, the calculation will be made based upon the actual number of hours of City work and City pay actually missed by the employee on the actual day(s) the employee was absent due to such military service. The foregoing shall apply whether the employee's absence is for nonemergency military service requiring the City to pay the employee full City pay for up to a certain number of hours in any one calendar year or whether the employee's absence is for a state of emergency leave of absence requiring the City to pay only the difference between the state active service base pay actually earned and the City pay the employee would have earned had the employee not been absent. See Section 7.23 of this Manual.
- (4) Federal Service.
  - (A) Employees who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve or Coast Guard Reserve may take Military Leave when ordered into or employed in the military service of the United States (i.e., the federal government). See Section 7.23 of this Manual.
  - (5) Continuation of an employee's pay by the City during periods of Military Leave is governed by Section 7.23 of this Manual.
  - (6) The intention of the above Military Leave pay provisions is to assure that employees receive all pay due to them under Sections 55-160 and 55-161 of the Nebraska Revised Statutes. The City does not pay employees with respect to periods of Military Leave, except as provided in such statutes or as otherwise required by law.
- (b) Reemployment After Military Leave

- (1) All employees who take Military Leave (other than for State of Nebraska emergency active service, which is addressed in the next subparagraph) are entitled to reinstatement on return from Military Leave lasting not longer than five years (except to the extent a longer period of leave may be required by federal or Nebraska law), if they gave timely notice of the active duty service (unless precluded from doing so by military necessity) and make application for reinstatement within the time and in the manner required by law. Reinstatement may be denied under this subparagraph if (A) the employee was released from military service with a disqualifying discharge or under other than honorable conditions, (B) the City's circumstances have so changed as to make such reemployment impossible or unreasonable [an example would be a reduction in work force or position elimination that would have caused the employee to lose employment], or (C) the City employment left by the employee for military service was for a brief, nonrecurrent period and the employee had no reasonable expectation such employment would continue indefinitely or for a significant period. [See Neb. Rev. Stat. Section 55-161 and 38 U.S.C. Section 4304 and 4312(a) and (d).]
- (2) Employees called to State of Nebraska emergency active service, as described in Subsection 7.23(2) of this Manual, shall be entitled to reinstatement upon release from such State of Nebraska emergency active service, if they promptly return to City employment on release from such military service.
- (3) Time spent on Military Leave shall be counted as service to the City for computing seniority in the event layoff situations arise. An employee who is reemployed by the City on timely return from Military Leave is entitled to the seniority and other rights and benefits determined by seniority that the employee had on the commencement of the Military Leave plus the additional seniority and rights and benefits that the employee would have attained if the employee had remained continuously employed without taking Military Leave. [See Neb. Rev. Stat. Section 55-161 and 38 U.S.C. Section 4316.]
- (4) If the City position vacated by the employee taking Military Leave no longer exists at the time the employee seeks to timely return to work for the City, the employee shall be entitled to re-employment in another existing position of the same class, if such re-employment does not necessitate the laying off of another employee with greater seniority.
- (5) An employee returning from Military Leave may be employed at the same step of the salary range attained when granted a Military Leave. The employee may be eligible for a merit pay increase upon completion of one (1) year of service, which shall include the time between the employee's last merit increase and the date the employee's Military Leave commenced.
- (6) An employee having accrued vacation on departing the service of the City to take Military Leave may elect to be paid such accrued vacation, on departure for Military Leave, as if the employee were permanently separating from the service of the City.

(7) The foregoing provisions on Reinstatement After Military Leave set forth minimum entitlements in the situations to which they apply. In particular circumstances, the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. sections 4301 et seq., may entitle the employee to greater rights of reinstatement. The City will in each case extend to the employee the benefit which under state or federal law is more generous to the employee.

(8) The employment rights and interests of an employee who is hired for or promoted, transferred or assigned to a position, to which position an employee on Military Leave has reinstatement or reemployment rights under this Manual or by law, are subject and subordinate to such reinstatement or reemployment rights of the employee on Military Leave.

(6) **Civic Duty Leave:** If an employee is summoned or appointed to jury duty or election duty, the employee shall be entitled to Civic Duty Leave as necessitated to permit the employee to perform such civic responsibilities, if the employee gives reasonable notice to the City of such summons or appointment. (Cross Ref.: Neb. Rev. Stat. §§ 25-1640, 32-241 and 32-1517.)

For periods of Civic Duty Leave, an employee shall be paid by the City the difference between the employee's City base rate of compensation and the jury or election duty pay, other than expenses, received by the employee. An employee may elect to continue receiving his/her full rate of City compensation by notifying the City Clerk in advance that the employee agrees to remit to the City all jury or election duty pay, other than expenses, received by the employee.

(7) **Civil Emergency Leave:** A permanent full-time regular employee may apply to the City Administrator for Civil Emergency Leave when there is a state or national incident of such significance as to require a political subdivision to seek assistance of other public entities. In determining whether Civil Emergency Leave will be granted, the City Administrator will consider whether the employee's service would provide needed professional skills either as a volunteer member of a "recognized" organization or as an individual possessing the specific skills needed to respond to the civil emergency (e.g. building inspection services, clean-up services, public safety services), whether the leave would be disruptive to the work schedule of the City department concerned and/or the operations of the City of La Vista, and any other factors which the City Administrator deems relevant. While rendering services during a Civil Emergency Leave, the employee shall not be considered to be acting in the course and scope of his/her employment with the City of La Vista. If approved by the City Administrator, such leave would provide for the following:

- a. Civil Emergency Leave may be scheduled or taken only with the advance written approval of the department head concerned and the City Administrator.
- b. Civil Emergency Leave may only be taken during such time that it is not disruptive to the work schedule of the City departments concerned and/or the operations of the City of La Vista.
- c. The City Administrator shall determine the length of Civil Emergency Leave to be granted; however, in no case shall an employee be permitted more than four weeks of such leave in any one calendar year.

- d. If Civil Emergency Leave is granted, an employee would be paid by the City the difference between his/her regular rate of pay for 40 hours per week and any amount of compensation he or she receives from any other source as pay for the services rendered during such Civil Emergency Leave (not including reimbursement for travel, lodging or meal expenses). An employee may elect to continue receiving his/her full rate of pay from the City by notifying the City Clerk in advance that the employee agrees to remit to the City any amount of compensation (less expenses) he or she receives for the services rendered or by providing documentation to the City Clerk that he or she will receive no compensation (other than reimbursement of expenses) for the services rendered. The employee would continue to earn and accrue City vacation, sick, and personal leave hours at the usual rates. The employee would not be eligible for overtime pay during said leave.
- e. The employee would be maintained on the City's health, dental and life insurance coverages.
- f. The employee would not be maintained on the City's workers' compensation coverage during Civil Emergency Leave.
- g. Prior to returning to work, the employee shall be required to disclose any compensation received and/or any injury suffered in connection with the Civil Emergency Leave, in a manner prescribed by the City Administrator.

Civil Emergency Leave shall not be granted for any other purpose and shall not be accrued. Eligibility begins the date immediately following the successful completion of the initial or extended probationary period.

- (8) **Leave of Absence Without Pay:** A leave of absence without pay may be granted to a regular employee for a period not to exceed ninety (90) calendar days by the City Administrator. In considering a request for such a leave of absence, the City Administrator will consider whether the requested leave would be disruptive to the work schedule of the City department concerned and/or the operations of the City of La Vista, and any other factors which the City Administrator deems relevant. During such a leave, the employee must pay for all employee benefits the employee wishes to retain (e.g., insurance) while on leave. Upon expiration of leave of absence without pay, the employee shall return to work in the position held at the time that leave was granted. Failure without good cause to report promptly when the leave has expired shall be considered as a resignation.
- (9) **Absence Without Leave (AWOL):** Any unauthorized absence of an employee from duty without prior permission, where the circumstances allowed the employee time to request permission by telephone or otherwise, shall be deemed to be an absence without leave and may result in disciplinary action by the City Administrator. Any employee who is absent for three (3) or more days without notice and authorized leave shall be deemed to have resigned. However, the City Administrator may grant leave with or without pay if he or she determines extenuating circumstances existed.
- (10) **Family and Medical Leave:** This section implements the City's policy under the federal Family and Medical Leave Act (FMLA). An employee who has been employed by the City for at least twelve months (which need not be consecutive), and who has worked at least 1,250 hours of service during the 12 consecutive months immediately preceding the requested commencement date of family or medical leave, may be granted up to twelve weeks of family or medical leave during an

applicable 12-month period for certain family or medical reasons. An "applicable 12-month period" means the rolling 12-month period measured backward from the date the employee uses any family or medical leave.

