



PERSONNEL MANUAL

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FORWARD AND DISCLAIMER

Forward

The purpose of this manual is to introduce each employee to the City of Nebraska City. It will provide you with insight into City operations and your rights and responsibilities as an employee of the City. The manual contains information on the personnel policies that affect you directly, as well as groups of employees throughout the City of Nebraska City organization.

This manual is designed to answer questions that may arise concerning your job. If you have any questions about the policies or statements contained in this manual, or a question that is not addressed in this manual, contact your Department Head for additional information.

The City encourages open, honest and positive dialogue. If you approach a City Council member with an employment issue, that member will do his/her best to see that the matter is addressed by the responsible party, such as supervisor, City Administrator, or City Attorney, as may be appropriate.

Disclaimer

There are several things that are important to keep in mind about this manual. First, it contains only general information and guidelines. It is not intended to be comprehensive or to address all the possible applications of, or exceptions to, the general policies and procedures described. For that reason, if you have any questions concerning eligibility for a particular benefit, or the applicability of a policy or practice to you, you should address your specific questions to the City Administrator.

Neither this manual, nor any other City document confers any contractual right either expressed or implied to remain in the City's employ. Nor does it guarantee any fixed terms and conditions of your employment. Your employment is not for any specific time and may be terminated at-will, with or without cause and without prior notice by the City, or you may resign, for any reason, at any time.

The procedures, practices, policies, and benefits described here may be modified or discontinued from time to time. The City will make all reasonable efforts to ensure you are notified of any modifications of this manual.

Civil Service Commission

All full-time paid Police Department and Fire Department personnel are under the jurisdiction of the Nebraska City Civil Service Commission. The Commission is charged with the responsibility of recommending the appointment, promotion, transfer, suspension, or discharge of Police Department and Fire Department personnel. All appointments to and promotions within these departments shall be made solely on merit, efficiency, and fitness determined by open competitive examinations and impartial investigations. In the event of any conflict between this manual and the Nebraska State Statutes regarding the Civil Service Commission, the Nebraska State Statutes shall prevail.

Collective Bargaining Unit

Any employees falling within coverage by a duly recognized collective bargaining unit are covered by this manual, except if any terms conflict with the unit's Collective Bargaining Agreement, the Agreement shall prevail.

DEFINITIONS

ANNIVERSARY DATE – The calendar date upon which employment started with the City of Nebraska City by a specific employee. An anniversary date may be adjusted to exclude calendar days of suspension and leave of absence without pay. If an employee receives a promotion, the day of the promotion becomes the new anniversary date only with respect to annual performance reviews and step increases.

APPOINTED POSITIONS – A position filled by appointment of the Mayor and/or City Council as specified in the code of the City of Nebraska City. Appointed positions include the following:

- City Clerk (§2-152)
- City Treasurer (§2-165)
- Deputy City Clerk-Treasurer (§2-179)
- City Attorney (§2-182)
- City Engineer (§2-195)
- City Administrator (§2-203)
- Chief of Police (§2-49)
- City Physician (§18-31)
- City Traffic Engineer (Street Commissioner or other designated official) (§35-3)

APPOINTING POWER – The individual who has the final authority to make an appointment to the position to be filled.

CALL BACK HOURS or ON-CALL HOURS – Hours for which employees are scheduled where the employee has agreed to be available for duty at short notice upon contact by telephone.

CONTINUOUS EMPLOYMENT – The time from original employment to the current date of employment excluding the calendar days when an employee is absent without leave, or when an employee is absent on leave without pay and periods while an employee is under suspension. An employee who returns to work following a resignation or a discharge shall be considered as a new employee and previous employment will not be considered as a part of their continuous employment.

DEMOTION – The change of an employee from one position to a position with a lower pay rate.

DEPARTMENT – A major functional unit of the City of Nebraska City's governmental structure.

DEPARTMENT HEAD – The person directly responsible for the administration of a City Department.

DISCIPLINARY ACTION – The placement of an employee into Probation status or Suspension status, a Reprimand or Dismissal due to inability to perform the job functions or inappropriate behavior inconsistent with this Personnel Manual and/or supervisor directive.

DISMISSAL – The separation of an employee from employment.

EMPLOYEE – A person who is employed by the City of Nebraska City in an employment position.

EMPLOYMENT POSITION – A service position that is included in the approved budget of the City of Nebraska City. Employment positions may fall into one or more of the following categories:

- (a) **Regular, Full-time.** Employees in these positions are expected to work a regular shift of at least forty (40) hours per week for a full year in his/her assigned position. Lack of work may result in temporary periods of “lay-off” without affecting the regular, full-time status of the employee position.
- (b) **Exempt Employee.** An employee whose employment position is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). To be considered exempt, the position must meet certain minimum tests related to the primary job duties and be paid on a salary basis at no less than specified minimum amounts that the FLSA provides. Employees in exempt positions typically work forty (40) hours per week. Exempt positions include, but are not limited to, the following:
 - City Administrator
 - City Clerk
 - Police Chief
 - Construction and Facility Manager
 - Library Director
 - Park and Recreation Director
 - City Attorney
- (c) **Non-Exempt.** An employment position that is not exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Non-exempt positions are paid on an hourly basis and primary duties do not meet the FLSA criteria for exemption from overtime compensation.
- (d) **Regular, Part-time.** An employment position expected to be filled for more than nine months that will be scheduled for no more than twenty-nine (29) hours per week, on average as calculated on a semi-yearly (six month) basis.
- (e) **Temporary (Seasonal).** An employment position expected to be filled for less than nine months that will be scheduled for any number of hours per week. The City Administrator shall approve positions to be seasonal, or temporary, in nature, prior to filling of the position. This position may be created due to a position

temporarily vacated by a regular employee while on military duty or other authorized absence or for staffing of City properties that are not open year-round. The position is excluded from the normal fringe benefits. A temporary (or seasonal) employee will not be employed as a temporary (or seasonal) employee for longer than nine months, except with permission of the City Administrator.

GRIEVANCE – Any complaint relating to employment conditions or relationships.

HOLIDAY – The twenty-four (24) hour period starting at midnight and ending at 11:59:59 p.m. of the day observed.

IMMEDIATE FAMILY – An employee’s father, mother, step-father, step-mother, father-in-law, mother-in-law, spouse, son, daughter, step-son, step-daughter, son-in-law, daughter-in-law, brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, grandparent, step-grandparent, spouse’s grandparent, grandchild, or step-grandchild.

LAY-OFF – The involuntary, non-disciplinary separation of an employee.

LEAVE – An absence from regularly-scheduled work hours that has been approved by the Department Head or other proper authority.

OVERTIME – Authorized time worked by a non-exempt an employee in excess of forty (40) hours in a standard work week as established by FLSA Standards.

PAY REDUCTION – A decrease in pay that may result from demotion or re-allocation of a position to a lower grade.

PERFORMANCE EVALUATION – A written evaluation of an employee designed to inform the employee of the degree to which he/she is meeting standards of performance established by the Department Head.

PROBATION – Employment status of an employee hired for a full-time or regular part-time position who has not completed a six (6) month training period, except for Police Officers (See Appendix A). An employee who is placed on probation as a result of disciplinary action is also considered an employee in training.

PROMOTION – The change of an employee from one position to another position of more responsibility and a higher pay range.

REPRIMAND – A lesser form of disciplinary action designed to not only admonish or warn an employee, but also to lead, guide, direct and instruct the employee in how to correct and avoid repeating a mistake, infraction, deficiency, or problem.

SEPARATION – The termination of employment by reason of disqualification, end of temporary assignment, lay-off, resignation, retirement, or dismissal.

SHIFT WORKER – An employee whose normal work day consists of an eight (8) hour shift, which is a part of a twenty-four (24) hour per day operation, 365 days per year.

STANDARD WORK WEEK –The work week begins at midnight on Sunday morning and ends seven (7) days later at 11:59:59 p.m. on Saturday night.

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

SUSPENSION – A form of discipline consisting of relieving an employee from work, with or without pay, for a specific period of time depending upon the seriousness of the offense bringing about the disciplinary action.

TERMINATION – The permanent separation of an employee, from the service of the City of Nebraska City (see “Separation” above).

TRAINING PERIOD – A working test period during which an employee is required to demonstrate his/her ability to perform the duties of the position and adhere to the City of Nebraska City’s employment rules and regulations. Training period generally coincides with Probation.

WORKER’S COMPENSATION – Benefits received by an employee who is injured while carrying out his/her employment assignment, as determined by the applicable state laws.

Section 1: General Personnel Policies

1.1 Appearance and Conduct

Employees of the City of Nebraska City shall:

- (a) Maintain a clean, well-groomed appearance in keeping with their jobs and conducive to good public relations. Department Heads shall develop, for their respective departments, requirements related to dress, personal appearance, and hygiene. Employees should use good judgment and avoid extremes in dress and personal appearance. Department Heads must make reasonable accommodations for dress or grooming directly related to the employees' religion, ethnicity, or disability; and specify any additional or alternate requirements that are necessary to maintain public health and employees' safety. Employees should discuss the accommodations they need with their supervisor or City Administrator.
- (b) Treat their supervisors with appropriate respect for the positions that they hold, and carry out all orders to the best of their ability without delay or argument.
- (c) Conduct themselves in a professional manner so as to be a credit to the City of Nebraska City, both on- and off-duty.
- (d) Be just and honorable in all their relations with each other. They shall not make false reports or gossip concerning, or to the discredit or injury of, another City employee, or concerning municipal matters; nor shall they act in a manner directed toward creating a disturbance or dissention within City departments.
- (e) Strictly adhere to all insurance underwriting criteria and recommendations on proper safety clothing and equipment.
- (f) Not consume or have in his/her possession while on duty, any illegal drugs or alcoholic beverages. As addressed later in Section 8 of this manual, employees are not to arrive for work under the influence of any drugs or alcoholic beverages.
- (g) Not engage in any form of gambling on City property.
- (h) Not smoke or use any tobacco products (including chewing tobacco), electronic smoking devices, and e-cigarettes in any municipally owned building or motor vehicle per Section 24-8 of the Code of the City of Nebraska City.

All instances of misconduct shall be reported to the City Administrator, or appropriate authority within a reasonable amount of time.

1.2 Outside Employment

Employees of the City of Nebraska City may take other jobs if there is no conflict with normal working hours, the employee's efficiency is not hampered, and conflicts with the interest of the City do not arise.

Full-time employees who wish to accept another employment position shall submit a completed "Outside Employment Approval" form, as provided by his/her Department Head. An approval will be based on the nature of the outside employment, hours involved, and any other appropriate information. This shall be done prior to acceptance of the outside employment. If approved, the Department Head will sign the "Outside Employment Approval" form. A copy will be given to the employee, and a copy will be maintained in the employee's personnel file. In any situation wherein extra duty will be necessary in an employee's normal City work, such extra duty shall be in preference to his/her outside employment.

No duties of the outside employment shall be carried out while the employee is on-duty as a City employee.

1.3 Political Activity

Political activity on the National, State, or City level is unrestricted, except that no such activity shall occur during work hours or on city property. Any employee desiring to hold any public office shall refrain from any campaign activity while on duty as a City employee. While on duty as a City employee, no employee may solicit or receive political contributions for himself/herself or for the benefit of other candidates or issues in any election. No employee shall engage in any political activity while wearing a uniform required by the City, nor shall they mention the City in any way in the political activity. In addition, the employee may not communicate that there is any opinion on the candidate or issue by City Hall or City Employee.

1.4 Care and Use of City Property

City equipment, materials and supplies are entrusted to City employees by the taxpayers and shall not be used for the personal benefit of City employees, but instead shall only be used in carrying out the duties of the job for the betterment of the City. No City equipment, materials or supplies shall be removed from their city-assigned locations without the approval of the Supervisor or Department Head and at no time will any employee or member of the public be allowed to borrow City equipment or facilities for their own private use.

The Library "lends" out material and equipment to patrons as a service to the citizens of Nebraska City. The process of checking out such materials and equipment is an approval by the Department Head as required above. No materials or equipment or other Library assets shall be removed without being checked out in the normal course of business for the Library.

Any employee of the City of Nebraska City that is found to be responsible for damage, unauthorized use, or loss of City property or facilities through negligence, carelessness, or abuse shall be subject to disciplinary action. The employee may be required to reimburse the City for such damage, loss, or unauthorized use of City property.

1.5 Use of City-Owned Vehicles

If a City vehicle is unavailable and with the City Administrator's approval, a private vehicle may be used for City-related travel. The owner of the vehicle shall be reimbursed mileage at the rate authorized by the Internal Revenue Service and/or Nebraska State Statute for the shortest route between the starting point and the ending point.

Department Heads and other employees as designated by the City Council, City Administrator, or Chief of Police may be allowed to use City-owned vehicles as transportation, to and from their home and to their place of work, in addition to use during normal duty hours. Such vehicles shall not be used at any time for other than official City business. These vehicles shall be kept clean and shall be driven in conformance with existing traffic regulations and without bringing discredit upon the City. Any such use may be subject to Internal Revenue Service rules regarding fringe benefits.

1.6 Use of Seat Belts

When traveling in City-owned or personal vehicles while on City business, each employee shall wear safety belts and shoulder belts, if so equipped, to provide for the safety of the employee.

Any employee found in violation of this policy shall be suspended from his or her employment for a period of one (1) working day with pay for the first violation and for a period of three (3) working days without pay for each subsequent violation, unless the employee's Department Head and/or the City Council renders a more stringent punishment.

Pursuant to Nebraska Revised Statute 60-6267(5), drivers of authorized emergency vehicles are not required to wear safety belts when operating an authorized emergency vehicle pursuant to their employment.

1.7 Safety

Employees shall observe prudent safety precautions at all times. Supervisors and Department Heads shall train their personnel to work safely. Each employee shall know what to do in case of a fire or other disaster, as well as the location and use of First Aid supplies. Safety precautions include the observance of traffic regulations when driving or operating City vehicles and equipment. Safety policies, procedures, and practices shall be referred to the City's Safety Committee for review.

All employees shall wear hard hats, as supplied by the City, whenever working in an environment where a blow to the head could occur. Non-authorized persons shall not be allowed to be at a construction site or other area where hard hats are required.

All employees shall wear safety vests, as provided by the City, when on location of a construction, repair or a maintenance project on a public street. Safety vests shall be in addition to the necessary barricades and flashers used at a street construction site.

