

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
AUGUST 4, 2009**

Subject:	Type:	Submitted By:
AMEND CITY PERSONNEL POLICY AND PROCEDURES MANUAL	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RITA M. RAMIREZ ASSISTANT CITY ADMINISTRATOR

SYNOPSIS

A resolution has been prepared to amend Section 5, 7 and Section 8 of the City Personnel Policy and Procedures Manual regarding probationary periods, compensation and use of accrued leave.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

In conjunction with the City's move to a pay-for-performance compensation system for employees not covered by a collective bargaining agreement or employment contract, changes to the City Personnel Policy and Procedures Manual are being recommended.

An initial probationary period of one year for new and promoted employees is being recommended. The current probationary period of six months has not been sufficient to thoroughly evaluate a new employee's performance. Many times there are annual duties associated with a position that would not be performed during a six month probationary period.

Language from the Council Policy Statement regarding pay-for-performance has been incorporated into Section 7 of the manual. The proposed changes make terminology and procedures between the Personnel Manual and the Council Policy Statement consistent with regard to general compensation policy, frequency and effective date of salary increases, pay rates upon promotion, and annual salary survey.

The final issue addressed in the proposed changes is the use of accrued leave. New employees have been permitted to use accrued leave (vacation, personal and bereavement) upon completion of the initial probationary period of six months. We are recommending a change in the probationary period to one year, and have proposed amendments to the personnel manual to continue to allow new employees to begin using their accrued leave after six months of continuous employment.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AMENDING SECTION 5, 7 AND SECTION 8, OF THE CITY PERSONNEL POLICY AND PROCEDURES MANUAL REGARDING PROBATIONARY PERIODS, COMPENSATION AND USE OF ACCRUED LEAVE.

WHEREAS, the Mayor and City Council of the City of La Vista, Nebraska, has determined that a need exists to make changes to the existing La Vista City Personnel Policy and Procedures Manual as adopted on December 20, 2005; and

WHEREAS, it is being proposed that Subsection 5.7 (2), 5.7 (3), 5.7 (9), 7.1, 7.3 (2), 7.4, 7.5, 7.15 (2), 7.24, 8.1 (3), and 8.4 in the manual regarding probationary periods, compensation and use of accrued leave be amended to incorporate the provisions of pay for performance, extend the initial probationary period to one year and continue to allow for the use of accrued leave after six months of employment; and

WHEREAS, it is the desire of the City Council to amend Section 5, 7 and Section 8 of the Personnel Policy and Procedures Manual to incorporate the changes to the above listed subsections.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the existing La Vista City Personnel Policy and Procedures Manual adopted on December 20, 2005, is hereby amended to reflect the proposed changes to Subsection 5.7 (2), 5.7 (3), 5.7 (9), 7.1, 7.3 (2), 7.4, 7.5, 7.15 (2), 7.24, 8.1 (3), and 8.4 as submitted at the City Council meeting.

PASSED AND APPROVED THIS 4TH DAY OF AUGUST 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

PERSONNEL RULES AND REGULATIONS

SECTION V: SELECTION AND APPOINTMENT

ADOPTED: RESOLUTION NO. 96-012

DATE: FEBRUARY 6, 1996

AMENDED: RESOLUTION NO. 97-018

DATE: FEBRUARY 4, 1997

AMENDED: RESOLUTION NO. 02-099

DATE: OCTOBER 1, 2002

READOPTED: RESOLUTION NO. 05-159

DATE: DECEMBER 20, 2005

AMENDED: RESOLUTION NO. XX-XXX

DATE: AUGUST 4, 2009

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 or MVFD 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 or MVFD 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 or membership in the Volunteer Fire Department, 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 and Volunteer Positions:** 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.

All applicants for membership in the Volunteer Fire Department must be eligible to be lawful volunteers in the United States, be at least eighteen (18) years of age, and with or without reasonable

accommodation be able to perform 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 or Volunteer Fire Department membership 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 **Probationary Period:** All appointments and promotions to employment or Volunteer Fire Department membership 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 or Volunteer Fire Department member's work and work habits, to train and aid the employee or MVFD 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)~~six (6)~~ 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. The duration of the probationary period for Volunteer Fire Department members shall be established by the City Administrator after consultation with the Fire Chief.