Family or medical leave may be used:

- (a) For the birth or adoption of a child or the placement of a child with the employee for adoption or foster care;
- (b) To care for the employee's spouse, parent or child who has a serious health condition; or
- (c) When a serious health condition of the employee prohibits him/her from performing an essential function of his/her job.

If necessary, leave may be taken intermittently or on a reduced work schedule for medical care and treatment. If both spouses are employed by the City, they may only take a combined total of twelve weeks during an applicable 12-month period for the birth or adoption of a child or for placement of a child with the employee for adoption or foster care. However, each such employee will remain entitled to use the balance of his or her twelve weeks of leave during an applicable 12-month period for other circumstances qualifying for family or medical leave.

Whenever practical, the employee shall provide the City at least thirty (30) days notice of any need for family or medical leave. When such notice is not practicable, the employee shall give notice of the need for leave to the City as soon as practicable under the circumstances.

When an employee gives the City notice of the need for or requests family or medical leave, or when the City otherwise acquires notice that leave is being taken or used for purposes which qualify for family or medical leave, including absences covered by workers' compensation (if qualifying for family or medical leave), the City Clerk will provide the employee with a notice containing the information required by the FMLA regulations [29 C.F.R. Section 825.301(b)]. Such notice shall be given by the City Clerk within a reasonable time after the City receives notice of the need for or applicability of family or medical leave, and within one or two business days if feasible. Such notice shall be given by the City Clerk no less often than the first time in each six-month period that an employee gives notice of the need for family or medical leave or of facts or circumstances to which family or medical leave would apply. When possible, an employee on FMLA leave shall contact his/her supervisor weekly to update the supervisor on the status of the employee's family or medical leave and the employee's intent to return to work.

An employee may be required to provide medical certification from a health care provider in connection with a request for family or medical leave due to a serious health condition of the employee or of his/her spouse, parent or child. (Copies of the medical certification form, and of a U.S. Department of Labor "Fact Sheet" explaining the FMLA, may be obtained from the City Clerk.) At its option, the City may require a second medical opinion at the City's expense.

Normally, family or medical leave is unpaid leave. However, to the extent permitted by the FMLA and FMLA regulations, all forms of paid leave (including accrued sick leave, personal leave and

vacation leave) must be substituted for unpaid family or medical leave before unpaid leave may be taken. Paid leave which is so substituted will correspondingly reduce the employee's entitlement to unpaid family or medical leave.

On return to work at or before the expiration of the employee's entitlement to family or medical leave, the employee will be placed in the same position held previously (or an equivalent position) with the same rate of compensation and benefits. However, reinstatement may be denied under certain circumstances to a "key" employee, as defined in the FMLA and FMLA regulations.

The City will continue to provide health, life and dental insurance benefits to an employee who is on family or medical leave taken under the FMLA, provided the employee was receiving such benefits immediately prior to the FMLA leave. However, no other benefits will accrue during unpaid periods of family or medical leave. Respecting any unpaid periods of family or medical leave, the employee must reimburse the City, on a monthly basis, any costs of such insurance coverages which are normally paid by the employee while the employee is not on leave.

If an employee does not return to work for the City at or before the expiration of the employee's entitlement to family or medical leave, or informs the City that he or she does not intend to so return, the employee's insurance coverage shall cease and the employee shall reimburse the City for all insurance costs (both normally City-paid and normally employee-paid) which were incurred during periods of unpaid family or medical leave. However, if an employee does not return to work at the end of a family or medical leave due to reasons beyond the employee's control, or due to the continuation, recurrence or onset of a serious health condition which would entitle the employee to FMLA leave, the City shall not require reimbursement of normally City-paid health insurance costs incurred respecting the leave period. Only an employee who returns to work for at least thirty (30) calendar days will be considered to have "returned" to work for purposes of this paragraph.

Nothing in this Section shall be interpreted to entitle any employee to any benefit greater or more favorable to the employee than is required by the FMLA. This Section shall be interpreted consistently with 29 CFR Part 825.

8.2 **Temporary Limited Light Duty (TLD):** When the City Administrator determines that it is practicable to do so, the City Administrator in consultation with Department Heads will endeavor to identify and assign temporary limited light duty work (TLD) to an employee who is temporarily unable to perform any essential function of his or her regular position as a result of a work-related or non-work-related injury or illness. If so identified and assigned, a TLD assignment shall be temporary only and intended to enable the employee to return to his/her regular position as soon as possible.

(1) **Temporary Limited Light Duty Work Assignment.**

- a. The City will endeavor to return employees to gainful employment as soon as possible by exploring possible TLD assignments; however the City does not guarantee the availability of light-duty work.
- b. TLD assignment is not in any manner intended to be a permanent duty assignment.

- c. TLD assignment will be made only if productive work contributing to the efficient and effective operation of City government is available. A TLD assignment will not be made or continued if the City Administrator determines the assignment would unfairly require another employee to perform a substantially disproportionate share of the more difficult or least desirable types of work.
- d. If TLD work is available, any of the following arrangements may be made:
  - (1) The employee may return to his or her regular job with restrictions in duties;
  - (2) The employee may be assigned TLD work within the same department; or
  - (3) The employee may be assigned to TLD or other work in another department.
- e. If there are a limited number of TLD assignment opportunities available, employees recovering from work-related injuries or illnesses shall have assignment priority over employees recovering from non-work-related injuries or illnesses.
- f. If there is no TLD assignment available, an employee with a non-work-related injury or illness shall be required to utilize accrued sick, vacation, personal or compensatory leave time, or time off without pay if accrued leave has been exhausted. If the needs of the City require, a replacement may be hired to replace the employee and the employee, when able to return to work, shall be eligible for rehire to a then-vacant position.
- g. An employee who has reached maximum medical improvement and is determined to have a permanent disability (total or partial) that prevents the employee from performing an essential function of his or her current position shall not be eligible for assignment to or continuation of TLD work, but may be considered for transfer to a then vacant position.

(2) Procedures.

- a. An employee must submit a request to the employee's Department Head for a TLD assignment, together with a release for light duty work from the employee's physician that outlines the employee's work limitations and restrictions.
- b. The Department Head shall review the employee's limitations and restrictions and meet with the Human Resources Assistant to determine if an appropriate TLD assignment is available.
- c. Each TLD assignment must be approved by the City Administrator or his or her designee.

(3) Additional Provisions.

- a. A TLD assignment for an employee recovering from a non-work-related injury or illness shall not exceed sixty (60) calendar days. At the end of sixty calendar days, the

employee may request to use accrued sick or vacation leave or may request leave without pay.

- b. At the end of the first thirty calendar days of a TLD assignment, an employee must present a current statement from a medical doctor stating the estimated date of the employee's return to regular duty. A TLD assignment will not be continued beyond the first thirty calendar days if the employee does not provide the required medical statement.
- c. Prior to returning to full duty, the employee must provide a statement from a medical doctor that unconditionally releases the employee to perform all essential functions of the employee's position.
- d. A TLD assignment for an employee recovering from a work-related injury or illness shall not exceed one hundred eighty (180) calendar days, unless approved in advance by the City Administrator.
- e. An employee on a TLD assignment must present, not less frequently than every thirty calendar days, a current statement from a medical doctor indicating an estimated date of the employee's ability to return to full regular duty.
- f. An employee's refusal to perform a task or job duty that is consistent with (not contrary to) the employee's medical restrictions will be treated as an act of insubordination. The employee will be directed to leave the work site and, if the employee has had an opportunity to reconsider the refusal and to explain his or her position and the insubordination is nevertheless clearly established, the employee will be placed on leave without pay. The employee may be subject to further disciplinary action as deemed appropriate by the City Administrator and/or may be directed to be re-evaluated or to provide further medical documentation to determine his or her ability to perform available TLD work tasks.
- g. An employee on TLD assignment may be assigned several types of work at various and differing locations and work times, as necessitated by changing medical restrictions, by completion of available work of a particular type, or the ability of the City to provide or continue a TLD work assignment.