Violations of safety rules as set forth herein, as well as violations of internal departmental safety rules, shall not be tolerated. Any employee found in violation of safety rules shall receive an oral reprimand for the first violation. Written reprimands shall be issued for any employee having a second safety violation. Suspension and/or dismissal shall result for employees who have been found to violate safety rules on three occasions in any one year. The City reserves the right to forego progressive discipline in certain situations.

The official in charge at the site of any project shall be deemed responsible for all employees working at the site. Said official shall be equally subject to disciplinary action if the official has willingly allowed safety violations to exist.

1.8 Reporting of Accidents and Injuries

Employees shall report all on-the-job accidents and injuries to their Supervisor or Department Head as soon as possible after the accident. Injuries of a minor "First Aid" nature may be treated at the job site or the Department office. If the injury requires medical attention, the employee may consult with the City Physician or his/her family doctor, as desired. Rescue Squad services shall be used to transport employees to a hospital if the accident or injury results in incapacitation of the employee.

Employees who have an accident with a City-owned vehicle shall first notify a law enforcement agency and then his/her Department Head. This shall be done regardless of how minor the accident may be. The Department Head shall notify the City Clerk's office of the accident so that an accident report may be filed with the City's insurance carrier. The accident or injury may be referred to the City's Safety Committee to determine if any new safety procedures need to be pursued and/or implemented. These same requirements apply when employees are operating privately-owned vehicles while conducting City business.

Within twenty-four (24) hours of the incident, the affected employee or his/her Department Head shall file an Injury Reporting Questionnaire at the office of the City Clerk for insurance purposes.

1.9 Changes in Name, Address, and Dependents

Employees shall report to the Department Head and Deputy City Clerk-Treasurer/Benefits Administrator any changes in the following:

- Name
- Marital Status
- Number of Dependents
- Residence Address
- Mailing Address
- Telephone Number
- Updates to Employee's Driver's License
- Any other information that would affect said employee's personnel records

These items of information are required to keep insurance and tax forms current.

1.10 Personnel Records

The City Clerk's office shall maintain personnel records on each employee to include such pertinent personal data as:

- Name
- Address
- Telephone Number
- Title or Position Held
- Department where the person is assigned
- Current Salary
- Employee Performance Evaluations
- Changes in Employment Status

Records also include information relative to completion of training schools as well as professional and technical courses, accomplishment of work, conformance to expected standards, awards, and such other information as shall be deemed important.

Employees may review their personnel files during normal business hours at the City Clerk's office, by appointment. Record reviews must be accomplished under the control of the City Clerk's office. No information may be added to or removed from the files without authorization from the City Administrator.

1.11 Conflicts of Interest

No employee shall engage in any activity or enterprise which conflicts with his/her duties as a City employee or with the duties, functions, and responsibilities of the Department in which he/she is employed. For more information, see Municipal Code Chapter 2, Article IX.

The following activities shall be considered conflicts of interest with City employment:

- (a) Any employment, activity, or enterprise which involves the use, for private gain, of the City's time, facilities, equipment, or supplies; or the badge, uniform, prestige or influence of a city office or employment.
- (b) Involves the receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for performance of an act which the officer or employee would be required or expected to render in the regular course of City employment or as a part of his/her duties as a City employee.
- (c) Involves the performance of an act in other than his/her capacity as a City officer or employee which may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee or the Department by which he/she is employed.
- (d) Involves so much of the employee's time that it impairs his/her attendance or efficiency in the performance of his/her duties as a City officer or employee.
- (e) Involves any solicitation or acceptance of a gratuity, favor, or anything of monetary value from persons or entities having a present or prospective interest in a contract with the City of Nebraska City

1.12 Acceptance of Gifts and Favors

Except as provided herein, no official or employee of the City of Nebraska City, nor any member of his/her immediate family, nor his/her partner shall accept any valuable gift greater than \$20.00 and which is not otherwise provided to the general public. The limitation applies whether in the form of service, loan, thing, or promise from any person or entity which, is interested or may potentially be interested, directly or indirectly, in any business dealings with the City. No officer or employee shall:

- (a) Accept any gift, favor, or thing of value that may tend to influence him/her in the discharge of his/her duties, including the awarding of, or in the administration of, a contract with the City of Nebraska City;
- (b) In the discharge of his/her duties, grant any improper favor, service, or thing of value to any person or entity.

Employees who receive loans or other services are exempted from the prohibition when such loans or other services are offered in the normal course of business.

The receipt of gifts worth less than \$20.00 may be prohibited if a person could reasonably infer from the circumstances that the gift is intended to influence the employee's action or judgment.

The employee should consult their supervisor if there are any questions regarding the acceptance of gifts.

Only employees who provide service to customers at the club house or from a beverage cart at Wildwood Golf Course may accept cash gratuities and cash tips in the normal course of business. The amount of any such gratuities and tips must be reported to the City's payroll office no less often than weekly. The limit on gifts given above still applies.

1.13 Disclosure of Confidential Information

No official or employee of the City of Nebraska City shall, without the approval of his/her Supervisor, disclose confidential information concerning the property, government, or affairs of the City, nor shall he/she, under any circumstances, use such information to advance the financial or other private interest of himself, herself, or others.

1.14 Employee Indebtedness

The final paycheck due to any officer or employee who shall be indebted to the City of Nebraska City shall not be issued until the extent of such indebtedness to the City has been determined and cleared, subject to the Nebraska Wage Payment and Collection Act.

1.15 Personal Business

The following activities are discouraged during duty hours:

- Making and receiving personal phone calls
- Making non-business-related appointments
- Receiving personal visitors
- Receiving or sending personal mail
- Using personal cell phone, except when used for City business.

Employees are encouraged to ensure that the listed activities do not interfere with their ability to perform their necessary work. Excessive occurrences of these activities may result in discipline. Refer to Section 1.17 for information on the City's electronic communications systems policy.

1.16 Volunteers of the Fire Department and Rescue Squad

City employees who are volunteer members of the Nebraska City Volunteer Fire and Rescue Departments will be allowed, subject to their department regulations, to answer emergency calls during work hours without reduction in pay. The Department Heads may establish regulations concerning the release from work for these calls; however, Department regulations shall not prevent an employee from responding to a second call for additional volunteers. This rule does not apply to on-duty Police Officers, Fire Department, or Rescue Department employees.

1.17 Electronic Communications Systems Policy

This section is intended to establish a policy for efficient, ethical employee use of electronic communications equipment, software and data; to encourage use that enhances employee productivity; to maintain security of electronic equipment, software and data; to confirm that electronic communications used in the conduct of government are public records; and to prohibit inappropriate use.

1.17.1 Business Use and Limited Personal Use

The City of Nebraska City's electronic equipment and information systems are intended for professional business use in performing the duties of an employee's job. Limited personal use may be permitted according to the following guiding principles:

- (a) It is incidental, occasional and of short duration.
- (b) It is done on the employee's personal time. Personal time means off-duty, on an unpaid lunch break, employee's break, or for 24-hour shift personnel, while on stand-by subject to Departmental policy and procedures.
- (c) It does not result in additional expense to the City of Nebraska City (i.e., long distance telephone charges, cellular phone charges, or facsimile (fax) charges).
- (d) It does not solicit for, or promote commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations.
- (e) It does not violate the other "prohibited uses" or other specific limitations outlined in this policy.

1.17.2 Prohibited Uses

The creation, transmission, downloading or storage of any document, data or message which reasonably can be construed as relating to or promoting the following, and the use of electronic equipment for access to the following are prohibited:

- (a) Discrimination or harassment on the basis of age, race, color, gender, marital status, national origin, disability or sex (including pregnancy);
- (b) An expression regarding personal political or religious beliefs;
- (c) An expression of rumors or gossip about any individual or group of individuals;
- (d) Any language or subject matter that is objectionable, offensive, obscene, threatening, or otherwise inappropriate as described in the City of Nebraska City's Harassment Policy (see Section 2.8);

- (e) Any communication to solicit for, or promote commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations;
- (f) Any purpose or information that violates federal, state or local laws and copyright laws;
- (g) Copying any City-licensed computer software for personal use,
- (h) Games that have no relation to the City's mission and goals or a department's work tasks, except during off-duty or lunch periods, and employee's breaks and stand-by periods for 24-hour shift personnel subject to Departmental regulations;
- (i) Additional specific prohibitions relating to individual types of systems use are below.

1.17.3 Electronic Communications (E-Mail)

The City of Nebraska City encourages the use of electronic mail (e-mail) as a method of increasing employee productivity, thereby improving the overall capabilities of the City of Nebraska City to serve its citizens.

With few exceptions, everything in government relating to the conduct of government or the performance of governmental functions, whether written, recorded, taped, or electronically stored, is subject to public inspection. The Nebraska Public Records Statutes apply to e-mail. The following guidelines should be followed for records retention of e-mail:

- (a) All messages used in connection with the transaction of governmental business constitute a public record. Such records are subject to public inspection and copying.
- (b) E-mail should not be used when seeking legal advice or to discuss matters of pending litigation or other "confidential" City business. In general, e-mail is discoverable in litigation, and even deleted e-mail is not necessarily removed from the system. If phone discussions are not possible, confirm with the City attorney that e-mail will have "attorney-client privilege" when discussion must be through e-mail. If the City attorney is not involved, e-mail should not be used for litigation discussion or "confidential" City business.
- (c) E-mail should be purged only in compliance with the adopted records retention schedule for the City of Nebraska City. Any deletion or removal of email from City equipment shall be approved by the employee's supervisor prior to deletion or removal. Deletion of email that is related to a matter in litigation or is likely to go into litigation is prohibited.

- (d) Limited personal use of e-mail may be permitted if it complies with the provisions of Section 1.17.1 and does not violate Section 1.17.2.

1.17.4 Internet Use: Browsing List-Servs, Newsgroups, etc.

It is the policy of the City of Nebraska City to maximize the cost-effective use of its computer systems as a means to improve efficiency and productivity. All employees are responsible for using the internet resources in an effective, ethical, and lawful manner, and in accordance with this policy. Employees may be authorized by their Department Head to have internet access to enhance their ability to perform the duties of their position.

- (a) Limited personal use of an internet connection may be approved by an employee's Department Head or designee if it meets the criteria of Section 1.17.1 above, and if said use is not in violation of Section 1.17.2 above.
- (b) Any purchases made on behalf of the City of Nebraska City via the internet must conform to the City's purchasing policy and budget allocations.
- (c) Using City equipment or City internet connection to violate the integrity of another system (hacking) is prohibited.
- (d) Using City equipment or City internet connection for personal gain or for-profit activities is prohibited.
- (e) Using City equipment or City internet connection for access to and/or distribution of sexual material of any kind is prohibited.

1.17.5 System Security

- (a) Acquisition of computer equipment. All acquisitions of information systems components excluding the Library will be coordinated through the City Administrator. This includes demonstration hardware and software used for evaluation purposes, as well as products acquired for on-going use. Library computer equipment and software acquisition will be coordinated through the Library Director and the Library Board.
- (b) Conscientious care. All employees are responsible to care for the personal computer system components that they are assigned or are using. Employees are responsible for promptly reporting to their supervisor any equipment, software, and data damage and/or destruction of which they become aware.
- (c) Downloading or installing software (including upgrades and screensavers). Portions of the City of Nebraska City's computer system are designed to work in a network environment. Installation of unauthorized software can result in damaging the integrity of the system. Downloading or installing software is

restricted to City business and requires the approval of the respective Department Head.

- (d) Downloading files from the internet. The latest version of the recommended virus-checking program will be installed on all City computers. Downloading or uploading files is restricted to City business.
- (e) Unauthorized access. Employees are prohibited from using “loopholes” or knowledge of a special password to damage computer systems, obtain extra resources, or to gain access to systems for which proper authorization has not been given. Employees are responsible for keeping their password confidential and not sharing it with other users.
- (f) Unlicensed or copied software is prohibited on any City computer. No Supervisor or Department Head may authorize the use of unlicensed or copied software on any City computer.

1.17.6 Telephone, Facsimile (Fax), Computers, Printers, Photocopy Machines

- (a) *Telephones.* City employees should minimize accepting and placing personal calls during business hours. Personal calls should be made during an employee’s break or lunch hour. If an employee makes a personal long-distance call on a City account, the employee will reimburse the City for that expense.
- (b) *Facsimile (Fax) Machines.* Employees may use the City fax machines for limited personal use to send long distance facsimile messages, or to receive local or long distance facsimile messages. The employee will reimburse the City of Nebraska City for that expense at a rate to be determined by the City Clerk.
- (c) *Computers and Printers.* City employees may use City computers for limited personal use if said use meets the criteria outlined in Section 1.17.1 above and does not violate Section 1.17.2 of this policy. Employees will reimburse the City at the rate established by the City Clerk for the use of City printers.
- (d) *Photocopy Machines.* City employees may use City photocopy machines for limited personal use by paying a photocopy charge established by the City Clerk.
- (e) *Other equipment.* Except as provided in this policy, employees will not use City equipment for personal use.
- (f) In no event shall a City employee take City property to his/her home without prior consent of the employee’s Supervisor.

1.17.7 Cellular Telephones

City-owned cellular (cell) phones are provided to improve customer service and to enhance business efficiency. Cell phones are not a personal benefit and should not be used as a primary mode of personal communication.

Cell phones shall be provided to key employees at the discretion of the City Administrator upon recommendation of the Department Head.

- (a) City-owned cellular telephones should not be used for personal use, except for necessary work-related situations such as unanticipated overtime or family emergencies. Reimbursement for exceeding the “free-time” allocation and for non-work related, local and long-distance personal calls, text messaging or exceeding data limits will be charged to the City employee at the rate the City pays.
- (b) Text messaging while operating a motor vehicle is a violation of state law (R.R.S. Nebraska 60-6179.01) and is not allowed except in those circumstances noted in this statute (i.e., Police, Fire, Rescue personnel, etc.). Using a cell phone while operating a motor vehicle is strongly discouraged. Employees should plan to allow placement of calls prior to driving or while on rest breaks. When an employee must use their cell phone while driving, they should keep conversations brief, avoid unnecessary calls, and no calls should be made or answered if driving is hazardous. If writing is required during a call, the employee should pull over to a safe place on the side of the road.
- (c) In lieu of carrying both a personal and a City-owned cellular telephone, the employee may opt to use and carry only their personal cell phone.
- (d) The cell phone, whether provided by the city or a personal cell phone, is an instrument of public record and all information regarding city business is public record upon request. In addition, the employee needs to consider that if their personal cell phone is used for City business, the phone and its contents may be subject to subpoena in a legal action. In such cases, the cell phone must be provided and the contents shall not be changed.
- (e) Unless addressed through Departmental policy and procedures, City employees shall not use their personal or City-owned cell phones to capture images, video or voice recordings of work-related incidents.
- (f) Employees are strictly prohibited from forwarding or posting such media on any social media site or to any other person or electronic device. Furthermore, employees are prohibited from printing, scanning, copying this media or displaying to another individual except in a case allowed by Departmental policy and procedure.