- (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~~six-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 or membership, an employee or MVFD who, in the judgment of the appointing authority, is not performing satisfactorily. The appointing authority shall report the removal and the reasons therefor to the employee or MVFD 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.
- (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

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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 or MVFD 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. However, ~~Use of accrued annual leave during the initial or extended probationary period is not allowed after six months of service.~~

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SECTION VII: THE COMPENSATION PLAN

ADOPTED: RESOLUTION No. 96-012

DATE: FEBRUARY 6, 1996

AMENDED: RESOLUTION No. 97-130

DATE: OCTOBER 21, 1997

AMENDED: RESOLUTION No. 99-155

DATE: NOVEMBER 2, 1999

AMENDED: RESOLUTION No. 00-152

DATE: DECEMBER 19, 2000

AMENDED: RESOLUTION No. 01-159

DATE: NOVEMBER 20, 2001

AMENDED: RESOLUTION No. 02-099

DATE: OCTOBER 1, 2002

AMENDED: RESOLUTION No. 03-097

DATE: OCTOBER 21, 2003

AMENDED: RESOLUTION No. 03-123

DATE: DECEMBER 2, 2003

AMENDED: RESOLUTION No. 04-126

DATE: DECEMBER 21, 2004

READOPTED: RESOLUTION No. 05-159

DATE: DECEMBER 20, 2005

AMENDED: RESOLUTION No. 07-099

DATE: SEPTEMBER 18, 2007

AMENDED: RESOLUTION No. 07-128

DATE: DECEMBER 18, 2007

AMENDED: RESOLUTION No. XX-XXX

DATE: AUGUST 4, 2009

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 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.

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- (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 ~~receive a one-step probationary~~ increase in compensation. 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 six~~ 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 ~~of 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. ~~probationary increase or appointment date.~~ Within range increases will be based on performance merit 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, ~~and present salary grade~~ and range.
 - (a) The new compensation level recommended by the department head, which shall not exceed the range grade 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 step~~ 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 for actual time worked in excess of the standard work week as herein defined. 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 time card that the overtime hours worked are to be compensated in Comp Time Leave. If there is no such clear indication on the employee's time card, 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:

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- (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) Use of Comp Time 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) 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 5th 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, volunteers and MVFD 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 volunteer or MVFD 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, volunteers and MVFD 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 or MVFD. Travel and official expenses shall not exceed the amount budgeted by the Mayor and City Council.

Employees, volunteers and MVFD may request a *per diem* in advance of travel and if approved, receipts are not required for reconciliation of actual food costs. The maximum dollar amount per day per employee or MVFD (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, volunteers or MVFD may not purchase any alcoholic beverages with *per diem* funds. Any *per diem* issued, but not expended by the employee, volunteer or MVFD for actual food costs, shall be returned to the City within 15 days after completion of the travel.

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

Employees and MVFDs not issued an advance per diem are required to provide receipts for meals to receive reimbursement. Gratuity must be noted on all requests for reimbursement. Only actual employee or MVFD expenses may be reimbursed. Employees and MVFDs 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~~may be increased up to the next higher step plus one (1) additional step, if approved by the City Administrator.~~

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 pay check 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~~grade table~~ or by re-classification of positions. It shall be the responsibility of the City Administrator to determine appropriate adjustments to the salary ranges~~grade table~~ 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~~overall percentage amount of compensation increase~~, 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.

PERSONNEL RULES AND REGULATIONS

SECTION VIII: EMPLOYEE BENEFITS

ADOPTED: RESOLUTION NO. 96-012

DATE: FEBRUARY 6, 1996

AMENDED: RESOLUTION NO. 01-140

DATE: OCTOBER 2, 2001

AMENDED: RESOLUTION NO. 02-128

DATE: DECEMBER 3, 2002

AMENDED: RESOLUTION NO. 03-072

DATE: AUGUST 19, 2003

AMENDED: RESOLUTION NO. 04-126

DATE: DECEMBER 21, 2004

READOPTED: RESOLUTION NO. 05-159

DATE: DECEMBER 20, 2005

AMENDED: RESOLUTION NO. 07-100

DATE: SEPTEMBER 18, 2007

AMENDED: RESOLUTION NO. 07-128

DATE: DECEMBER 18, 2007

AMENDED: RESOLUTION NO. XX-XXX

DATE: AUGUST 4, 2009

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 one hour increments. 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 one hour increments. 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 ~~the initial or extended initial probationary period~~ 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).

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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~~the initial or extended initial probationary period~~ 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~~and successful completion of the initial or extended initial probationary period~~, 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~~the initial or extended initial probationary period~~, regular full-time employees and permanent part-time employees shall be entitled to begin using earned vacation leave. Vacation shall not be used in increments of less than one hour. 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.

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(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~~on the day immediately following satisfactory completion of the initial or extended initial probationary period~~. 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~~allowed to the new employee on satisfactory completion of the initial or extended initial probationary period~~. ~~Such extension of time shall not extend beyond six (6) months after satisfactory completion of the initial or extended initial probationary period.~~
- (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, not to exceed five (5) days. 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~~on the day immediately following the successful completion of the initial or extended initial probationary period.~~
- (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~~on the day immediately following the successful completion of the initial or extended initial probationary period.~~
- (d) Personal Leave and Funeral Leave shall be used in one hour increments.

(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.

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- (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.

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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

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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.

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- 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.