(4) Anything in this policy that may conflict with any provision of the Nebraska Workers' Compensation Act or any other state or federal statute shall be applied, interpreted and deemed amended so as to be consistent with such Act or statute.

**8.3 Holidays:** The following days are observed as holidays by the City of La Vista:

<u>DAY</u>	<u>WHEN OBSERVED</u>
New Year's Day	January 1
Martin Luther King Day	Second or Third Monday in January as nationally designated

Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday after Fourth Thursday in November
Christmas Day	December 25

- (a) When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, it shall be observed on the following Monday.
- (b) All regular full-time exempt employees of the City of La Vista, except those designated to work, shall receive holidays with pay for holidays observed by the City.
- (c) All regular full-time non-exempt employees of the City of La Vista, except those designated to work, shall receive holidays with pay for holidays observed by the City according to their scheduled shift at the time of the holiday.
- (d) Due to special or emergency needs of the City, or due to an employee's work schedule and/or work assignment, a regular full-time employee may be required by the City to work on a holiday otherwise observed by the City. When this occurs, the Department Head is to make a reasonable effort to allow such an employee a different day off with pay during the same workweek. If allowing a different day off in the same workweek is not possible, and the employee therefore does not receive alternate time off in lieu of holiday time off, the employee shall be paid eight (8) hours pay in lieu of having the day off and shall also be compensated at one and one-half times his or her regular rate of pay respecting the time actually worked on the holiday recognized by the City.

If a holiday falls on a regular full-time employee's regular day off, the employee will be entitled to eight hours pay at his or her regular rate in lieu of the holiday time off, and no alternate day or time off will be allowed in lieu of such pay, except as provided otherwise in this section 8.3 (a) for holidays falling on Saturdays and Sundays (which shall mean the Saturdays and Sundays shown on the calendar and not any other days of the week which an employee considers to be his or her "Saturday" or "Sunday").

*EXAMPLE: Compare a City employee (e.g. one at City Hall) who works Monday through Friday and another employee (e.g. one at the golf course) who works Wednesday through Sunday. In the case of a Monday holiday, the City Hall employee receives 40 hours of pay for 32 hours of work. The golf course employee receives 48 hours of pay for 40 hours of work. Both employees receive 8 hours of pay for 8 hours not worked.*

- (e) The City Administrator may disallow holiday pay if an employee is requested to work on the holiday and does not comply with such request.

(f) No employee will be paid for a holiday unless he/she has actually worked, if scheduled, the working day immediately preceding the holiday and the working day immediately following the holiday, except where the employee is granted special advance approval for pay for the holiday by the City Administrator.

8.4 **Health and Life Insurance:** Regular full-time employees are eligible for enrollment in the group life, health and dental insurance programs maintained by the City. The employee portion of the cost of insurance programs, if any, as established by the Compensation Ordinance, shall be withheld from the employee's earnings as prescribed by the City Council. The conditions and provisions of the master insurance contracts and other plan documents concerning eligibility for coverages, costs of coverages, benefits covered or provided or excluded, limitations of coverage, waiting periods, claims processing procedures, etc., shall control over any contrary or inconsistent provisions in this Manual.

8.5 **Retirement Programs:** Regular full-time employees shall participate in the retirement program maintained by the City, except uniformed police officers. Employee contributions shall equal six percent (6%) of the employee's base monthly pay, unless a different percentage is established by the then-current compensation ordinance. The City shall contribute to the retirement program an amount equal to the minimum monthly contribution of each participating employee, unless a different percentage is established by the then-current compensation ordinance. Regular full-time employees may voluntarily contribute up to an additional 4% of their base monthly pay unless a different percentage is established by the then-current compensation ordinance; however, the City will not match the voluntary contribution. The City may also offer a voluntary 457 plan for regular permanent full-time and regular permanent part-time employees. Employee contributions to the 457 plan will be strictly voluntary and the City will not match an employee's voluntary contribution. The normal retirement age is sixty-five (65). Claims for retirement benefits shall be submitted to the City Clerk or other individual designated as administrator of the retirement program. Further information regarding the City's retirement program and vesting schedule are available from the City Clerk or his/her designee.

Retired full-time employees of the City may participate in the City's group medical insurance program, subject to the following criteria and conditions:

- (a) Authorization under state law for cities of the first class to include retirees under their group health care plans; and
- (b) The employee retires with twenty (20) consecutive years of service as a full-time employee of the City and is not separated from employment due to disciplinary discharge; and
- (c) The Mayor and City Council have authorized medical insurance coverage for full-time employees of the employee's classification and the designated medical insurer contract offers coverage to qualified retirees of employee's classification; and
- (d) The qualified retiree must be a participant in the City's applicable group medical insurance at the time of retirement; and
- (e) The qualified retiree must elect COBRA coverage for the maximum COBRA continuation period at the time of retirement; and
- (f) The qualified retiree must notify the City Clerk that he/she intends to participate in such group medical coverage OR that he/she intends to waive such coverage at least 60 days prior to the expiration of COBRA eligibility (failure of the qualified retiree to provide such notification shall bar the retiree from future participation in the City's group medical coverage); and
- (g) The qualified retiree pays 100% of the premium (cost) of such retiree medical insurance; and

- (h) The qualified retiree is not medicare or medicaid eligible; and
- (i) Any retiree coverage via the City's group medical insurance shall terminate upon the qualified retiree becoming medicare or medicaid eligible.

8.6

**Worker's Compensation:** Employees of the City of La Vista are covered by Worker's Compensation and the City purchases insurance to insure this risk. Worker's compensation coverage normally provides the following for employees injured while on the job: medical and hospital services, prosthetic devices, total and partial disability benefits, benefits for injuries to specific bodily members, benefits for injuries causing death, and certain occupational illnesses.

All work-related accidents and injuries must be reported in writing to the City Clerk immediately, and not later than two days after the event. Under the Nebraska Workers' Compensation Act, an employee has the right to choose a doctor to treat the employee for a work related injury. The employee may only choose a doctor who, before the injury happens, has treated the employee or the employee's spouse, child, parent, stepchild or stepparent. The doctor chosen must have records to show that such previous treatment was provided. Employees may be required to sign an authorization verifying the previous treatment. All employees shall be required to choose a doctor on the official "Form 50" of the Nebraska Workers' Compensation Court.

Under current workers' compensation law, workers' compensation does not provide any wage replacement benefits to an employee for or during the first seven calendar days of disability, even though the disability is otherwise covered by workers' compensation. During that seven days period, an employee may use his or her earned but unused paid sick leave, personal leave or vacation leave to the extent necessary to avoid or reduce interruption of income. [After a disability absence covered by workers' compensation has continued for six weeks or longer, workers' compensation will retroactively pay the employee wage replacement benefits for the first seven calendar days period to the extent provided by law. To the extent (but only to the extent) workers' compensation retroactively makes such a payment to the employee for the first seven calendar days of disability and such payment would reduce the amount of the sick leave, personal leave or vacation leave that the employee would have needed to use during those first seven days to avoid interruption of income during those seven days, the City will restore to the employee the excess sick leave, personal leave or vacation leave used by the employee during the first seven days. First Example: If workers' compensation retroactively pays the employee two-thirds (the equivalent of 26.66 hours) of the employee's normal weekly wages for the first seven calendar days of disability, and the employee initially used 40 hours of vacation during those seven days to avoid interruption of income, the City will restore 26.66 hours of vacation to the employee. The employee needed to use the other 13.34 hours of the 40 hours of vacation leave, plus the 26.66 hours equivalent paid by workers' compensation, to avoid interruption of income. Second Example: If workers' compensation retroactively pays the employee two-thirds (the equivalent of 26.66 hours) of the employee's normal weekly wages for the first seven calendar days of disability, and the employee initially used 25 hours of sick leave during the seven days period and had no other earned but unused sick leave, vacation leave or personal leave available to him or her during those first 7 calendar days, the City will restore 11.66 hours of sick leave to the employee. The employee needed to use the other 13.34 hours of the 25 hours of sick leave, plus the 26.66 hours equivalent paid by workers' compensation, to avoid interruption of income.]