1.17.8 Monitoring, Enforcement and Penalties

- (a) All hardware, software, programs, applications, templates, data and data files residing on the City information system or storage media, whether City business or personal, are the property of the City of Nebraska City. The City retains the right to access, copy and change, alter, modify, destroy, delete or erase this property without prior notice to employees.
- (b) The City retains the right to monitor and audit the use of e-mail and internet use. The right to use these technologies does not include the right to privacy.
- (c) Deleted documents, messages, and data may be retrieved from a variety of points. Employees should assume that electronic evidence discovery might recover deleted or unsaved data.
- (d) Employees' use of a personal internet account on City equipment, and employees' use of a City internet account on personal equipment, is subject to prior Supervisor approval and the provisions of this policy. Employees should be aware that their personal e-mail and electronic files could be monitored by the City, and could be reviewed as part of a Public Records request.
- (e) In addition to any other penalty, fine or cost reimbursement required by any provision of this policy, violation of this policy may result in discipline, up to and including termination of employment.

1.18 Social Media

Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or chat room, whether or not associated or affiliated with the City of Nebraska City, as well as any other form of electronic communication. The employee is solely responsible for what they post online. Any posted online content that adversely affects job performance, the performance of fellow associates or otherwise adversely affects members, customers, suppliers, people who work on behalf of the City, or the City's legitimate business interests may result in disciplinary action. Adverse effects would include, but not be limited to, content that reasonably could be viewed as malicious, obscene, threatening or intimidating, and that which could disparage or constitute harassment or bullying. Examples would be offensive posts meant to intentionally harm someone's reputation, posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law, discriminatory remarks, harassment, threats of violence or similar inappropriate or unlawful conduct.

The employee must never represent themselves as a spokesperson for the City of Nebraska City, unless they have been given that authority by their supervisor. The

employee must be clear about the fact that they are an employee and that their views do not represent those of the City or anyone else working on behalf of the City.

The employee must refrain from using social media while on work time, unless it is work-related as authorized by your supervisor or consistent with other policy in this manual. The City of Nebraska City's email addresses must not be used to register on social networks, blogs or other sites where access is for personal use.

1.19 Healthy Workplace

The City of Nebraska City is a drug-free and alcohol-free workplace that is safe and productive for employees and others having business with the City. The unlawful use, possession purchase, sale, or distribution of or being under the influence of any illegal drug or controlled substance (including medical marijuana) while on City property or City business is strictly prohibited. Reporting to work or performing City services under the influence of drugs or alcohol is prohibited. Drug and alcohol screening may be conducted before employment, upon reasonable suspicion that the employee is under the influence of alcohol or drugs that could affect or has adversely affected the employee's job performance, and/or randomly as set out in this Personnel Manual. Employees who refuse to submit to drug and alcohol testing will be subject to termination or withdrawal of an employment offer.

Smoking is not allowed in City buildings or work areas at any time. Smoking includes the use of any tobacco products (including chewing tobacco), electronic smoking devices, and e-cigarettes. Smoking is only permitted during break times in designated outdoor areas and employees using these areas are expected to dispose of any smoking debris safely and properly.

1.20 Workplace Violence Prevention

The City of Nebraska City is committed to providing a safe, violence-free workplace for our employees and residents. Due to this commitment, we discourage employees from engaging in any physical confrontation with a violent or potentially violent individual or from behaving in a threatening or violent manner. Threats, threatening language, or any other acts of aggression or violence made toward or by any employee will not be tolerated. A threat may include any verbal or physical harassment or abuse; attempts to intimidate others; menacing gestures; stalking; or any other hostile, aggressive, and/or destructive actions taken for the purposes of intimidation. This policy covers any violent or potentially violent behavior that occurs in the City workplace or at City functions.

All City employees bear the responsibility of keeping our work environment free from violence or potential violence. Any employee who witnesses or is the recipient of violent behavior should promptly inform their supervisor or City Administrator. All threats will be promptly investigated. No employee will be subject to retaliation, intimidation, or discipline as a result of reporting a threat in good faith under this guideline.

Any individual engaging in violence against the City, its employees or its property will be prosecuted to the full extent of the law. All acts will be investigated, and the appropriate action will be taken. Any such act or threatening behavior by an employee may result in disciplinary action up to and including termination.

The City of Nebraska City prohibits the possession of weapons on its property at all times, including parking lots or City vehicles except as officially required by the Police Department. On-duty employees may not carry a weapon of any type except in the case of sworn law enforcement officers. Weapons include, but are not limited to, handguns, rifles, automatic weapons, knives that can be used as weapons (excluding pocketknives, utility knives, and other instruments that are used to open packages or other miscellaneous tasks), martial arts paraphernalia, stun guns, and tear gas. Any employee violating this policy is subject to discipline up to and including dismissal for the first offense.

The City of Nebraska City reserves the right to inspect all belongings of employees on its premises, including packages, briefcases, purses and handbags, gym bags, and personal vehicles on City property. The City may inspect the contents of lockers, storage areas, file cabinets, desks, and workstations at any time and may remove items that are in violation of company rules and policies.

Section 2: Employment Policies

2.1 Procedures

(A) Applicants for employment must:

- (1) be citizens of the United States or have filed for citizenship and be able to produce documents to establish identity and employment eligibility as required by the United States Citizenship and Immigration Services Form I-9;
- (2) be at least eighteen (18) years of age except when federal and state law allow employment at an earlier age such as be at least sixteen (16) years of age if the position does not involve operating equipment, and be at least fifteen (15) years of age to be a lifeguard or pool concession worker;
- (3) be physically fit for the performance of the duties of the position for which application is made;
- (4) be subject to a drug test prior to beginning employment if working in a position which involves driving a motor vehicle on a public roadway during the regular performance of duties of the position held;
- (5) be of good moral character.

(B) Initial Employment

All employees hired after adoption of these rules shall complete a standard application form that shall be provided to the Deputy City Clerk-Treasurer/Benefits Administrator. Any intentional misrepresentation or omission of required information shall be cause for the immediate disqualification of the applicant for employment. Employees must also complete other forms pertaining to social security, income tax, and other matters. In order to keep accurate personnel records, it is important that any change in address, telephone number, or marital status be reported promptly pursuant to Section 1.9 of this Manual.

As a provision of the Federal Welfare Reform Act, the City of Nebraska City is required to report your employment to the Nebraska Department of Treasury within 20 days of hire. The purpose of collecting this information is to build a partnership between employers and child support programs across the country, with the intent of obtaining better compliance with child support orders.

(C) Training Period(s)

- (1) **Initial Employment:** All new full-time employees, except for Police Department personnel, shall be subject to a training period of six (6) months of continuous service. This service is designed to enable the City to observe

and evaluate the new employee's performance and potential. At the conclusion of the training period, each employee shall be notified whether or not he/she will be retained as a regular employee. The process of notification shall be through the employee performance evaluation system. The appropriate Supervisor or Department Head must have an employee evaluation form completed on the new/promoted employee no later than five (5) working days after the training period has ended. Employees serving an initial training period may be terminated, at any time during the six (6) months, without cause being shown.

- (2) **Promotions:** Employees who are promoted to higher paying positions involving increased responsibility may be required to serve a training period of six (6) months. If the employee fails to demonstrate acceptable performance at the new position, the City may or may not offer the employee the option of returning to his/her former position, at his/her former pay level, or may require separation from City service.
- (3) **Disciplinary Action:** When a Supervisor or Department Head determines that an employee has violated personnel policies, committed an act of misconduct or serious error in judgment, he/she may, at his/her discretion, place the offending employee on suspension or disciplinary probation for a period of up to ninety (90) working days. Notice of such action is to be given to the employee in writing and placed in the employee's personnel file held by the City Clerk's office. The disciplinary probation training period is intended to allow a Supervisor or Department Head an extended period in which to re-evaluate the offending employee's proficiency and performance. When an employee is placed under disciplinary action, his/her eligibility for using vacation leave, sick leave, or administrative leave shall be deferred until probation ends unless specifically approved by the supervisor. Promotion or pay increases shall be deferred until successful completion of the probation.

The employee is also subject to dismissal based on the seriousness of the violation of personnel policies, acts of misconduct or errors in judgment. A decision of dismissal must have the agreement of the supervisor and the City Administrator. A report on the dismissal action and the events leading up to it must be prepared by the City Administrator and filed by the Deputy City Clerk-Treasurer/Benefits Administrator in the employee's personnel file.

- (D) Supervisors shall inform the Deputy City Clerk-Treasurer/Benefits Administrator as soon as possible when an employee has voluntarily or involuntarily separated from employment. Employees who have not worked for the City of Nebraska City for six (6) months will be removed from payroll and separated from employment. At the discretion of the Deputy City Clerk-Treasurer/Benefits Administrator, persons who are no longer on payroll may be recorded as "inactive" in the payroll system, but they are no longer employees of the City. A person who is returning to employment after being separated must complete all new employee paperwork

except temporary (seasonal) employees who complete all new employment paperwork if separated for more than one season. Former temporary (seasonal) employees returning for a new season will confirm that their paperwork on file is still accurate and/or make corrections where needed.

2.2 Physical Examinations

An appropriate physical examination may be required of an employee prior to starting a position that requires physical strength or endurance. Should the examination show that the applicant cannot perform the duties of the job, the offer of employment will be withdrawn. The expense of the medical examination shall be borne by the City of Nebraska City.

2.3 Background Checks

The City of Nebraska City may conduct various background checks at the discretion of the City Administrator and Department Head for new hires. These checks may consist of Driver History, Criminal History, Credit/Financial History, and others as deemed necessary. The results of the background check(s) will only be applicable as related to the specific duties /requirements of the open position. Periodic Driver History checks may be done at any time for employees who drive City vehicles and equipment as part of their employment position.

2.4 Residential Requirements

Residency in Nebraska City is encouraged for all employees but is not required as a condition of employment. However, Police Officers, Fire Department employees, full time Rescue Department employees, and employees classified as Exempt must be able to report to work from their residence within thirty (30) minutes from the time of notification.

2.5 Promotions

Higher positions in a given Department may be filled by promotions from among the lower ranks of employees within the same Department, from other City employees or from someone in the general public. The factors in determining promotions will include, but not be limited to, efficiency of service, promise of continued development, education and background, and length of service. This practice is observed so that both employees and the public will regard the government service as a career; efficiency and ability will be recognized; and turnover of City personnel will be minimized.

2.6 Transfer

City of Nebraska City employees shall have the privilege of requesting a transfer to another Department at any time that there exists a vacancy for which they qualify.

Department Heads shall give deliberate and impartial consideration to such requests within their respective Department(s).

2.7 Employment of Relatives

No applicant for a City of Nebraska City position shall be considered for employment, promotion or transfer, if the position for which he/she is applying would result in his/her being under the direct or indirect line of supervision of an employee, a Department Head, or an elected official of the City of Nebraska City who is a member of his/her immediate family,

2.8 Equal Opportunity

The City of Nebraska City is an equal opportunity employer. Discrimination against any person in recruitment, selection, classification, compensation, duty assignment, work schedule, working conditions, leave authorization, discipline, lay-off, or termination because of race, color, sex (including pregnancy), national origin, religion, age, sexual orientation, disability, or any other characteristic protected by law is prohibited.

Any evidence of discrimination shall be brought to the attention of the affected employee's Department Head or other appropriate authority, as necessary. The Department Head, or other appropriate authority, shall report any evidence of discrimination to the City Administrator and the City Attorney as soon as possible.

2.9 Harassment

All City of Nebraska City employees have a right to work in an environment free from all forms of discrimination and conduct, which can be considered harassing, coercive, or disruptive. Consistent with the City's respect for the rights and dignity of each employee, harassment based on race, color, religion, sex (including pregnancy) national origin, sexual orientation, age, disability, or any other characteristic protected by law, will not be sanctioned nor tolerated. All employees should, therefore, be aware of the following information:

- (a) Sexual harassment is strictly prohibited. Sexual harassment has been defined by government regulation as, "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature ... when submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment ... when submission to or rejection of such conduct ... is used as the basis for an employment decision affecting such individual; or ... such conduct has the purpose of effect or unreasonably interfering with the individual's work performance or creating an intimidating, hostile or offensive work environment."
- (b) Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that

denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex (including pregnancy), sexual orientation, national origin, age, disability, marital status, citizenship, or any other characteristic protected by law or that of his/her relatives, friends or associates; and that,

- (1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
 - (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or,
 - (3) otherwise adversely affects an individual's employment.
- (c) Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the employer's premises or circulated in the workplace.
- (d) Supervisors and Department Heads are responsible for assuring that no employee is subjected to conduct that constitutes sexual or any other form of harassment.
- (e) Any individual that is found to have engaged in sexual or any other form of harassment will be disciplined as appropriate, up to and including dismissal.
- (f) Any employee who believes that he/she has been the subject of sexual or any other form of harassment by anyone at the City of Nebraska City or by any person who does business with the City of Nebraska City, should, and is encouraged to, bring the matter to the attention of his/her Supervisor, the City Administrator, or any City Council member, who shall then notify the City Attorney.
- (g) A prompt and thorough investigation of the alleged incident will be conducted to the extent possible, and appropriate corrective action will be taken, if warranted. To the extent consistent with adequate investigation and appropriate corrective action, any complaints of harassment will be treated as confidential.
- (h) The City of Nebraska City will not, in any way, retaliate against any employee, potential employee, or former employee who, in good faith, makes a complaint or report of harassment, or participates in the investigation of such a complaint or report. Retaliation against any individual for good faith reporting a claim of harassment or cooperating in the investigation will not be tolerated and will, itself, be subject to appropriate disciplinary action.
- (i) The City of Nebraska City will utilize the US Equal Employment Opportunity Commission Guidance on Unlawful Harassment as a guide and resource.