Following the first seven calendar days of workers' compensation-covered disability, the employee may use his or her earned but unused paid sick leave, personal leave or vacation leave, until such leaves are exhausted, to the extent necessary to avoid or reduce interruption of income. This means that those types of leave may be used in such amounts as will be sufficient, when combined with workers' compensation benefits received by the employee, to represent total monthly payments to the employee equal to the employee's monthly rate of base pay. After earned but unused paid sick leave, personal leave and vacation leave have been exhausted, the employee will receive only the workers' compensation benefits to which he or she may be entitled by law (unless the employee is eligible to apply for an allowance of emergency sick leave and the appropriate emergency sick leave committee grants the employee an allowance from the emergency sick leave account administered by such committee).

State statutes currently require that a sworn police officer suffering a temporary disability in the line of duty be paid his/her full wages ("City Wage Continuation") during continuance of the temporary disability for not more than twelve months or until the disability has been determined to have become permanent, whichever is earlier. Any workers' compensation benefits received by the officer during that period are deducted from the City Wage Continuation. In addition, all earned but unused paid sick leave, personal leave and vacation leave must be used to supplement the workers' compensation benefit and offset any wage loss before City Wage Continuation begins. [Cross Ref. Neb. Rev. Stat. §§ 16-1011 and 16-1012.]

8.7 **Rest Periods:** Scheduled rest periods are designated by the department head with the approval of the City Administrator, and may be changed by the department head as needs of City business may dictate, except that any permanent change in the schedule must also be approved by the City Administrator. A fifteen (15) minute rest period shall generally be allowed to all employees during each four (4) hours of work.

8.8 **Health and Wellness Incentive Program:** To encourage employee productivity, the La Vista Safety Committee may develop and maintain a Health and Wellness Incentive Program for full-time and permanent part-time employees with rules and regulations subject to the approval of the City Administrator. Such voluntary program may include nominal incentives for participation as annually funded through the budget process, including T-shirts, ball caps and certificates for "time off" from work. If earned via participation in the Health and Wellness Incentive Program and subject to the established rules and regulations, an employee may receive not more than one such time off certificate, each six months, for not more than eight hours of time off and such certificate shall contain restrictions for use, and may not be accumulated over time nor exchanged or "cashed in" for wages.

<b>SECTION IX:</b>	<b>DISCIPLINARY ACTION</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 15-083</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>	<b>DATE:</b>	<b>JULY 7, 2015</b>
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>		

9.1 **Disciplinary Action:** Employment with the City shall be in accordance with policies and rules established by the City Council and City Administrator. Employee compliance with such policies and rules is a condition of City employment. Employees shall be oriented to applicable policies and rules by their supervisors or department heads. Failure to comply with the policies and rules and the directives of supervisors or department heads may result in disciplinary action.

The City Administrator may delegate to a Department Head and/or the Human Resources Manager any of the City Administrator's authorities or responsibilities under the disciplinary procedures or under this Section IX, as the City Administrator may consider appropriate.

Acts or omissions which may result in disciplinary action include, but are not limited to:

- (1) Excessive, unexplained or unexcused absenteeism; Excessive tardiness; Failure to work during scheduled work time.
- (2) Discourteous treatment of the public or work associates, including abusive language.
- (3) Failure to report a work-related accident, injury or illness.
- (4) Receipt of two or more moving violations or involvement as the at fault vehicle, as determined by the City Administrator, in two or more traffic accidents within a twelve month time frame with a City-owned vehicle.
- (5) Falsifying employment or employment application information.
- (6) Releasing confidential information.
- (7) Criminal behavior, including theft.
- (8) Drunkenness, or possession or use of alcohol or controlled substances (other than prescription medications as directed by a licensed physician) while on duty, or being under the influence thereof while on duty.
- (9) Failure to pass a drug and/or alcohol test or refusal to consent to such test as detailed in the City of La Vista Drug Testing Policy attached to this Manual or as required for safety sensitive personnel by State and Federal regulations.

## **PERSONNEL RULES AND REGULATIONS**

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- (10) Carelessness or negligence in the performance of duties, including safety rule violations, or inattention to work responsibilities, or failure to perform assigned work or duties satisfactorily.
- (11) Harassing, threatening or seeking to intimidate or bully fellow employees or members of the public. Except where legally justified (such as in legally justified cases of self-defense or defense of others), the City will not tolerate any behavior toward fellow employees or members of the public that threatens physical or bodily harm or injury, harmful or offensive bodily contact or damage to public or private property.
- (12) Refusal or failure to perform work as assigned, or other insubordination.
- (13) Abuse or unauthorized use, or conversion to personal use, of City property, equipment or facilities.
- (14) Fighting.
- (15) Providing information known to be false; knowingly engaging in any other act of falsification, false reporting, dishonesty or misrepresentation while on duty or in connection with any job-related matter or any matter related to City business or City operations.
- (16) Unlawful discrimination on the basis of race, color, religion, sex, age, national origin, disability, marital status, or other classification protected by federal, state, or local law or regulation.
- (17) Public conduct which materially interferes with the employee's ability to effectively perform assigned duties, or which has a detrimental effect on the City's image or operations.
- (18) Possessing at any time while on City property or within a City building or facility, or possessing at any time while on duty for the City at any location, any firearm or other weapon on the person of an employee (or in any package, container or vehicle that is in possession or custody of the employee). "Weapon" shall include but not be limited to any knife with a blade longer than three inches that is not the property of the City. [This prohibition on possession of weapons shall not apply to a City police officer to the extent he or she is required or ordered to carry firearms or other weapons as part of the duties and responsibilities of his or her employment by the City, or to a City employee to the extent he or she is granted permission by his or her Department Head to possess a specific item while on duty. Example: The Department Head may grant a maintenance worker permission to carry in plain view a sheath knife having a blade longer than 3 inches in length for use in performing the maintenance worker's job duties.]
- (19) Violation of or failure to observe any of the requirements or provisions of this Personnel Manual.
- (20) Any other act or failure to act which is deemed to show the employee to be an unsuitable or unfit person to be employed in the public service.

Any permanent, regular employee of the City of La Vista may be reprimanded, suspended with or without pay, transferred to another position in the same class, demoted and/or terminated for any of the above reasons, or for any reason which the City Administrator deems to be adequate or proper under

the circumstances and sufficient to warrant such action. All other employees are terminable at the discretion of the City Administrator.

9.2 **Procedures:** Prior to suspending without pay, demoting, or dismissing a permanent, regular employee, or imposing any other disciplinary action involving a reduction or forfeiture of pay or benefits, the City Administrator shall give the employee:

- (1) Written notice of the charges against the employee or of the reason(s) for which the City Administrator is considering disciplinary action;
- (2) A general explanation of the evidence or information the City Administrator has regarding the matter; and
- (3) An opportunity for the employee to meet with the City Administrator to explain the employee's view of the situation and other pertinent information which the employee may wish to present (such as: the employee's version of the facts; information regarding mitigating circumstances or misunderstandings of fact; the employee's view of the appropriateness of disciplinary action or of the sanction(s) being considered by the City Administrator; and/or any other information the employee reasonably wishes to present).

9.3 **Reprimand:** A department head may reprimand any employee under his/her supervision for such reason as the department head deems adequate and sufficient to warrant such action. Such reprimand shall be in writing and addressed to the employee. A signed copy shall be delivered to the City Administrator for inclusion in the employee's personnel file. Reprimands may not be appealed to the Personnel Board. However, the employee may file a letter of response to the reprimand which shall be attached to the reprimand in the file. After one (1) year from the date of the reprimand, the department head may, with the approval of the City Administrator, remove the reprimand from the personnel file. In addition, an employee receiving a written reprimand may, after one (1) year from the date of the reprimand, submit a written request to the City Clerk asking the Personnel Board to review the reprimand and/or response and to determine whether the reprimand shall be removed from the personnel file. The Personnel Board, after reviewing the matter, may order that the reprimand be removed from the employee's personnel file if the Personnel Board determines in its discretion that it would no longer be appropriate to retain such reprimand as part of the employee's service record.

9.4 **Suspension:** The City Administrator may suspend an employee with or without pay for such reason as the City Administrator deems adequate and sufficient to warrant such action. In the case of a permanent, regular employee, the procedures in Section 9.2 shall apply. The total of such suspension(s) without pay shall not exceed thirty (30) calendar days in any twelve (12) consecutive month period. No single suspension without pay shall be for more than thirty (30) calendar days. The City Administrator shall notify the employee no later than one (1) day before a suspension without pay is to be effective. Such notice shall include the reasons for the suspension without pay and the duration of the suspension. Within ten (10) calendar days of the notice of suspension without pay, any non-exempt regular permanent employee who is suspended without pay may appeal in writing to the Personnel Board for a hearing.

9.5 **Demotion:** The City Administrator may demote an employee for such reason as the City Administrator deems adequate. In the case of a permanent, regular employee, the procedures of Section 9.2 shall apply. A written statement of the reasons for any such action shall be furnished to the employee and a copy filed in the employee's personnel file. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in the lower class. Demotion shall not be made if it would require any regular full-time employee in the lower class to be laid off by reason of the action. Within ten (10) calendar days after receiving written notice of demotion, any non-exempt regular permanent employee may appeal, in writing, to the Personnel Board for a hearing.

9.6 **Dismissal/Discharge:** The City Administrator may dismiss/discharge any employee of the City for such cause as the City Administrator deems adequate and sufficient to warrant such action. In the case of a permanent, regular employee, the procedures of Section 9.2 shall apply. At least fourteen (14) calendar days before the effective date of dismissal/discharge, a written statement of the reason(s) for the dismissal/discharge shall be delivered to the employee concerned. If the City Administrator, because of the reason(s) for the dismissal/discharge, desires to make an immediate separation of the employee, the City Administrator may impose a suspension with or without pay of the employee, pending the effective date of dismissal/discharge. By so doing, such action shall automatically result in permanent separation at the end of the period of suspension. Suspension pending dismissal/discharge shall not be subject to the limitations provided in Section 9.4 of these rules. Within ten (10) calendar days of the receipt of the notice of dismissal/discharge, any non-exempt regular permanent employee so dismissed/discharged shall have the right to appeal in writing to the Personnel Board and shall be granted a hearing.

9.7 **Final Arbiter:** The Personnel Board shall be the final internal arbiter of employee appeals.

9.8 **Civil Service:**

- (1) Employees covered by the Civil Service Act (Neb. Rev. Stat. sections 19-1825 et seq.) may be removed, demoted, suspended without pay, reprimanded or otherwise disciplined under the applicable Civil Service Rules.
- (2) As specified in Nebraska Revised Statute section 13-3005, in any proceeding involving the potential removal, suspension with or without pay, demotion or discharge of any sworn full-time officer of the City of La Vista Police Department, having the power of arrest and for whom law enforcement is a full-time career, including the Chief of Police (but not including any officer during his or her probationary period and not including clerical, custodial, or maintenance personnel):
  - (a) The officer shall be given notice and a copy of the written accusation;
  - (b) The officer shall have the right to have an attorney or representative retained by the officer present with the officer at all hearings or proceedings regarding the written accusation;
  - (c) The officer shall have the right to be heard and present evidence, or to have the officer's attorney or representative retained by the officer be heard and present evidence;

**PERSONNEL RULES AND REGULATIONS**

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- (d) The officer shall have the right, as shall the individual imposing the disciplinary action, or their respective attorneys or representatives, to record all hearings or proceedings regarding the written accusation; and
- (e) If removal, suspension with or without pay, demotion or discharge is imposed on the officer by the City Administrator, the officer shall have the right to an appeal as provided in the Civil Service Act (Nebraska Revised Statute sections 19-1825 et seq.), La Vista Municipal Code section 37.13, and Article V of the Rules and Regulations of the Civil Service Commission of the City of La Vista.

(3) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the City Administrator, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

## PERSONNEL RULES AND REGULATIONS

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<b>SECTION X:</b>	<b>GRIEVANCES</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>
<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>DECEMBER 20, 2005</b>

10.1 **General Policy:** It shall be the policy of the City to provide fair and efficient means to receive, investigate and resolve employee and MVFD complaints and grievances. Each employee and MVFD shall have the right to informally discuss grievances with the immediate supervisor. The City Administrator shall insure employees and MVFD freedom from restraint, interference, discrimination or reprisal in the presentation of grievances at any supervisory level.

10.2 **Grievance Procedure:**

- (1) The aggrieved employee or MVFD shall first present the grievance in writing to the immediate supervisor who shall make careful inquiry into the facts and circumstances of the grievance. After investigation, the supervisor shall advise the employee or MVFD of the findings of the investigation and the decision. If a grievance is against the immediate supervisor, the employee or MVFD may choose to initially present the grievance to the department head (or to the City Administrator, if he/she is the employee's department head).
- (2) If the grievance is not resolved by action of the immediate supervisor, the employee or MVFD may submit the grievance in writing to the department head (or to the City Administrator, if he/she is the employee's department head). The department head shall make a separate investigation and inform the employee or MVFD in writing of the decision and the reasons therefor within ten (10) calendar days after receipt of the employee or MVFD grievance.
- (3) If the grievance is not resolved by action of the department head, the employee or MVFD may obtain a review by the City Administrator by submitting a request for review within ten (10) calendar days following receipt of the decision of the department head. The City Administrator shall make such investigation as he/she deems appropriate and shall, within ten (10) calendar days after the receipt of the employee or MVFD request for review, inform the employee or MVFD in writing of the pertinent findings and decision.

The City Administrator's decision shall be the final and conclusive decision.

- (4) Within the foregoing procedures, the burden of proof shall be on the individual who is seeking a change of a supervisory action or decision.

10.3 **Grievance Procedure for Disability Discrimination Complaints:** Employees, MVFD and applicants for employment or applicants for membership in the Volunteer Fire Department who believe they have been discriminated against because of disability may file a grievance as set forth herein.

Grievance complaints should be addressed to: ADA Coordinator, City of La Vista, 8116 Park View Boulevard, La Vista, Nebraska 68128-2198, telephone (402) 331-4343.

## **PERSONNEL RULES AND REGULATIONS**

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- (1) A complaint must contain the name, address and telephone number of the person filing it, briefly describe the alleged violation and the date the incident occurred.
- (2) A complaint should be filed within thirty days after the complainant becomes aware of the alleged violation.
- (3) An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the City Administrator. This procedure contemplates informal but thorough investigations, affording all persons demonstrating interest in the matter and their representatives, if any, an opportunity to submit evidence and information relevant to the complaint.
- (4) A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the City Administrator and a copy forwarded to the complainant, if practicable, within twenty-one (21) calendar days after the complaint is filed.
- (5) The complainant may request a reconsideration of the case in instances where he/she is dissatisfied with the resolution determined by the City Administrator. The request for reconsideration must be made and filed with the City Administrator within fourteen calendar days of the date of the initial resolution determination. The City Administrator will forward the request for reconsideration to the Mayor and Council.
- (6) The City Administrator shall maintain the files and records of the City of La Vista relating to complaints filed hereunder.
- (7) The right of a person to a prompt and equitable resolution of a complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a claim with the Department of Justice, the Equal Employment Opportunity Commission or any other federal or state agency. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- (8) These rules shall be construed to protect the substantive rights of interested persons and to assure that the City of La Vista complies with applicable state and federal legislation.