Section 3: Wage Administration

3.1 Policy

The policy of the City of Nebraska City is to recruit and retain highly productive employees. In order to achieve this goal, an equitable pay plan must be established. In addition to periodic review of position job descriptions, regular pay surveys shall be conducted to effectuate this policy.

3.2 Pay Comparable to Prevalent

Based on State of Nebraska law, the City of Nebraska City shall establish rate of pay and conditions of employment that are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions.

- (a) Survey Area - The survey area should consist of seven to nine other city governments in Nebraska proximate to Nebraska City with populations no more than double nor less than one-half that of Nebraska City.
- (b) Procedures for Adoption of Wage Recommendations – The steps to be followed after wage data have been gathered and tabulated are as follows:
 - (1) The City Administrator will analyze, or cause to be analyzed, the findings of the Wage Survey and develop initial recommendations.
 - (2) The City Administrator or an appointed survey specialist shall review the survey findings and present initial recommendations to the Mayor and the City Council.
 - (3) Upon conclusion of the Mayor and City Council review, the City Administrator makes determinations and includes them in the annual budget for submission and final action by the Mayor and the City Council.

3.3 Pay Plan

The Pay Plan generally consists of a pay range for each position within the City of Nebraska City. The Pay Plan consists of a step plan for exempt and nonexempt, full-time positions and a range of hourly rates for all others. The value and number of levels will likely vary from time-to-time (depending on prevailing market conditions); therefore, the Pay Plan itself is contained in Resolution form so that changes to this manual will not be made frequently. The Resolution may make reference to this Personnel Manual, and, thus, becomes an Addendum by reference.

- (a) Exempt and Nonexempt, Full Time Positions

- (1) Beginning Hire: Persons receiving an original appointment to a position on the step pay plan shall be paid at the minimum rate of starting pay assigned to that position. Employees may be authorized a beginning rate other than Step 1 pursuant to the following approvals.
 - (i) Mayoral and City Council approval for appointed employees,
 - (ii) City Administrator and appropriate Department Commissioner approval for all other employees. Authorization for a beginning rate other than Step 1 is recommended only in exceptional cases (i.e., in order to recruit a specially trained or experienced person) and must be approved by the City Administrator or City Council.
 - (iii) The employee must spend one (1) year in each subsequent level before being eligible for advancement to the next level of the step pay plan. Advancement through the Steps in the Pay Plan, after the first year of employment, will take place in conjunction with the employee's anniversary date or promotion date, unless it occurs as a result of City Council adoption of a new Pay Plan.
 - (iv) The basis for movement along the step pay plan is employee performance. The performance standard for step increases is a positive recognition of an employee's satisfactory and/or increased effectiveness in performing the duties of a position. Such increased effectiveness is generally evidenced by greater production, improved judgment and increased initiative.
 - (v) Serving one year in a step level does not mean automatic advancement. The anniversary date, or an employee's promotion date serves as the date identified for an employee's annual review and determination of advancement in the step pay plan.

(b) Part Time and Seasonal Positions

- (1) Beginning Hire: A person hired in a part-time or seasonal position will be given an hourly pay rate that is within the pay range of the position on the Pay Plan adopted by the City Council. The Department Head may authorize a beginning rate other than the minimum rate depending on experience. Generally, employees who are returning to a part time or seasonal position after having been employed by the City in the same or a similar position in the past will receive an increase over the prior hourly pay rate, at the discretion of the Department Head with approval of the City Administrator.
 - (i) Annual increase: A person in a regular part time position that is employed continuously for one year may be eligible for a pay increase.

(c) Pay Plan Rate Changes

- (1) The Pay Plan may change by the addition or deletion of employment positions.
- (2) From time-to-time the pay plan level must be adjusted to respond to changes in the cost-of-living. At its discretion, the City Council may award cost-of-living increases to employees as part of the annual budget adopted and made effective in October of each year.
- (3) The Pay Plan may change by the implementation of the results of a comparative rate study which is conducted approximately every five years to assure that pay rates are similar to those of other similar cities and similar employment positions. (See Sections 3.1 and 3.2.)

3.4 Pay Day

Employees shall be paid every 14 days, thereby, constituting twenty-six (26) pay periods each year, with the exception of the City Council members, and the employees of the Wildwood Period House Center, who shall all be paid on a monthly basis. Each pay day will be on Thursday, unless such day is a holiday, in which the pay day shall be the day preceding the holiday. Employees paid on a monthly basis shall receive their paychecks at the time of the last regular bi-weekly payroll for each month.

3.5 Pay Computation

Persons employed at an hourly rate of pay shall be paid for the number of hours worked at the rate of pay assigned. Bi-weekly gross pay of an employee employed on an annual salary shall be computed by dividing the annual salary by 2,080 (52 weeks x 40 hours per week) hours multiplied by 80 hours. Net pay shall be computed by subtracting applicable deductions from the gross pay.

3.6 Authorized Deductions

The following deductions shall be made from the employee's pay as required by law or because the employee authorizes such a deduction:

- (a) Federal Withholding Tax
- (b) Social Security Tax (FICA)
- (c) State Withholding Tax
- (d) Pension Contributions
- (e) Group Insurance
- (f) Wage Garnishments
- (g) Child Support

3.7 Incomplete Pay Period

An employee who does not work his/her regularly scheduled work week shall be paid only for the time actually worked, unless the Department Head authorizes such absence as use of accrued leave or leave without pay, as herein provided.

3.8 Overtime Pay

- (a) Nonexempt full-time employees shall be paid overtime compensation for those hours worked in excess of forty (40) hours in any one Standard Work Week (beginning Sunday at 12:00 a.m. to the following Saturday at 11:59:59 p.m.):
- (b) Exempt employees shall not receive overtime compensation.
- (c) For overtime compensation calculation purposes, official holidays will be counted as time worked towards the total hours worked. Floating holidays, vacation leave, sick leave and miscellaneous leave (i.e., funeral leave, community service leave, voting leave) will not be counted as time worked. For example, if an employee subject to 3.8(a) above works forty (40) hours during a given work week, but uses an additional 8 hours of floating holiday, vacation leave, or sick leave during the same work week, they will be compensated for 48 hours at the regular pay rate. If an official holiday falls during the period, they will be compensated for 48 hours and paid overtime for the hours in excess of 40.
- (d) When overtime work is shown on the time sheet, the overtime hours are paid at one and one-half times the regular rate per hour for those employees working in excess of forty (40) hours per standard work week as set forth in 3.8(a) above
- (e) When work is performed on a recognized holiday by a nonexempt, full-time employee it shall be shown on the time sheets and paid as part of the hours worked for the work week. In addition, the employee may also receive holiday pay as given in Section 4.3.
- (f) When a nonexempt employee is un-scheduled and called to work as a responder (call-in) to an emergency, time shall be shown on the time sheets with the employee guaranteed a minimum of two (2) hours of pay for the call-in work. An emergency is defined as an unforeseen situation requiring services be performed by City employees in order to reduce or eliminate damage or injury. The employee will be paid at one and one-half times the regular rate of pay per hour for the hours that the services are being performed outside of regularly scheduled work time.
- (g) When a nonexempt employee is scheduled to work overtime; with at least twenty-four (24) hour notice, time shall be shown on the time sheets with the employee guaranteed a minimum of thirty (30) minutes or actual time worked, whichever is greater. The employee will be paid at one and one-half times the rate of pay.

3.9 Termination Pay

An employee who is dismissed or who voluntarily resigns shall receive his/her final paycheck on the first regularly scheduled pay day following termination of his/her employment. No employee shall be paid for any unused sick leave upon termination of his/her employment except as permitted under Section 4.5 (e). An employee who is eligible for vacation leave, floating holidays, and administrative leave shall be paid for all earned and unused vacation time, floating holidays, and administrative leave time upon termination of his/her employment as permitted under Section 4.4 (f).

3.10 Payment of Leave Upon Death of Employee

Upon the death of a regular full-time or regular part-time employee, his/her estate shall be entitled to payment for such accumulated vacation leave as was available to the employee at the time of his/her death as described in Section 4.4 (e).

3.11 Temporary Employees

Pay for temporary employees shall be consistent with the duties and responsibilities of the temporary position. Such pay shall be determined by the Department Head and shall normally be an hourly rate of pay.

3.12 Wages in Advance

It is the policy of the City of Nebraska City that no advances on future wages, including accrued vacation leave, sick leave, floating holidays, or administrative leave, shall be made for any circumstances.

3.13 Re-Employment

An employee who is separated from service with the City of Nebraska City either because of resignation or elimination of a position, may be re-employed in either a regular or temporary position by complying with all requirements of a new employee. Said employee shall once again serve a training period, regardless of their status prior to the initial separation.

Section 4: Employee Attendance, and Leave

4.1 Attendance

Employees shall be in attendance in their place of work in accordance with the policies regarding hours of work, holidays, and leave. If an employee, for some unavoidable reason, cannot report for work, he/she shall notify his/her Supervisor or Department Head prior to their first normal duty hour beginning. Any employee who is absent without leave for three consecutive working days shall be considered to have resigned his/her position by abandonment.

An employee cannot leave the facility/worksite or his/her duties during working hours without the advance permission from his/her Supervisor or Department Head.

Failure on the part of an employee to comply with these policies shall be cause for disciplinary action.

4.2 Hours of Work

Except for regular part-time, temporary or seasonal employees, eight (8) hours shall constitute a standard day of work and five (5) days of eight (8) hours, or forty (40) hours shall constitute a standard work week. Department Heads shall establish the work schedule of their subordinate employees. The City Administrator may approve any change in an employee's standard workday of 8 hours and/or standard work week of five 8-hour days as long as the standard 40-hour work week is maintained.

Regular part-time and seasonal employees are not expected to work a standard day of work nor a standard work week. Supervisors of regular part-time and seasonal employees will prepare a schedule of work hours and communicate that work schedule to the employees at least 48 hours in advance. Changes to the schedule may be required at short notice to maintain staffing levels.

All employees will be paid for actual time worked. Fair Labor Standards Act (FLSA) regulations state that insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes may be disregarded.

4.3 Holidays

The following named days shall be official recognized paid holidays for City of Nebraska City employees:

New Year's Day, January 1st
Arbor Day, last Friday in April
Memorial Day, last Monday in May
Independence Day, July 4th

Labor Day, first Monday in September
Veteran's Day, November 11th
Thanksgiving Day, fourth Thursday in November
Friday following Thanksgiving
Christmas Day, December 25th

The official holidays are paid time off for full-time employees at the employee's regular pay rate limited to eight hours per holiday. Fire, Rescue and Police employee paid holiday benefits are adjusted for the difference in work scheduling and are described in Appendix A, B, and C.

Generally, City Hall offices and Departments shall be closed for observance of official holidays. With approval of the City Administrator, some seasonal departments may choose to remain open. If an official holiday occurs on a Saturday when offices are normally closed, the holiday shall be observed on the Friday just preceding the holiday. If the holiday occurs on a Sunday when offices are normally closed, the holiday shall be on the Monday following said holiday. If the offices or department are normally open on Saturday and a holiday should fall on a Saturday, the offices or Department shall be closed on that day only. Each regular full-time employee who is not required to be on duty, will be allowed to be absent from work without loss of pay on an official holiday for up to 8 hours; provided that, in order to qualify for said holiday pay, such employee shall not be absent without leave approved by the supervisor or Department Head on either the regularly scheduled working day prior to or the regularly scheduled working day after such holiday. Regular holidays, which may fall or occur during a vacation, sick or other approved leave period shall not be use of a day's vacation, sick leave, or other approved leave.

Regular full-time nonexempt employees of the City of Nebraska City, required to work on any observed holiday shall receive compensation for up to 8 hours worked on the holiday at one and a half times of their regular hourly rate. Exempt employees required to work on an official holiday may take another day off (8 hours), without loss of compensation, for the holiday worked.

Annually, the City also gives full-time employees two (2) floating holidays. Each day is considered to be a standard shift of eight hours. Employees may use their floating holidays any time during the calendar year subject to the prior approval of the employee's Department Head. New employees are entitled to floating holidays after sixty (60) days of continuous employment with the City of Nebraska City. The floating holidays must be used during the calendar year or be forfeited. A Department will not be allowed to close for a day declaring that all employees are taking a floating holiday. Upon termination of employment, floating holiday hours will be paid at the regular pay rate.

4.4 Vacation Leave

- (a) Each regular full-time employee of the City of Nebraska City will accrue vacation leave beginning with their first month of employment and is entitled to use

vacation earned upon completion of their training period with the City. Vacation leave will be credited to the employee bi-weekly as it is earned. Paid vacation leave allows employees periods of rest, relaxation, and freedom from the rigors of their job.

- (b) Vacation time will accumulate and be credited to the employee bi-weekly as follows, unless otherwise specified:

<u>Years of Service</u>	<u>Bi-weekly Accrual Rate</u>	<u>Annual Accrual Total</u>
0-5	3.08 hours per pay period	80.08 hours annually
5-10	3.70 hours per pay period	96.20 hours annually
10-15	4.62 hours per pay period	120.12 hours annually
15-20	5.54 hours per pay period	144.04 hours annually
20+	6.16 hours per pay period	160.16 hours annually

- (c) Exempt employees receive an additional twenty (20) hours of administrative leave per calendar year. Administrative leave is available for use after the first month of employment. Administrative leave cannot be carried over to subsequent years.
- (d) Annual vacation leave may be taken as earned by the employee after completion of the training period, subject to the prior approval of his/her Supervisor or Department Head. Leave taken in excess of that earned and credited shall be without pay. Vacation time may accumulate throughout the calendar year. All City Employees can accrue up to a maximum of two times the annual accrual amount. If the total amount of unused vacation leave reaches the maximum allowed, vacation accrual shall stop. When the employee uses paid vacation and brings the maximum allowable accumulation below the cap, vacation accrual will begin again. Holidays occurring during scheduled vacation leave shall not be charged against vacation leave. Employees may not use sick leave within a scheduled vacation leave.
- (e) A deceased employee's earned and unused vacation accumulated since his/her last anniversary date to the date of an in-service death, shall be paid to the spouse, if any. If there is no spouse, then payment shall be made to the employee's children in equal shares. If there are no children, then it shall be paid to the estate of the deceased employee.
- (f) Each employee who terminates his/her employment and each employee whose employment is terminated by the City, shall be entitled to compensation for his/her earned and unused vacation leave, floating holidays and administrative leave.
- (g) When an employee requests time-off from his/her regularly scheduled hours, the hours must be charged to the vacation, floating holiday or administrative leave

time if any vacation time is accumulated or if any of their floating holiday or administrative leave time remains, otherwise the time is without pay. The request for time-off must be pre-approved by the employee's Supervisor or Department Head.