<b>SECTION XI:</b>	<b>SEPARATIONS</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>
<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>DATE:</b>	<b>DECEMBER 20, 2005</b>

- 11.1 **Separation:** The City Administrator, with the concurrence of the City Council, may separate any employee or MVFD without prejudice because of lack of funds or curtailment of work, after giving notice of at least ten (10) working days to such employee or MVFD. No permanent employee shall be separated from any department while there are provisional, probationary, part-time or temporary employees serving in the same class of positions in that department. Whenever possible, employees in one department shall be integrated into another department by transfer rather than being laid off. When lay-offs are required, they shall be made based on the City Administrator's assessment of the quality of service previously demonstrated by the employees of the class of position to be laid off. Where quality of service of two or more such employees is assessed by the City Administrator to be equal, length of service may be considered in selecting the employee(s) or MVFD to be retained and preference may be given to the employee(s) or MVFD with longer service to the City. Any employee affected by lay-off through no fault of his/her own shall be eligible for re-employment by the City or re-appointment to membership in the Volunteer Fire Department on reapplication by the employee when a position vacancy occurs.
- 11.2 **Resignation:** An employee or MVFD who desires to resign his/her position with the City in good standing shall provide a written resignation to the department head or the City Administrator stating the effective date and reason for such action. Notification shall be provided at least two weeks prior to the effective date unless otherwise waived by the City Administrator. Employees who resign shall be entitled to compensation for their earned and unused vacation leave as provided in Section 7.21 (see also).
- 11.3 **Return of City Property:** Any employee or MVFD leaving the City service is responsible for returning any City property which he/she may have in his/her possession. Employee handbooks, identification cards, badges, keys, uniforms, and any other City property must be returned to the department head or the City Administrator prior to receiving a final paycheck.

## PERSONNEL RULES AND REGULATIONS

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**SECTION XII: PERSONNEL RECORDS AND ACTION FORMS**

**ADOPTED:** **RESOLUTION NO. 96-012**  
**DATE:** **FEBRUARY 6, 1996**  
**AMENDED:** **RESOLUTION NO. 02-107**  
**DATE:** **OCTOBER 15, 2002**  
**READOPTED:** **RESOLUTION NO. 05-159**  
**DATE:** **DECEMBER 20, 2005**

12.1 **General Policy:** The following forms shall be used to facilitate personnel administration of the City of La Vista:

- (1) Application for Employment or Membership in the Volunteer Fire Department: This form shall be completed by applicants seeking employment with the City or membership in the Volunteer Fire Department. The City Administrator shall maintain applications for a period of three (3) years.
- (2) Medical Examination and Drug Testing: Any offer of employment shall be deemed conditional on the satisfactory result of a post-offer medical examination if such an examination is required by the City. If such an examination is required by the City, the examination will be required of all entering employees in the same job category. Medical examinations shall be performed at the expense of the City and by a medical provider designated by the City. If a required medical examination reveals that an employment offeree does not satisfy criteria for employment, the City may revoke its offer of employment if warranted by any job-related reason which (a) is consistent with business necessity, and (b) if there is no reasonable accommodation available that would enable the employment offeree to perform the essential functions of the position or if reasonable accommodation of the disability would impose an undue hardship upon the City.

Any offer of appointment to membership in the Volunteer Fire Department shall be deemed conditional on the satisfactory result of a post-offer medical examination if such an examination is required by the City. If such an examination is required by the City, the examination will be required of all entering appointees in the same position category. Medical examinations shall be performed at the expense of the City and by a medical provider designated by the City. If a required medical examination reveals that an entering appointee does not satisfy criteria for membership, the City may revoke its offer of membership if warranted by any position-related reason which (a) is consistent with business necessity, and (b) if there is no reasonable accommodation available that would enable the entering appointee to perform the essential functions of the position or if reasonable accommodation of the disability would impose an undue hardship upon the City.

Information obtained regarding the medical condition or history of applicants will be collected and maintained on separate forms and in separate medical files, and treated as a confidential medical record, and disclosed only as permitted by the Nebraska Fair Employment Practice Act and the Americans with Disabilities Act.

All persons offered employment or membership in the Volunteer Fire Department by the City will be required, and any applicant for employment or membership in the Volunteer Fire Department by the City may be required, to submit to a drug test as provided in Section 14 of the Personnel

## **PERSONNEL RULES AND REGULATIONS**

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Rules and Regulations in this Manual. The drug testing procedure will comply with the requirements specified in the Nebraska Revised Statutes. Failure of the drug test will disqualify an applicant from employment with the City or membership in the Volunteer Fire Department.

- (3) **Personnel Action Form:** This form shall be completed before any change of employment status of any employee shall be official. Each change of status must be approved by the City Administrator.
- (4) **Request for Leave Form:** This form shall be completed by the employee prior to the beginning date of the leave except request for sick leave, which shall be made in advance if possible, and otherwise at the earliest possible date.
  - (a) City Administrator - The City Administrator shall submit his/her request for leave to the Mayor for approval.
  - (b) Department Heads - Department heads shall submit their requests for leave to the City Administrator for approval.
  - (c) Other Employees - Employees other than department heads shall submit their requests for leave to their respective department heads for approval.

**12.2 Personnel Records:** The following personnel records shall be maintained by the City of La Vista:

- (1) **Employee Personnel File:** An employee or MVFD record shall be maintained for each employee and MVFD in the City service indicating current status, record of pay rates (if applicable), previous employment, performance reviews and other employment/position data. This record shall be filed in and become part of the permanent folder of each City employee and MVFD. It shall be maintained under the supervision of the City Administrator.
- (2) **Other Records and Correspondence:** Completions of training schools, professional and technical courses, and other like training shall be noted, certified, and inserted in the personnel folder of each employee and MVFD of the City. Other records and correspondence such as accident reports, current employment date, etc. shall likewise become a permanent part of the folder of each employee and MVFD. Personnel folders and information in them shall be utilized by the City Administrator and department heads, in making assignments, reassessments, transfers, promotions, disciplinary decisions or other personnel actions. The personnel records of any employee subject to civil service shall be made available to the Civil Service Commission for its consideration regarding any matter before the Commission which involves or may affect an employee or an employee's employment. The personnel records of employees and MVFD shall similarly be made available to the Personnel Board regarding any matter before the Personnel Board which involves or may affect an employee, MVFD or an employee's employment or MVFDs membership.

## PERSONNEL RULES AND REGULATIONS

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**SECTION XIII: EMPLOYEE & PERSONNEL DEVELOPMENT**

<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>AMENDED:</b>	<b>RESOLUTION NO. 13-122</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>DATE:</b>	<b>NOVEMBER 5, 2013</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>		
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>		
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>		
<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>		
<b>DATE:</b>	<b>DECEMBER 20, 2005</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 13-116</b>		
<b>DATE:</b>	<b>OCTOBER 15, 2013</b>		

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13.1 **Orientation:** The Human Resources Office shall be responsible for providing new employees with a clear statement of fringe benefits available and reviewing said statement with the employee; reviewing the classification and pay plans currently in force with the employee; and ensuring that the employee completes all required documentation. Each department head shall be responsible for facilitating the adjustment of a new employee to the work situation by:

- (1) Providing the employee a clear statement of duties and official relationships;
- (2) Properly introducing the employee to work associates;
- (3) Instructing and guiding the employee in learning to perform all job functions;
- (4) Discussing with the employee at regular intervals the employee's progress in learning and performing the work.

13.2 **Training:** The City shall establish appropriate training programs for City employees, in order that service rendered by employees may be more effective, safe and efficient. Such training programs may include formal courses, seminars, workshop demonstrations, assignments of reading matter, or other such methods as may be available for improving the effectiveness and broadening the knowledge of employees in the performance of their respective duties. Employees are encouraged to develop and further their job skills and personal potential by participation in available training programs. Such training programs shall be conducted during regular working hours except as prohibited or rendered impractical by work schedules.

13.3 **Conferences/Conventions:** Employees are encouraged to participate in conferences, conventions, and meetings which have a direct relationship to the employee's position and the City's services. Approval for attendance at such conferences, conventions and meetings shall be obtained at the department level in advance of participation in such events.