4.5 Sick Leave

Sick leave with pay is a privilege granted to full-time employees by the City of Nebraska City for the benefit of the employee when he/she meets the criteria for being considered sick.

- (a) Sick leave hours will be credited to the employee monthly as it is earned. Sick leave shall be accumulated by each regular full-time employee, beginning on the first day of employment with the City of Nebraska City. The City shall provide twelve (12) separate eight (8) hour increments of sick leave to the regular full-time employees per year. Sick leave is earned on the last regular bi-weekly payroll of each month.
- (b) Sick leave shall be cumulative to a maximum of 960 hours for regular full-time employees. Any employee who has accumulated the maximum amount of sick leave will receive a yearly payout of fifty percent (50%) of the hours over 960, times the employee's hourly pay rate. The payout occurs in the first pay period in January of each year.
- (c) An employee eligible for sick leave with pay shall be granted use of such earned sick leave for the following reasons: sickness, bodily injury, quarantine, required physical or dental examinations or treatment, exposure to a contagious disease when continued work might jeopardize the health of others, illness of the employee's spouse, parent, parents-in-law children, step-children, or step-parents, who require the care of the employee.
 - (i) The City of Nebraska City may require a physician's certificate as to the nature of the illness and as to the employee's physical capacity to resume his/her duties for each occasion on which an employee uses sick leave. The employee's Department Head shall be responsible for the application of this provision to ensure that there will be no abuse of sick leave privileges. Claiming sick leave under false pretenses to obtain a day off with pay shall be grounds for immediate dismissal from work for cause.
 - (ii) An employee who needs sick leave for purposes named above and who does not have any accrued sick leave may request leave without pay. The employee may also fill out a Catastrophic Illness Donation Request Form if the event qualifies as defined in Section 4.16 Catastrophic Illness Leave Donation Policy of this manual. Either request shall have the approval of the employee's Supervisor or Department Head before it is used.

- (d) During the employee's first normal duty hour, the employee shall notify his/her immediate Supervisor or Department Head of the sickness preventing him/her from reporting for work. Such notices will be given either directly by the employee or by any other means at his/her disposal. Failure to make such a report will be considered an unauthorized absence without pay.
- (e) All sick leave hours accumulated by an employee of the City of Nebraska City shall terminate when the employee retires, resigns, or is dismissed by the City. Employees that meet the qualifications of early retirement will be paid fifty percent (50%) of their unused hours of sick leave as of the date of termination. To qualify for early retirement, the employee must be at least age fifty-five (55) and have at least ten (10) years of service with the City of Nebraska City, or as defined by statute for Police Officers and Fire Department employees. In the instance that death of an employee occurs, fifty (50%) percent of accumulated sick leave hours will be paid at the employee's hourly pay rate to the employee's spouse, if any. If there is no spouse, then payment shall be made to the employee's children in equal shares. If there are no children, then it shall be paid to the estate of the deceased employee.

4.6 Funeral Leave

A regular full-time or regular part-time employee may be allowed up to three (3) days of leave totaling 24 hours, if needed, in order to attend the funeral of a member of the employee's Immediate Family subject to prior approval of the employee's Supervisor or Department Head. Immediate family member is as defined in the Definitions section of this manual. Supervisors and Department Heads may require the employee to submit information proving the relationship of the employee to the deceased.

An employee may attend the funeral of someone other than a member of his/her immediate family with the prior approval of the employee's Supervisor or Department Head; however, this time will be without pay or the employee may elect to use accumulated leave time. Accumulated leave time must be taken in the following order, as available: vacation leave, administrative leave, floating holiday (possibly for a partial portion of a standard shift at the approval of the employee's Supervisor), and then sick leave.

4.7 Worker's Compensation

Chapter 48, Article 1, Section 48-101 of the Revised Statutes of Nebraska provides:

"When personal injury is caused to an employee by accident or occupational disease, arising out of and in the course of his or her employment, such employee shall receive compensation therefore from his or her employer if the employee was not willfully Negligent at the time of receiving such injury."

All employees of the City of Nebraska City are covered by Worker's Compensation Insurance. This includes all regular full-time, regular part-time, and temporary/seasonal employees. Worker's Compensation Insurance coverage includes medical and hospital services, prosthetic devices, total and partial disability, injury to specific members and injuries causing death. Employees disabled on the job and for whom Worker's Compensation payments are approved shall be granted Worker's Compensation leave, without charge against their regular sick leave, at their regular rate of pay for a period not to exceed seven (7) calendar days for one injury.

After this special seven (7) day Worker's Compensation leave is exhausted, the employee shall come under the provisions of the Worker's Compensation law. Worker's Compensation Insurance pays 66-2/3% of the employee's weekly salary directly to the employee. The remaining 33-1/3% of the weekly salary may be paid to the employee by the City and the corresponding number of hours charged against the employee's sick leave credit. The City's matching 33-1/3% benefit is designed to be in effect for no more than thirty (30) calendar days or until sick leave is exhausted, whichever occurs first. Renewal of the City's portion of the benefit may occur if medical certification is obtained that shows the medical condition such that the employee cannot return to work. The City is under no obligation to seek such medical certification or continue its portion of the benefit beyond thirty (30) calendar days; however, if such medical review is sought by the City, it will be made by a physician of its choosing and the cost shall be borne by the City.

Where applicable, after exhausting sick leave, an employee may use accumulated vacation leave, floating holiday time, or sick leave that is donated through the Catastrophic Illness Leave Donation policy (see Section 4.16) to supplement the Worker's Compensation benefit.

4.8 Military Leave

All employees who shall be members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve shall be entitled to leave of absence from their respective duties, without loss of pay, on all days during which they are employed, with or without pay, under the orders or authorization of competent authority in the active service of the state or of the United States, not to exceed fifteen (15) work days or 120 hours in any one calendar year. Such leave of absence shall be in addition to the regular annual leave of the person named herein. When the Governor of Nebraska shall declare that a state of emergency exists, and any of the persons named in this section are ordered to active service of the state of Nebraska, an additional leave of absence will be granted until such member is released from active service by competent authority. During the additional leave of absence because of the call of the Governor, any official or employee subject to the provisions of this section shall receive such portion of his/her salary or compensation as will equal the loss he/she may suffer while in active service of the state of Nebraska (R.R.S. Nebraska 55-160).

While on military leave, benefits will accrue as though on regular City duty. The employee shall submit an accounting of his/her military pay to the Deputy City Clerk-Treasurer/Benefits Administrator and shall be paid the difference between military pay and regular salary for the days absent, if the regular salary is greater than the military pay. A copy of the military pay rate shall be placed in the employee's personnel file. If salary information is not provided, it will be assumed that the military pay is higher than the City salary and no compensation will be given to the employee during leave.

Employees who have a spouse, parent, son or daughter called to military service for 179 days or longer may be eligible for up to 30 days of unpaid family military leave pursuant to the Family and Medical Leave Act. To be eligible for this leave, an employee must be employed for at least 12 months and have worked at least 1250 hours during the 12 months immediately preceding the leave. Employees must provide 14 days' notice of leave if requesting five or more consecutive days. Employees taking leave of less than five consecutive days must provide notice as soon as practicable. If possible, the leave should be scheduled so as not to be unduly disruptive to daily operations. Group insurance and any other benefits with premium payments may be continued during the leave provided the employee pays 100% of the premium during the leave.

4.9 Jury Duty, Witness Leave, and Court-Appearances

The City Administrator may grant subordinate employees paid leave, not chargeable to vacation leave, under the following circumstances:

(a) **Jury Duty**

City employees shall fulfill their civic responsibilities by serving on jury duty when required, with pay, in compliance with Nebraska state law.

An employee called for jury duty or as a witness for the Federal or State Governments or a subdivision thereof shall be entitled to leave, with pay, for such duty during the required absence. The employee may keep fees received for jury duty in addition to his/her regular compensation.

Employees must submit a copy of the jury duty summons to their Supervisor or Department Head as soon as possible so that the Supervisor or Department Head may make arrangements to accommodate their absence. Employees are expected to report for work whenever the court schedules permit. If an employee is released from jury duty by noon of a regularly scheduled workday, he/she shall be required to report to work for the remainder of that day.

Either the City or the employee may request an excuse from jury duty if, in the City's judgment, the employee's absence would create serious operational difficulties.

The City will continue to provide the existing benefits for the full term of the jury duty absence. However, employees remain responsible for their portion of any insurance premiums throughout the term of their jury service.

(b) **Witness Duty**

The City recognizes that employees must appear in court for witness duty when subpoenaed to do so. If employees have been subpoenaed or otherwise requested to testify as a witness by the State of Nebraska, Otoe County, or the City of Nebraska City, then they will receive leave with pay for the entire period of witness duty.

Employees will be granted unpaid time off to appear in court as a witness when requested by a party other than the State of Nebraska, Otoe County or City of Nebraska City. Employees may use vacation leave or floating holidays to receive compensation for the period of this absence.

A copy of the subpoena shall be given to the employee's Supervisor or Department Head immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

4.10 Education Leave

A special leave of absence at full- or partial-pay may be granted by the City Council upon recommendation of the City Administrator to permit a full-time City employee to take courses of study which will better equip the employee to perform his/her duties for the City of Nebraska City.

4.11 Community Service Leave

A full-time employee may receive one (1) hour of paid time monthly volunteering in an established program approved by the employee's Supervisor or Department Head and the City Administrator.

A full-time employee may receive one (1) hour of paid time off for donating blood quarterly.

4.12 Voting Leave

An employee who is a registered voter who does not have two consecutive hours away from work during the time election polls are open will be given time off to vote without reduction in pay. The time away from work needs to be approved in advance by the employee's Supervisor or Department Head. If an employee is appointed to serve as an election official, the employee will be granted time off to serve without reduction in pay.

4.13 Inclement Weather

In the event City offices are open, but an employee is unable to report to work due to inclement weather conditions, the employee may elect to use either vacation or leave without pay. The employee’s Supervisor or Department Head should be notified as soon as possible that leave is necessary.

4.14 Voluntary Leave of Absence Without Pay

- (a) A full-time employee shall be granted a leave of absence without pay if such leave will serve the interest of the City. Any employee who is granted such leave shall be limited to a maximum annual leave in accordance with his/her length of service, as follows:

<u>Length of Service</u>	<u>Maximum Annual Leave Allowed</u>
Under 5 years	2 weeks
5-10 years	1 month
10-15 years	2 months
15 years and up	3 months

- (b) An employee who has been granted a leave of absence without pay shall not be granted any advancement or promotion in relation to the position from which he/she is on leave. The employee shall not accrue vacation leave, sick leave, or other benefits during the period of time he/she is on leave of absence. Upon expiration of the leave of absence and return to work, the employee will be reinstated to active status with no waiting periods for benefits provided to other City employees.
- (c) Requests for leave of absence without pay shall be in writing to include a complete justification for the leave. All such requests must be approved by the City Administrator, with the exception of the Police Department and the Fire Department personnel.

4.15 Family and Medical Leave Policy

- (a) This policy, known as the Family and Medical Leave Act, or FMLA establishes the rights and obligations of the City of Nebraska City and its employees with respect to leave necessary for the medical care of employees and their families. If inconsistent, the Federal FMLA terms shall prevail over any terms listed herein.
- (b) An employee must have been employed for at least twelve (12) months and have worked at least 1,250 hours in the year before the date the employee seeks to start FMLA leave.

- (c) Eligible employees are entitled to take up to twelve (12) weeks of leave during the twelve (12) months measured forward beginning on the date that the qualifying leave is first taken for the following purposes:
- (1) Child Care: Leave may be taken because of the birth, adoption, or foster-care placement of a child in order to care for the child.
 - (i) Child care leave may be concluded within twelve (12) months from the date of the birth, adoption, or foster-care placement.
 - (ii) Child care leave may be taken intermittently.
 - (iii) Parents who are both employees of the City of Nebraska City and who are eligible to take leave are entitled to take a combined twelve (12) weeks of leave for child care purposes under this paragraph.
 - (iv) Employees who anticipate taking leave under this paragraph are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such 30-day notice may be given. Notice must be given in writing to the employee's Supervisor or Department Head and a copy must also be given to the Deputy City Clerk-Treasurer/Benefits Administrator.
 - (2) Family Care: Leave may be taken to care for a child, step-child, spouse, parent, parent-in-law, or siblings who have a serious health condition.
 - (i) A serious health condition is an illness, injury, impairment, or physical or mental condition which involves:
 - (A) Inpatient care; or,
 - (B) A period of incapacity followed by a course of continuing treatment by a health care provider, including any period of incapacity due to pregnancy or prenatal care; due to a chronic health care condition such as asthma, diabetes, and epilepsy; due to a condition which, if left untreated, could result in a period of incapacity exceeding three (3) calendar days; and any period of absence to receive multiple treatments, such as chemotherapy, physical therapy, and dialysis. "Continuing treatment" is treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion that results

in a regimen of continuing treatment under a health care provider's supervision.

- (ii) Employees requesting leave under this paragraph must present a certification from a health care provider containing the date on which the serious health condition commenced, the probable duration of the condition, the appropriate medical facts regarding the condition, a statement that the employee is needed to care for the family member, and an estimate of the amount of time such care will be required. Notice must be given in writing to the employee's Supervisor or Department Head and a copy must also be given to the Deputy City Clerk-Treasurer/Benefits Administrator.
 - (iii) Employees taking leave under this paragraph may take the leave intermittently upon production of a health care provider's certification that the intermittent leave is necessary for or will assist the care of the family member and that provides the dates and duration any treatment and leave is expected. Employees using leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be re-assigned to an alternative position, with equivalent pay and benefits that better accommodate the recurring periods of leave.
 - (iv) Employees who anticipate taking leave under this paragraph are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such 30-day notice may be given. Notice must be given in writing to the employee's Supervisor or Department Head and a copy must also be given to the Deputy City Clerk-Treasurer/Benefits Administrator.
- (3) Self-Care: Leave may be taken when the employee is unable to perform the essential functions of the position that the employee holds.
- (i) Employees seeking leave for self-care must have a serious health condition, as defined in Section 4.15(c)(2)(i) above.
 - (ii) Employees requesting leave under this paragraph must provide a certification from a health care provider containing the date the serious health condition commenced, the probable duration of the condition, the appropriate medical facts regarding the condition, and a statement that the employee is unable to perform the essential functions of the position. Employees seeking the certification must provide the health care provider with the City's written job description and/or a list of essential functions of the

position. Notice must be given in writing to the employee's Supervisor or Department Head and a copy must be given to the Deputy City Clerk-Treasurer/Benefits Administrator.

- (iii) Employees taking leave under this paragraph may take the leave intermittently upon production of a health care provider's certification that the intermittent leave is medically necessary and the expected duration of the leave. Employees who elect to use the available leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be re-assigned to an alternative position with equivalent pay and benefits that better accommodate the recurring periods of leave.
- (iv) Employees who anticipate taking leave under this paragraph are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such 30-day notice may be given. Notice must be given in writing to the employee's Supervisor or Department Head and a copy must also be given to the Deputy City Clerk-Treasurer/Benefits Administrator.

(4) Failure to Provide Required Certifications: Failure

- (d) Eligible employees will be required to use accrued paid leave before unpaid leave is taken.
 - (1) Child or Family Care: Employees taking leave upon the birth, adoption or placement of a foster child under paragraph 4.15(c)(1) above, or for the care of a child, step- child, spouse, parent, parent-in-law or siblings under paragraph 4.15(c)(2) above must use accrued vacation leave, administrative leave, sick leave and floating holiday time as applicable prior to taking an unpaid leave.
 - (2) Self-Care: Employees unable to perform the essential functions of their job and who take leave under paragraph 4.15(c)(3) above must use accrued vacation leave, administrative leave, sick leave and floating holiday time prior to taking an unpaid leave.

During any period of leave under this policy, an employee's group health insurance coverage and dental insurance will be maintained at the same level and under the same conditions as before the leave began. Benefits that were previously 100% covered by the employee will need to be paid by the employee during the leave period.

- (3) Employees who normally make a contribution toward their health insurance coverage must continue to do so. If on paid leave, the employee's contribution will be collected in the same manner as if the employee were reporting to work. During periods of unpaid leave, the employee must arrange with the City Clerk's office, prior to commencement of the leave, for payment of the employee's share of the premium.
 - (4) An employee who does not return to duty from unpaid leave under this policy for at least thirty (30) calendar days will be liable for the City's group health insurance premium contribution and any part of the employee's share paid by the City, unless the failure to return to duty is caused by continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under this policy or for circumstances beyond the employee's control. While recovery of premiums is permitted, the City of Nebraska City shall be entitled to offset the amount against any final pay or monetary benefit to which the employee would otherwise be entitled.
 - (5) Employees will not accrue other benefits while in an unpaid leave status, including seniority rights.
- (e) Upon return to duty before the expiration of the twelve (12) weeks of FMLA leave, an employee is entitled to restoration to the former position or an equivalent position with equivalent pay and benefits.

An employee who has taken leave for self-care under paragraph 4.15(c)(3) above will be required to present a certification of fitness for duty from a health care provider prior to commencement of work. A copy should be given to the employee's Supervisor or Department Head and a copy should also be given to the Deputy City Clerk-Treasurer/Benefits Administrator. Failure to provide the certification may be cause for denial of the reinstatement.

4.16 Catastrophic Illness Leave Donation Policy

- (a) The City of Nebraska City recognizes that there are instances in which a full-time employee may suffer from a catastrophic illness or non-work-related injury requiring extensive medical treatment, rehabilitation, and ultimately the exhaustion of the employee's City-provided paid leave. The City also recognizes that when these instances occur, co-workers of the employee experiencing a catastrophic illness or non-work-related injury desire to assist the employee until the employee recovers from the illness and can return to work. This policy establishes guidelines for employees of the City of Nebraska City to donate accrued vacation leave, floating holiday time, administrative leave or sick leave to another employee suffering from a catastrophic illness or non-work-related injury

to be used as paid sick leave by the employee with the catastrophic illness or non-work-related injury.

- (b) It shall be the policy of the City of Nebraska City to allow employees the opportunity to donate accrued vacation leave, floating holiday time, administrative leave, or sick leave to benefit another full-time City employee suffering from a catastrophic illness or a non-work-related injury.
- (c) Procedure
 - (1) Employees Covered: All exempt and non-exempt employees who earn leave and have been employed a minimum of six (6) consecutive months shall be eligible to participate in the Catastrophic Leave Donation Program.
 - (2) Recipient Employee Eligibility: to be eligible to receive leave donated pursuant to this policy, an employee must meet the following conditions:
 - (i) The employee must be suffering from a catastrophic illness or non-work-related injury which has resulted in the exhaustion of all of the employee's paid leave.
 - (ii) Generally, illnesses which qualify as "serious health conditions" pursuant to the Family Medical Leave Act would be considered as eligible for catastrophic illness leave donation. The illness must be that of the employee personally, not an illness of the employee's child, spouse, or other family members, to be eligible for leave donation.
 - (iii) The employee must produce competent medical verification of the illness or non-work-related injury that will show the satisfactory recovery of the illness or injury. A copy of such verification should be placed in the employee's file by the Deputy City Clerk-Treasurer/Benefits Administrator.
 - (iv) The employee must have a minimum of six (6) consecutive months of service with the City of Nebraska City.
 - (v) The employee must have exhausted all their paid leave, including, but not limited to, sick leave, vacation leave, floating holiday time and administrative leave.
 - (vi) The employee must not have offered anything of value to another employee in exchange for the leave donation.

- (vii) No more than 520 hours per twelve (12) month period from the date of the catastrophic leave approval may be received by the employee.
- (viii) The employee must complete the Catastrophic Illness Donation Request Form and submit the form to the employee's Supervisor or Department Head and the Deputy City Clerk-Treasurer/Benefits Administrator, who will certify that the employee is eligible to participate in the donation program.

(3) Donor Employee Eligibility

- (i) The employee must have an accrued vacation leave balance of at least forty (40) hours subsequent to making a vacation leave donation.
- (ii) The employee must have an accrued sick leave balance of at least 496 hours subsequent to making a sick leave donation.
- (iii) The employee must donate sick leave, floating holiday time and administrative leave only in eight (8) hour increments. Vacation may be donated in four (4) hour or eight (8) hour increments.
- (iv) The employee must not have solicited nor accepted anything of value in exchange for the donation.
- (v) The employee must complete and have the Catastrophic Illness Donation Form witnessed.

(4) How to Apply for or Donate Leave

- (i) An employee who qualifies for catastrophic illness leave shall complete the Catastrophic Illness Donation Request Form and submit it to their Supervisor or Department Head, who shall, in conjunction with the Deputy City Clerk- Treasurer/Benefits Administrator and the City Administrator, review it for approval or denial.
- (ii) Upon approval, donor employees shall complete the Catastrophic Illness Donation Form indicating a willingness to donate vacation leave, floating holiday time, administrative leave or sick leave and the amount of each specific time that they wish to donate. This form shall also be signed by a witness to the donor's signature. The completed form should then be forwarded to the Deputy City Clerk-Treasurer/Benefits Administrator and placed in the employee's personnel file.

- (iii) Employees donating their time are doing so strictly on a voluntary basis and will have their vacation leave, floating holiday time, administrative leave or sick leave balance irrevocably reduced for the amount of time transferred to the recipient employee. The transferred time will be placed in the recipient employee's sick leave account.
- (iv) The Deputy City Clerk-Treasurer/Benefits Administrator will monitor hours donated.
- (v) Vacation leave hours that are transferred can be done in four (4) hour increments or eight (8) hour increments. Floating holiday time, administrative leave and sick leave hours must be transferred in eight (8) hour increments only. Any time donated which is not used by the recipient will remain with the recipient.
- (vi) Subsequent to the recipient of the leave donation forms and the determination of the total hours donated, the Deputy City Clerk-Treasurer/Benefits Administrator shall credit the recipient employee's sick leave balance on a bi-weekly payroll basis. An employee who is receiving catastrophic illness leave donation by other employees shall be allowed to accrue vacation leave, floating holiday time, administrative leave and sick leave while in that status, however, all accrued leave shall first be used prior to the use of donated leave time.

4.17 Clock-In/Clock-Out, Time Sheet, Break and Meal Period

- (a) The City of Nebraska City requires that all non-exempt employees shall "clock-in" or complete their time sheet accurately each day. The time sheet is the source documentation for payments to the employee for time worked. Employees previously authorized by the appropriate Supervisor or Department Head may "clock-in" and "clock out" via their mobile phone. Said authorization shall be revoked if abused by the employee.
- (b) It is the City of Nebraska City's policy to compensate employees for all time worked under applicable laws.
- (c) Procedure
 - (1) Clocking in may begin as early as 7 minutes prior to the scheduled time, however, pay does not commence until scheduled work time and no work is expected until the scheduled time. This is in accordance with the Fair Labor Standards Policy.

- (2) Employee clocking in more than 7 minutes after their scheduled starting time will be recorded as tardy (unless the supervisor has approved the late arrival).
- (3) Meal periods are unpaid and shall last a minimum of 30-minutes and a maximum of 60-minutes, during which time employees shall be relieved of all work duties. Supervisors shall determine the scheduling and length of meal periods as well as the scheduling, amount and duration of rest breaks. Rest breaks are counted as paid time worked and are limited to 15-minute periods for each four hours worked. Rest periods should be taken at the approximate middle of the morning shift and middle of the afternoon shift and shall not be combined one with another, with a meal period, or be taken at the start or end of any shift, unless special permission is granted by the employee's supervisor for the effective and efficient operation of the department.
- (4) Any attempt to tamper with the timekeeping hardware, software and/or time sheets will be considered a serious offense, subject to disciplinary action up to and including termination of employment.
- (5) Clocking in for an absent employee will be considered a serious offense, with both employees being subject to disciplinary actions up to and including termination of employment.
- (6) If any employee is unable to clock in or out because of time clock malfunction, it is the employee's responsibility to immediately inform the Administration Department.
- (7) Only supervisors may record time for an employee when an employee is unable to use the time clock.
- (8) Employees are prohibited from working "off the clock." Any employee who is asked to work "off the clock" should report this conduct to the Administration Department.
- (9) Employees using time sheets to make written records shall follow the same rules as are applied to employees using time clocks and computer applications.

4.18 Transitional Light Duty Employment Policy

- (a) This policy provides a means to temporarily assign light duty work for City employees who, due to injury or illness cannot fulfill their job description duties, but who could perform needed duties for their respective department. No distinction for the purpose of light duties shall be made between work or non-work injuries or illness.

- (1) *PROCEDURE*: To be eligible for the program, the employee shall furnish documentation of the injury or illness causing the need to seek light duty. This documentation must include the employee's doctor's certification of opinion that the employee is capable of performing light duty without violating any medical restrictions, and will be able to perform their described full duties position within six (6) months.
- (2) *ELIGIBILITY*: The Department Head or his or her designee shall determine:
 - (i) That the employee's injury or illness is expected to require light duty for a period up to 1-month;
 - (ii) That an appropriate job can be identified; and,
 - (iii) The employee is suitable for that job.
- (3) *ASSIGNMENT BY THE DEPARTMENT HEAD*: The Department Head will inform:
 - (i) the employee reporting for a light duty assignment;
 - (ii) his work leader or supervisor, the name of the employee who is expected to report for a light duty assignment;
 - (iii) the employee and work leader or supervisor the date, time, and location the employee is to report to; and
 - (iv) the employee and work leader or supervisor of any work restrictions placed upon the employee by the certifying doctor.
- (4) *RESTRICTIONS AND PROTOCOL*
 - (i) The total number of employees that may participate in the Transitional Light Duty Program shall not exceed (2) employees in a Department at the time the request is made. The department head shall have the prerogative to change this total number, at any time based on current department work needs
 - (ii) Participation in the light duty program will be reevaluated on a monthly basis, to determine the participant's light duty status. This program will be limited to a 6-month period.

- (iii) No Transitional Light Duty Program assignment will become a permanent job. Should an employee's injury or illness be diagnosed as permanent, he/she will no longer be eligible for participation in the Transitional Light Duty Program.
 - (iv) Attendance records and doctor's documents, shall reflect when an employee is participating in the Transitional Light Duty Program. All records shall reflect the employee's light duty is a result of an off-duty or on duty illness or injury.
 - (v) At the request of the City, the employee shall make full disclosure of all relevant medical records, and these shall be furnished to the City's Human Resource Department or staff designated to oversee employee resources, to include all periodic updates from the employee's doctor, regarding their opinion as to the continued need for light duty.
- (5) *REASSIGNMENT TO REGULAR DUTY:* Prior to the conclusion of the Transitional Light Duty Program, the employee will furnish a doctor's certification attesting to the employee's physical ability to return to their prior work description and work assignment.

Section 5: Employee Benefits

5.1 Health, Dental, Disability, and Life Insurance Benefits

- (a) On the first of the month following thirty (30) days of continuous employment, all regular full-time employees, and eligible regular part-time employees, shall be offered health, dental, long-term disability, and life insurance coverage. Allocation of the premium costs between the City and the employee shall be determined by the Mayor and City Council annually. To become eligible, a part-time employee must work an average of 30 hours or more per week over a six-month period.
- (b) Health and dental coverage shall be available to dependents of all regular full-time employees, and eligible regular part-time employees. Employee payments for dependent health premiums and/or dependent dental insurance premiums shall be made by employee payroll deductions. Allocation of the premium costs between the City and the employee shall be determined by the Mayor and the City Council annually.
- (c) Participation in the program shall be voluntary for regular full-time employees and eligible regular part-time employees.
- (d) Long-term disability coverage is available to employees whose illness or injury meets the definition of a qualified disability. Long-term disability provides 60% of the employee's salary in the event of a qualified sickness or accident after a 90-day waiting period. It is the responsibility of the employee to notify their Supervisor or Department Head if they believe they qualify for long-term disability.
- (e) Life insurance and accidental death and dismemberment coverage is provided for the employee. The amount of life insurance benefit is 1 ½ times the employee's annual salary, up to \$200,000, at no cost to the employee. The salary is based on the wage in effect as of December 31 of the preceding year for the employee. Dependent (spouse and child) life insurance coverage is also provided at no cost to the employee. Voluntary increase in life and AD&D benefit is available upon payment of additional premium by the employee. Provisions exist to allow conversion to an individual policy after the employee leaves the City's employment.
- (f) Additional benefits may also be available that are to be paid by the employee. Such additional benefits are optional and taken voluntarily by the employee. The City provides no warranties as to such benefits, their policies or coverages offered.
- (g) An employee, who by reasons of extended illness has exhausted his/her sick leave, vacation leave, floating holiday time and administrative leave, and is

carried on the payroll in a non-pay status, will have his/her coverages in the City's group insurances (medical, dental, life, AD&D) carried for one (1) month for each year of service that they have with the City of Nebraska City up to a maximum of three (3) months. During such extension, group insurance premiums will be paid proportionately by the City and employee.