13.4 **Educational Assistance Programs:** As an incentive for employees to further their educations and development, the City will reimburse regular permanent full-time employees who have completed probation prior to registration, for the cost of tuition, registration and laboratory fees for advanced training/college classes where each of the following conditions are met:

- (1) Classes apply to either career advancement in the City or to job enhancement in current position.

## PERSONNEL RULES AND REGULATIONS

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- (2) A Tuition Reimbursement Request is submitted in advance of registration and approved in writing by the department head and the City Administrator, and such Request is filed in the employee's personnel file.
- (3) The class is successfully completed with a grade of "C" or better.
- (4) Such classes are taken at a university, college, junior college or technical/trade school that has been accredited by a nationally recognized accrediting agency or association.
- (5) Classes are taken on the employee's free time and not during work hours.
- (6) Maximum reimbursement per employee per calendar year shall not exceed \$1,500. Total funds available for tuition reimbursement per fiscal year will be established annually as part of the budget process, except as otherwise provided in a collective bargaining agreement. If the amount of funds available in a fiscal year is insufficient to honor the requests of all requesting employees (up to the maximum \$1,500 maximum limitation), the City Administrator or his/her designee shall prorate the available funds and reimburse employees in such amounts as the City Administrator or his/her designee determines to be fair and equitable. Any portion of any educational expense that is not reimbursed by the City in the fiscal year during which the expense was incurred by the employee because of funding limitations or expenses exceeding the maximum allowed, shall not qualify for reimbursement by the City in any subsequent fiscal year. The fiscal year in which the expense occurred shall be deemed to be the fiscal year in which the employee receives the final academic grade for the class or course involved.
- (7) The City reserves the right to limit the amount of reimbursement to the amount that would be paid at an alternate public accredited institution (e.g. University of Nebraska at Omaha).
- (8) Reimbursement will not be made by the City respecting (a) tools or supplies that may be retained by the employee after completion of a course of instruction, or meals, lodging, transportation or other costs, that do not represent tuition, registration or laboratory fees; (b) courses or other education involving sports, games or hobbies unless said course applies to either career advancement in the City or to job enhancement in current position.
- (9) Participation in the City's educational assistance program does not preclude participation in any other educational financial assistance program. However, employees can submit to the City for reimbursement **only** the amount of tuition, registration or laboratory fees not paid for by other programs.

To obtain reimbursement, the employee must:

- (a) Complete the Tuition Reimbursement Request form for approval by the department head and City Administrator prior to registering for the class;
- (b) Submit an official grade report or transcript to confirm a grade of "C" or better was received; and
- (c) Submit all related receipts for approved classes that indicate payment of eligible expenses to the

## **PERSONNEL RULES AND REGULATIONS**

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Finance Director not later than one month after the end of the semester for which the reimbursement is being requested.

13.5 **Performance Appraisal:** The work performance of each employee shall be evaluated annually. The Council Policy Statement regarding Employee Compensation – Pay for Performance details the City's performance appraisal process.

**SECTION XIV: DRUG TESTING POLICY**

**ADOPTED:** **RESOLUTION NO. 94-030**  
**DATE:** **APRIL 5, 1994**  
**AMENDED:** **RESOLUTION NO. 96-077**  
**DATE:** **SEPTEMBER 17, 1996**  
**AMENDED:** **RESOLUTION NO. 97-092**  
**DATE:** **JULY 15, 1997**  
**READOPTED:** **RESOLUTION NO. 05-159**  
**DATE:** **DECEMBER 20, 2005**

14.1 **Purpose:** The City of La Vista ("City") is committed to maintaining a safe and drug-free work environment for City employees and MVFD and providing City services to the public safely and reliably. This Policy has been implemented by the City in order to maintain the safety of the public and to establish a safe work environment for all City employees and MVFD by detecting or deterring drug use and alcohol abuse. Drug use and alcohol abuse interferes with the efficiency and mental and physical fitness of employees and MVFD and precludes them from properly performing the functions and duties of their positions. The City will not tolerate the unlawful use of controlled substances by employees or MVFD whether on or off duty, the abuse of legal drugs or alcohol, nor the unlawful manufacture, possession, dispensation, distribution, sale, purchase or use of any controlled substance or alcohol in the workplace or while on duty. The policies implemented are intended to provide confidentiality of test results and integrity of testing. Accordingly, this Policy requires the use of independent professional medical laboratories certified by the U.S. Department of Health and Human Services and requires confirmation of positive test results.

14.2 **Applicability:** This Policy applies to and is a condition of employment for all employees and all applicants seeking such employment with the City as a pre-qualification condition of employment. This Policy also applies to all MVFD and all applicants for appointment to the City Volunteer Fire Department. Failure on the part of any employee or MVFD to comply with any provision of this Policy shall constitute grounds for disciplinary action up to and including immediate termination of employment. Failure on the part of any applicant for employment with the City to comply with any provision of this Policy shall constitute grounds for denial of employment. Failure on the part of a MVFD to comply with any provision of this Policy shall constitute grounds for disciplinary action up to and including discharge or removal from service. Failure on the part of an applicant for appointment as a MVFD to comply with any provision of this Policy shall constitute grounds for denial of such appointment.

14.3 **Definitions:** As used in this Policy, the following definitions shall apply:

- A. **Alcohol** shall mean any product of distillation of any fermented liquid as described in the drug and alcohol testing provisions of the Nebraska Revised Statutes §§ 48-1901 *et seq.*
- B. **City** means City of La Vista, Sarpy County, Nebraska.
- C. **Collection Site** shall mean the place or places designated by the City where employees, MVFD and applicants will present themselves for the purpose of providing specimens of their urine, blood or breath to be analyzed for the presence of drugs or alcohol. The Collection Site shall be

responsible for collecting specimens, transporting specimens to the Laboratory and for reporting test results to the Program Administrator.

- D. **Controlled Substance** shall have the same meaning as "Drug" as defined in section 48-1902 of the Nebraska Revised Statutes.
- E. **Drug** shall mean any controlled substance or alcohol.
- F. **Drug Testing** shall mean the collection, testing and analysis of tests of urine, blood and/or breath for the presence of controlled substances or alcohol.
- G. **Employee** shall mean any person who is employed by the City and compensated through the official payroll for services provided. The term employee shall also include all MVFD appointed by the City. Reference to "employment" shall be deemed to include the appointment to the City Volunteer Fire Department. The term employee shall not include persons paid on a fee basis.
- H. **Laboratory** shall mean the testing laboratory or laboratories designated by the City to conduct drug testing, analysis and confirmation of results under this Policy and which is certified by the U.S. Department of Health and Human Services under the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 F.R. 11970, April 11, 1988, as amended) and the Clinical Laboratory Improvement Act of 1967, as amended (42 U.S.C. § 263a) (collectively referred to as "HHS guidelines"). The Laboratory shall be responsible for conducting testing and confirmatory testing in accordance with all state and federal regulations and procedures.
- I. **Positive Test Result** shall mean a test result analyzed and confirmed by the Laboratory which equals or exceeds the cutoff levels for controlled substances established by the Collection Site and Laboratory consistent with HHS guidelines or which equals or exceeds alcohol concentration levels of .05 percent (namely, five-hundredths of one gram or more by weight of alcohol per one hundred milliliters of blood or five-hundredths of one gram or more by weight of alcohol per two hundred ten liters of breath).
- J. **Program Administrator** shall mean that supervisory employee of the City who is the management official responsible for implementation of this Policy, receiving reports of test results and who is empowered to take administrative action with respect to individual test results and to administer the employee assistance program.
- K. **Reasonable Suspicion** means that the actions, appearance or conduct of an employee or MVFD are reasonably indicative of the use of controlled substances or alcohol.
- L. **Workplace** shall mean City property including land, buildings, installations, streets, vehicles and equipment owned, leased or controlled by the City and any other property or location whether public or private where a City employee is engaged in the scope of his or her employment or official duties.