5.2 Retirement Plans

There are three retirement systems for employees of the City of Nebraska City:

- 1) the General Employee Retirement Program,
- 2) the Police Officer Retirement Program, and
- 3) the Fire Department Retirement Program.

The City of Nebraska City has established a defined-contribution pension plan for the exclusive benefit of its regular full-time employees who are at least twenty-one (21) years of age. This plan requires a contribution of 7.0% of the monthly gross compensation of the employee and a 7.0% match by the City. The program is mandatory and shall begin on the eligible employee's first (1st) anniversary of employment following the employee's twenty-first (21st) birthday. The plan has a graduated vesting schedule that starts with 40% after two (2) years of service. The employee will be 100% vested after seven (7) years of employment starting at the date of hire. The Deputy City Clerk-Treasurer/Benefits Administrator can provide a copy of the retirement plan and/or a copy of the Plan Highlights upon request.

5.3 Social Security Benefits

Social Security is administered by the Federal Government and is supported by contributions from the City of Nebraska City and the employee. Contributions are based on a percentage of the employee's salary. The Federal Government determines the required percentage of contribution and when the employee is eligible to receive retirement benefits under the Social Security Program. The employee's contributions are made by payroll deduction.

5.4 Other Benefits

The employee assistance program provides training and counseling for full-time City employees and is available through a firm contracting with the City. These services are for both professional and personal issues (toxic work environment, supervision coaching, HR matters, family crisis, personal financial issues, etc.) This is provided at no cost to the employee.

Section 6: Employee Development

6.1 Orientation

Each new full-time and regular part-time employee shall attend a presentation regarding employment with the City of Nebraska City. The presentation will be an introduction to working at the City of Nebraska City and to the Personnel Manual. The instructor will inform the employee that they will be required to sign a statement indicating they have read the manual which will be given to the Personnel Office for the employee's file. The presentation will also go over the procedures for payroll and completion of all new hire paperwork.

Each Supervisor or Department Head shall be responsible for facilitating the adjustment of an employee to his/her daily work situation by:

- (a) providing the employee with a clear statement of his/her duties and official relationship.
- (b) introducing the employee to those with whom he/she will be working.
- (c) instructing and guiding the employee in learning to perform his/her functions.
- (d) discussing, at frequent intervals, the employee's progress in learning and performing his/her work.

6.2 Conferences, Conventions, Training and Meetings

The City of Nebraska City encourages the development of job skills by allowing participation in available training programs whenever possible and economically feasible. Attendance of City employees at conferences, training sessions and business meetings shall require prior approval of the employee's Supervisor or Department Head when expenses to the City, outside of regular salaries and benefits, are expected to be incurred or when attendance will require the employee's absence from normal work duties.

6.3 Travel and Official Expense

The City recognizes that from time to time employees and Public Officials must either conduct the City's business during a mealtime, or must engage in the pursuit of City business that, in turn, may interfere with the normal mealtime of such persons. The City of Nebraska City will recognize this inconvenience by appropriately reimbursing or compensating those individuals. The City shall also pay the registration costs, tuition costs, or fees for an elected or appointed official or employee to attend required/approved conferences, training sessions, and business meetings. If a training workshop is held within the municipality and the meal is not included in the registration fee, the cost of such meal shall be the responsibility of the elected or appointed official or the employee. When in-house training is provided and attendance is required, such as safety meetings,

etc., non-alcoholic beverages and rolls or cookies may be provided, subject to budgetary restrictions.

For the purposes of this policy, Public Official means any elected official or appointed employee or volunteer working for the interests of the City of Nebraska City. This definition also includes Board members, Commissioners, committee members, regular employees, authorized volunteers, and others who assist the City in its business.

- (a) Administration: It shall be the responsibility of the City Administrator to administer these procedures.
- (b) Expense Authorization: By necessity, elected and appointed officials and public employees must sometimes attend meetings, conferences, enroll in training seminars and perform other official functions away from their normal place of work or normal routine. It is the responsibility of the City Administrator, the Mayor, or the City Administrator's designee to approve the claims and related expenses prior to the function being attended and to authorize reimbursement or direct payment for the costs incurred.

Such costs shall not exceed:

- (1) Transportation: The use of a personal vehicle to conduct City business shall be subject to the mileage reimbursement rate as published by the State of Nebraska, Department of Administrative Services (R.R.S. Nebraska 81-1176,1943, as amended). When possible, a City vehicle should be used for travel purposes. When a City vehicle is not available, a personal vehicle may be used with prior approval from the City Administrator.
- (2) Commercial or Charter: Actual travel expense shall be paid if travel is authorized for commercial or charter means, which shall be documented by vouchers or receipts. When travel by commercial or charter means is practical, but for personal reasons an elected or appointed official or employee elects to use his/her own vehicle, he/she will be reimbursed an amount equal to the fare of the least expensive type of commercial or charter means which would have provided the necessary travel service.
- (3) Parking: Funds expended for parking expenses shall be eligible for reimbursement by submitting a voucher or receipt showing payment amount.
- (4) Tips: Payment for services rendered (tips) in conjunction with meals is recognized as legitimate and reasonable expense, and may be added to the meal costs but shall not exceed 15% of the price of the meal.
- (5) Meals: Expenses for breakfast, lunch, dinner as well as taxes associated with these meals, shall be reimbursed based on a per diem rate. Meal per diem is defined as the current rates established by Internal Revenue Service (IRS).

- (c) Claims for All Expenses: No travel or meal costs shall be reimbursed unless the claiming individual prepares and signs an itemized accounting of such expenses on the City of Nebraska City's Expense Voucher with the receipts attached.
- (d) Exceptions: The following expenses are not eligible for reimbursement:
 - (1) Alcoholic Beverages
 - (2) Expenses of spouse or other companion
 - (3) Personal entertainment
 - (4) Theft, loss, or damage to personal property
 - (5) Barber, beauty, laundry, or other personal services
 - (6) Personal telephone calls or reading materials
- (e) Reports: Reports of the function may be required of the Mayor, Commissioners or other Public Officials subject to this policy.

6.4 Performance Evaluation

On at least an annual basis (related to an employee's start date anniversary), employees will receive a performance evaluation in writing conducted by their Supervisor or Department Head. Performance evaluations are intended to hold employees accountable, provide feedback, and give direction in an effort to help them improve in ability to perform their job duties. Employees will be reviewed with respect to the duties outlined in their job description and will be ranked according to the format in place at the time of their evaluation. Any employee receiving an overall ranking of unacceptable, poor, below standard, or whose performance does not meet their job requirements, shall be placed on probation and may be subject to termination.

The initial disciplinary probation will be for a period not to exceed six (6) months. The initial period is to be determined at the Supervisor or Department Head's discretion. A second performance evaluation will be set by the Supervisor or department Head at which time the employee may be removed from disciplinary probation. Additional disciplinary probation periods may be implemented at the Supervisor or Department Head's discretion.

Employees who receive an overall ranking of meeting standards, above average, excellent, or whose performance exceeds their job requirements, will be eligible for a wage level increase.

6.5 Fitness and Wellness

The City recognizes the benefits of employees taking an active interest in their health and wellbeing. This policy establishes a voluntary "Fitness and Wellness Program", which encourages participation in health screenings and fitness activities.

- (a) Employees are encouraged to participate in daily fitness activities. Employees who participate in fitness activities meeting all the policy requirements, will be reimbursed for half the monthly cost of gym membership not to exceed \$20.00 per month. To qualify the employee must:
- (1) complete an annual health screening offered by the City or by a health professional and provide documentation of the visit and
 - (2) utilize the local gym membership an average of at least seven (7) times per month from January through December and provide documented proof of such attendance.
- (b) The City has adopted a wellness program in which all employees may participate to become more aware of their overall health and make changes if so desired. The program is based on a health screening of five specific health indicators for employees and their spouses who participate in the City's health insurance plan. Evaluation of the indicators may be done at the annual health screening given by the City or by a medical professional. If three of the indicators exceed the acceptable level for a healthy person, the employee or spouse will be given opportunities at the City's expense to move to a healthier level. If the employee or spouse is in the healthy range or shows that they have improved the indicators, the person will not be charged a higher premium for their coverage on the City's health insurance plan. That amount is \$30 each month per participant of the following calendar year. Each employee and spouse must requalify each year to avoid the change in their premium payments. New employees who start employment in the calendar year shall pay the lower premium until they go through the next qualification process. A tri-fold pamphlet with more details regarding this program is available upon request from the Deputy City Clerk-Treasure/Benefits Administrator.

Section 7: Discipline and Grievance Procedure

7.1 Causes for Disciplinary Action

It shall be the responsibility of all Supervisors and Department Heads, including City Commissioners, to reasonably and impartially supervise, and when necessary, discipline the personnel assigned to them.

- (a) All Supervisors and Department Heads shall exercise good judgment and discretion in taking or recommending disciplinary action.
 - (1) They shall endeavor to ensure that the extent of the penalty is not unreasonable or excessive in relationship to the seriousness of the violation or circumstances for which the employee is being penalized.
 - (2) In taking or recommending disciplinary action of any type, Supervisors and Department Heads shall do so on the basis of what is best for the Department, the City of Nebraska City, and its employees.
- (b) All Supervisors and Department heads shall consult with the City Administrator and/or the City Attorney on all matters of disciplinary action.
- (c) For appointed positions, all Supervisors and Department Heads shall also consult with the Mayor on all matters of disciplinary action.
- (d) Methods or forms of discipline include verbal/written reprimand, suspension, reduction in pay, demotion, dismissal, or any combination of these.
 - (1) These methods or forms of discipline are not progressive in nature.
 - (2) Because Supervisors or Department Heads are in the best position to determine the gravity of a given offense and the appropriate disciplinary action to impose, full discretion is given to impose the method or form of discipline they feel is most appropriate.
- (e) The following shall be considered causes for disciplinary action; however, such disciplinary action shall not be considered to be limited to these categories:
 - (1) Violation of personnel policies.
 - (2) Incompetence, inefficiency or inattention to or dereliction of duty.
 - (3) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or of a fellow employee, any action of omission or commission tending to injure the public service, or any willful failure on the part of the employee to properly conduct himself/herself.

- (4) Mental or physical unfitness for the position the employee holds.
- (5) Disgraceful or prejudicial conduct.
- (6) Drunkenness or the use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee or precludes the employee from properly performing the functions and duties of any position in public service.
- (7) Conviction of a felony or of a misdemeanor involving moral turpitude.
- (8) Any other act or failure to act sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.
- (9) Theft or willful destruction of property.
- (10) Sleeping during duty hours (except Fire and Rescue personnel that have received prior approval of supervisor or Department Head).
- (11) Unauthorized absence during working hours, including tardiness.
- (12) Deliberate falsification of employment records or other reports.
- (13) Abuse of leave.
- (14) Gross misappropriation of funds or property.
- (15) Unsafe use of equipment, vehicles or materials.
- (16) Acceptance of gratuities.

7.2 Reprimand

Supervisors and Department Heads may issue a verbal or written reprimand to employees assigned to them when such reprimand will benefit the employee, the Department, or the City of Nebraska City. Such reprimands shall be made in a professional, constructive, business-like manner. Supervisors and Department Heads, utilizing a reprimand as a method of discipline, shall endeavor to do so with reason and with an attitude of not only admonishing or warning the employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating the mistake, infraction, or deficiency.

7.3 Suspension

Supervisors and Department Heads may suspend, for cause, employees assigned to them when it is determined that a lesser form of disciplinary action will not correct the mistake, infraction, deficiency or problem.

Suspension shall consist of relieving the employee from work, with or without pay, for a specific period of time depending on the seriousness of the occurrence bringing about the disciplinary action. An employee under suspension shall not be allowed or required to use accumulated paid_leave time during the time of suspension.

7.4 Reduction in Pay

Supervisors and Department Heads may discipline employees assigned to them through a reduction in pay, provided such reduction does not result in a salary below the minimum of their job classification. This form of discipline shall be used when suspension is not considered severe enough, but the value of the employee to the Department does not warrant demotion.

7.5 Demotion

Supervisors and Department Heads may demote employees assigned to them for, but not limited to, the following reasons:

- (a) In the event that the employee does not perform at an acceptable level for that position.
- (b) In lieu of lay-off when a position is to be abolished or when an employee with prior rights returns to the position.
- (c) In lieu of dismissal, when an employee is not physically able to perform the duties of his/her position.
- (d) When an employee requests assignment to work of less difficulty and responsibility.

7.6 Dismissal

Except as otherwise provided in the Civil Service Act, any employee other than a Police Officer appointed by the City Council, may be dismissed for any or no reason. Compensation of the employee shall terminate upon the date of notice of dismissal.

7.7 Appeal

Any employee affected by a disciplinary action shall be notified, in writing, of the reason for such disciplinary action. Any employee who believes the disciplinary action is

unjust, too severe, or unwarranted may appeal the action following the Grievance Procedures as set forth in Section 7.8 of this manual.