14.4 **Testing for Drugs and Alcohol:**

- A. Pre-employment Testing. Every applicant for employment with the City is required to submit to drug testing as a prequalification condition to employment and will be notified prior to the collection of a urine and/or blood sample that such sample will be tested for the presence of controlled substances and alcohol. Each offer of employment is conditioned upon the passing of such drug test. The City will not hire any applicant who fails to pass such pre-employment tests or refuses to consent to such tests. For purposes of pre-employment testing provided by this paragraph, the term applicant shall include persons seeking appointment as a member of the Volunteer Fire Department. The City will not approve the appointments of any applicant for membership in the Volunteer Fire Department who fails or refuses to consent to such tests.
- B. Periodic Testing. All employees or MVFD who are required to submit to regular qualifying medical examinations as a condition of their employment or membership are required to submit to drug testing as part of such regular qualifying medical examinations at or about the same time as such examinations.
- C. Reasonable Suspicion Testing. All employees or MVFD are required to submit to testing for controlled substances and alcohol upon reasonable suspicion. The conduct of an employee or MVFD giving rise to such testing must be witnessed by, or a report or other documentation of such conduct must be provided to, at least one supervisor who has received training in the detection of probable drug use. Upon such observation or receipt of such report or other documentation, such supervisor shall document the employee's or MVFD's conduct in the form of a written report prepared and signed by the supervisor. In the event such conduct is observed, the employee or MVFD will be immediately relieved of duty and transported to a Collection Site for collection of a urine, blood and/or breath sample. The employee or MVFD may not return to duty until negative test results are received by the Program Administrator.
- D. Random and Post Accident/Injury Testing. Random and post-accident controlled substances and alcohol tests shall only be required of those employees or MVFD for whom random and post-accident controlled substances and alcohol testing is required by current Department of Transportation (D.O.T.) regulations. Such test shall be conducted consistent with the requirements of applicable D.O.T. regulations and this Policy.

14.5 **Conduct Sufficient to Establish Reasonable Suspicion:** Conduct sufficient to establish reasonable suspicion may include, but shall not be limited to, any of the following:

- A. A reasonable suspicion based upon personal observation of specific conduct or reliable evidence from credible sources or independently corroborated that the employee or MVFD is under the influence of or is impaired by controlled substances or alcohol. Such conduct may include job performance or physical signs, such as appearance, speech, bodily odors, symptoms or behavior consistent with substance abuse.
- B. An accident or incident in which supervisor(s) reasonably believe that the employee's or MVFD's acts or omissions contributed to the accident or incident and for which such supervisor(s) are unable to immediately discern a reasonably adequate alternative explanation.

- C. Evidence of the manufacture, distribution, dispensing, possession, sale, purchase or use of controlled substances or alcohol at the workplace or while on duty.
- D. Violation of safety or operating rules or other behavior evidencing the taking of unnecessary risks, or disregard for the safety of others, which have the potential to result in accident or personal injury to the individual or others or significant property damage.
- E. Any other narrowly defined and verifiable individualized cause the City may define (for example, arrest or indictment of an individual for alleged violation of controlled substance laws which allegation the City has determined to be based upon reasonably credible evidence).

14.6 **Positive Test Results and Policy Compliance:** Compliance with this Policy is a condition of employment and of membership on the Volunteer Fire Department. Positive test results or the failure or refusal of an employee or MVFD to comply with this Policy shall be grounds for denial or termination of employment, discharge, suspension or removal from service, or other disciplinary action. In determining appropriate disciplinary action the City may consider, but is not limited to, the following factors:

- 1. The position held by the employee or MVFD and the resulting danger to the health and safety of the employee or MVFD or the public by such employee's or MVFD's use of controlled substances or alcohol.
- 2. The impact of an employee's or MVFD's use of controlled substances or alcohol on the employee's or MVFD's ability to perform his or her job in the future.
- 3. The extent and nature of any past disciplinary action(s) imposed on the employee or MVFD.

A. **Failure to Comply with the Policy.** Failure to comply with this Policy or refusal to submit to drug testing under this Policy shall be treated as a positive test result. Tampering with a sample in order to prevent a valid test constitutes a refusal to provide a sample and shall be treated as a positive test result. Such refusal or tampering shall constitute grounds for denial or termination of employment, suspension, removal from membership on the Volunteer Fire Department, or other disciplinary action.

B. **Positive Test Results.** Positive test results obtained from individual employees or MVFD will constitute grounds for denial of employment or membership for applicants and termination of employment or membership, suspension or other disciplinary action for employees or MVFD. Employees or MVFD who test positive for the use of a controlled substance or alcohol will be immediately relieved of duty. The City is not required to provide rehabilitation or reinstatement to employees or MVFD who test positively for controlled substances or alcohol. However, upon obtaining positive test results, the City, in its sole discretion, may, in lieu of immediate discharge:

- 1. Suspend and relieve the employee or MVFD from duty without pay. Paid leave may not be used during this time unless allowance of such paid leave is otherwise required by law.

2. Require the employee or MVFD to participate in and complete an employee assistance program and/or require the employee or MVFD to enroll in and complete any other educational or rehabilitation program deemed appropriate by the Program Administrator. The cost of any such program shall be the sole responsibility of the employee or MVFD and not the City.
3. Require the employee or MVFD to test negatively for controlled substances and alcohol in requalifying tests prior to returning to work.
4. Require the employee or MVFD to submit to follow-up testing at periodic intervals as determined by the Program Administrator for a period of up to 60 months (a minimum of four times per year) following the employee's or MVFD's return to work after testing negatively for controlled substances and alcohol.
5. Discharge the employee or MVFD upon failure to successfully complete the required rehabilitation or upon obtaining a subsequent positive test result.

14.7 **Employee Assistance Program:** The City may establish an Employee Assistance Program ("EAP") for the purposes of:

- A. Education and training for employees and MVFD which addresses the effects and consequences of the use of controlled substances and alcohol on personal health, safety, work environment and the manifestations and behavioral causes that may indicate abuse of controlled substances or alcohol.
- B. Education and training for supervisory personnel in identifying and documenting work performance and behavior indicating use of or impairment by alcohol or controlled substances, drug testing procedures and available rehabilitation programs.

14.8 **Confidentiality:** The Collection Site reporting results of the drug testing under this Policy shall report individual test results only to the Program Administrator after appropriate analysis of the test results by a licensed physician. The Program Administrator will not disseminate test results except:

- A. to those supervisors and other individuals who must take administrative actions concerning an employee;
- B. to the persons handling lawsuits, grievances or other legal matters involving the employee;
- C. to any other persons to whom the employee or MVFD requests in writing that the information be disseminated;
- D. to any other persons to whom the City is legally required to make disclosure; or
- E. when the employee or MVFD publicly initiates a challenge of the test results.

14.9 **Retesting:** Employees, MVFD and applicants may request a retesting, performed at their own expense, of an original specimen reported as a positive test result. Such a request for retesting must be made to the Program Administrator within three days from the date the employee, MVFD or applicant is notified of the test results. At the employee's, MVFD's or applicant's sole expense, retesting of an original specimen may be requested at a laboratory other than the laboratory designated by the City if such other laboratory is certified under HHS guidelines. If the results of the retesting are negative, the City shall deem the original test results negative and the employee, MVFD or applicant shall be reimbursed for the expense of such retesting.

14.10 **Reservation of Rights:** If any future state or federal governmental action results in the nullification or pre-emption of any part of this Policy, the remainder shall remain in full force and effect unless changed by the City. The City reserves the right to interpret or change this Policy at any time.

14.11 **Collection and Laboratory Analysis of Samples:** All specimen collections and testing required by this Policy are to be performed in accordance with the standards and procedures established by the U.S. Department of Health and Human Services under the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 F.R. 11970, April 11, 1988, as amended) and the Clinical Laboratories Improvement act of 1967, as amended (42 U.S.C. § 263a) and the drug and alcohol testing provisions of Neb. Rev. Stat. § 48-1901 *et seq.*, as amended. The responsibility for performing specimen collections, transportation and reporting shall be that of the Collection Site. The responsibility of performing and confirmatory testing shall be that of the Laboratory.