7.8 Grievance Procedure

- (a) The aggrieved employee shall first present the grievance to their immediate Supervisor, who shall make careful inquiry into the facts and circumstances of the allegations. After investigation, the Supervisor shall advise the employee of the findings of the investigation and the decision.
- (b) If the grievance is not resolved by action of the immediate Supervisor, the employee may submit the grievance in writing to their Department Head. The Department Head shall make a separate investigation and inform the employee in writing of the decision and the reason therefore within seven (7) calendar days after receipt of the employee's grievance.
- (c) If the grievance is not resolved by action of the Department Head, the employee may obtain a review by the City Administrator by submitting a request for review within seven (7) calendar days following receipt of the decision of the Department Head. The City Administrator shall, within fifteen (15) calendar days after the receipt of the employee's request for review, inform the employee in writing of the findings and the decision. The decision of the City Administrator shall be final and conclusive.
- (d) Disciplinary procedures for Supervisors or Department Heads shall be subject to the same procedures as provided for in this Section with such disciplinary action to be taken either by the Department Head City Administrator, Mayor, City Commissioner and/or City Council as the case may require.
- (e) Within the foregoing procedures, the burden of proof shall be on the appellant.

Section 8: Drug Policy

8.1 Purpose

The City of Nebraska City believes that a drug-free environment is important to the health and safety of their employees and patrons. In order to achieve that goal, the following policy and procedures have been adopted in regard to drug and alcohol abuse and testing of employees and applicants.

In the case of employees who may be subject to call-back on holidays, weekends, and after duty hours, it is possible that use of alcohol, prescription or over-the-counter medications may cause the employee to function in a manner which could be unsafe or harmful to himself/herself or others.

Employees who are officially “on call” during hours which would normally not be working hours, are to abstain from drugs and alcohol during that time.

Employees who are not assigned official “on call” status should notify the Supervisor upon emergency call-back if they do not believe they are able to perform the duties necessary because of use of medication or alcohol. Employees who are not “on call” will not be disciplined or be subject to retaliation for such disclosure.

Employees who are required to hold a Commercial Driver License (CDL) for their employment position shall be subject to this section (Section 8: Drug Policy) and Section 8.12 Commercial Drivers License (CDL) Additional Provisions. If conflicting requirements or information is found, the requirements of Section 8.12 will supersede the other areas of Section 8 for CDL drivers.

8.2 Covered Positions

All employees of the City of Nebraska City are subject to the provisions of this policy.

8.3 Definitions

- (a) “Accident” means any event, which results in:
 - (1) Death or personal injury requiring inpatient hospitalization; or,
 - (2) Damage to a company-owned vehicle or machine in excess of \$1,000.00, where the employee may be at fault, or where employee fault cannot be completely ruled out.
- (b) “Breath Test” means a test for alcohol, using breath, conducted using a National Highway Traffic Safety Administration (NHTSA) certified evidentiary breath testing device, such as an Evidential Breath Testing, (EBT) and performed by a Breath Alcohol Technician who has been trained by the EBT manufacturer. The

breath test mentioned in this policy concerns this policy only and is separate from any lawful request of any law enforcement officer conducting an official investigation for determining if a driver of a motor vehicle on a public road is under the influence contrary to State of Nebraska Statutes 60-6, 197.

- (c) “Drug Test” means a chemical analysis utilizing urine samples to determine the presence of prohibited drugs.
- (d) “Drug testing collection personnel” or “collection personnel” or “collectors” means employees of an organization contracted by the City of Nebraska City who comply with all requirements set forth in this policy and the accompanying procedures in regard to collection, custody, and control of drug test samples.
- (e) “Fail a Drug Test” or “Alcohol Test” means confirmation-of a test result which shows positive evidence of the presence of a prohibited drug in the employee’s system, for which there is no legal or legitimate reason.
- (f) “Pass a Drug Test” or “Alcohol Test” means an initial or confirmation test does not show evidence of a prohibited substance in an employee’s system.
- (g) “Prohibited Drug” means the following drugs are prohibited while an employee is engaged in City business, while using City equipment, or acting as an employee of the City: Cocaine, Amphetamines, Marijuana, Opiates, Phencyclidine, and Alcohol. The initial screening and confirmation levels for testing each drug (except alcohol) are as follows:

<u>Drug</u>	<u>Initial Screening (ng/ml)</u>	<u>Confirmation Level (ng/ml)</u>
Cocaine	300	150
Amphetamines	1,000	150
Marijuana	50	15
Opiates	2,000	2,000
Phencyclidine	25	25

8.4 Drug Test Requirements

- (a) Upon being notified that a drug test is required, an employee will report as soon as possible to the drug testing collection personnel and provide:
 - (1) A sample of his/her urine; and/or,
 - (2) Submit to a breath test using an Evidential Breath Testing Device to detect alcohol. All testing will be performed in accordance with the guidelines set forth in this policy and the accompanying procedures.

Photographic identification is required when checking in to the laboratory and must be shown to the technician.

- (b) Employees have the right to see photographic identification from collection personnel before testing.
- (c) Collectors are persons who have successfully completed training using materials supplied by the Department of Transportation or personnel who have received training or instruction.
- (d) Employees are subject to drug and alcohol testing in the following circumstances:
 - (1) Random Testing: Ten (10%) percent of employees will be randomly tested for drug and alcohol use on a quarterly basis. The random testing pool includes all full-time, part-time and seasonal employees who drive city vehicles/equipment. The random testing pool also includes volunteer members of the Nebraska City Volunteer Fire and Rescue Department, who drive City vehicles/equipment. Different random testing rules exist for CDL drivers in Section 8.12 (c) (2) resulting in a second testing pool.
 - (2) Post-Accident: Within two (2) hours after an accident (as defined in Section 8.3 (a) above), any employee whose performance may have been a contributing factor in the accident or whose performance cannot be completely discounted as a contributing factor to the accident shall be tested for drugs and alcohol separate from any action or request of law enforcement investigating a traffic collision for determining if a driver of a motor vehicle on a public road is under the influence contrary to State of Nebraska Statutes 60-6, 197.

The employer may decide not to test because an employee's performance could not have contributed to the accident or because the time between performance and accident would make a test useless in determining whether performance was affected by drug or alcohol use.

If an employee who is subject to post-accident testing is conscious, able to provide an adequate breath sample and urinate normally (in the opinion of a medical professional) and refuses to be tested, that employee shall be considered to have tested positive and treated as any other employee who tests positive.

In the case of an unconscious employee, or one who is unable to consent to the procedure, testing will not be done.

- (3) Reasonable Cause: The City of Nebraska City will have a drug and alcohol test completed on an employee when there is reasonable cause to believe that the employee is using a prohibited drug or alcohol while on duty.

There must be reason and justification for testing, based on specific physical, behavioral, or performance indicators of probable drug or alcohol use. Examples of this are evidence of repeated errors on the job, rule violations or unsatisfactory time and attendance patterns, coupled with a specific contemporaneous event that indicates probable drug or alcohol use.

At least two (2) Supervisors, one (1) of whom is trained in detection of symptoms of possible drug and alcohol use, will agree on the decision to test. If two (2) Supervisors are not available at the job site, a consultation between two (2) Supervisors may be held by telephone in order to obtain a consensus to test.

- (4) After Rehabilitation/Return-to-Duty: Follow-up drug testing will be done on a schedule recommended by the Medical Review Officer (MRO) and the employee's rehabilitation counselor, without prior notice to the employee for not more than sixty (60) months after an employee returns to duty. Testing may be on a daily, weekly, monthly, or longer basis at the discretion of the MRO.
- (5) Pre-Employment Screening: Employees whose positions involve the operation of a motor vehicle on a public roadway in the regular performance of duties of the position held will be required to pass a drug test prior to beginning employment.
- (e) Inability to provide a urine sample: If the employee is unable to provide a urine specimen, the collection personnel will direct the employee to drink fluids and after a reasonable time attempt again to provide a sample. If the employee cannot produce a sample within a three-hour (3) period, the collection process shall be discontinued and the employee's Supervisor notified.
- (f) Retention of samples: Samples that yield positive results must be retained by the laboratory in properly secured, long-term frozen storage for at least 365 days.

Within that 365-day period, the employee or the employee's representative, or representatives of the City of Nebraska City may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period, specified in the request, the sample may be discarded following the end of the 365-day period.

- (g) Re-Testing of samples: If the MRO determines that there is no legitimate medical reason for a confirmed positive test result, other than unauthorized use of a prohibited drug, the original sample must be re-tested if the employee makes a written request for re-testing within 72 hours of receipt of the final test result from the MRO.

The City of Nebraska City may require the employee to pay in advance for the cost of shipping (if any) and re-analysis of the sample, but the employee will be reimbursed if the re-test is negative.

Re-testing will be done utilizing the frozen portion of the original or split sample provided by the employee, which the lab has retained. Since some samples may deteriorate during storage, detected levels of the drug or alcohol below the detection limits established in this policy, but equal to or greater than, the established sensitivity of the array, must, as technically appropriate, be reported and considered corroborative of the original positive result.

- (h) Refusal to provide a specimen: Any employee who fails to report for collection or refuses to test after being informed that a test is required will be considered to have failed a drug or alcohol test, unless the employee has a legitimate, verifiable reason for failure to report or test.

If an employee refuses to provide a specimen and the MRO determines that prohibited drug or alcohol use was the cause, the employee will be considered to have failed a drug or alcohol test and will be offered the same options offered to an employee who tests positive (See Section 8.10 of this manual).

8.5 Medical Review Officer (MRO)

- (a) The Medical Review Officer (MRO) services are provided by a qualified professional contracted by the City of Nebraska City.
- (b) The duties of the MRO are to interpret, evaluate, and monitor the City of Nebraska City's drug and alcohol testing program. Specifically, the MRO will:
 - (1) Review the results of drug testing before they are reported to the City of Nebraska City. The MRO shall not consider the results of urine samples that are not obtained or processed in accordance with all the procedures set forth in this policy and the attendant procedures.
 - (2) Review and interpret confirmed positive, adulterated, substituted, or invalid tests to determine if there is an alternative legitimate medical explanation which would account for the result by:
 - (i) Conducting a medical interview with the employee tested. The MRO will first attempt to contact the employee directly. If the employee cannot be reached directly, the MRO will call the City of Nebraska City and ask that the employee call the MRO.
 - (ii) Review the employee's medical history and relevant medical factors.

- (iii) Review all medical records made available by the employee to determine if their positive test resulted from legally prescribed medication.
 - (iv) Verify that the laboratory report and assessment are accurate and require re-analysis, if necessary.
- (3) If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than unauthorized use of prohibited drugs or alcohol, the MRO shall report the test back to the City of Nebraska City as positive.

Test results will be sent by electronic means in a manner designed to ensure confidentiality to the designated City of Nebraska City representative and the employee shall be offered the same options offered to an employee who tests positive (See Section 8.10 of this manual).

In order to verify a positive result for opiates, the MRO shall either determine that there is clinical evidence of unauthorized use of opiates or that the laboratory Gas Chromatography-Mass Spectrometry (GC/MS) testing confirms the presence of 6-monocetylmorphine.

- (4) After a review of the chain-of-custody for collections, laboratory inspection reports, quality assurance, and quality control data and other drug or alcohol test results, the MRO may conclude that a particular drug or alcohol test result is scientifically insufficient for further action or that a positive test result is consistent with legal drug or alcohol use.

Under those circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system and report the test result to the City of Nebraska City as negative.

- (5) Before making the determination that a test is scientifically insufficient, the MRO may request a re-analysis of the specimen or may consult with the laboratory individual responsible for the day-to-day management of the urine testing laboratory, another employee who is a forensic toxicologist or who has equivalent forensic experience.
- (6) The MRO may verify a test as positive without having communicated directly with the employee under the following circumstances:
- (i) The employee expressly declines to discuss the test.

- (ii) The City of Nebraska City contact has made and documented a contact with the employee and instructed the employee to contact the MRO and more than five (5) calendar days have passed since the City of Nebraska City contact with the employee and the employee has not contacted the MRO.

8.6 Laboratory

- (a) The City of Nebraska City will contract laboratory services with a laboratory certified by the Department of Health & Human Services (DHHS) and will comply with all procedures and methods outlined by DHHS.
- (b) Inspections: The City of Nebraska City utilizing the laboratory, DHHS, or any organization performing laboratory certification on behalf of DHHS shall have the right to inspect the laboratory at any time. City of Nebraska City contacts with the laboratory shall permit the City of Nebraska City to conduct unannounced inspections.
- (c) Analysis Procedures
 - (1) Security and Chain-of-Custody
 - (i) The testing laboratory shall be secure at all times, with sufficient security measures in place to control access and ensure that no unauthorized personnel handle specimens or gain access to laboratory processes or areas where records are stored.
 - (ii) The testing laboratory shall use chain-of-custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage, and continuing until final disposition of specimens.
 - (2) Reporting Results
 - (i) The laboratory shall report test results to the MRO within an average of 48 hours after receipt of the specimen by the laboratory. Before any result is reported, it shall be reviewed and the test certified as an accurate report by a responsible individual. The report shall identify:
 - (A) Drugs tested for;
 - (B) Positive or negative result;
 - (C) Specimen number assigned by the City of Nebraska City; and,

- (D) Drug testing laboratory specimen identification number
 - (ii) The laboratory shall report as negative all specimens which are negative on the initial or confirmatory test. Only specimens confirmed positive shall be reported as positive for a specific drug.
 - (iii) The MRO may request from the laboratory and the laboratory shall provide quantitative test results. The MRO shall report whether a test is positive or negative and may report the drug(s) for which there was a positive test, but shall not disclose the quantitative results to the City of Nebraska City.
 - (iv) The MRO may reveal the quantitative result of a positive test to the City of Nebraska City; the employee or applicant; or a decision maker in a lawsuit, grievance, or other proceeding initiated by, or on behalf of, the employee or applicant and arising from a verified positive drug or alcohol test.
 - (v) The laboratory may transmit results to the MRO by electronic means in a manner designed to ensure confidentiality. Results may not be provided verbally by telephone. The laboratory and the City of Nebraska City must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.
 - (vi) The laboratory shall send only to the MRO the original or a certified true copy of the drug custody and control form, which, in the case of a positive result, shall be signed by the individual responsible for the day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test results and attached to which shall be a copy of the test result.
 - (vii) The laboratory shall make available copies of all analytical results for the City of Nebraska City drug testing programs when requested.
 - (viii) Unless otherwise instructed by the City of Nebraska City in writing, all records pertaining to a given urine specimen shall be retained for a minimum of two (2) years.
- (d) Personnel to Testify at Proceedings: The laboratory shall have qualified personnel available to testify in an administrative or disciplinary proceeding against an employee when that proceeding is based on positive urinalysis results reported by the laboratory.

- (e) Retention and Re-analysis of Samples: Samples that test positive will be retained by the laboratory in properly secured long-term frozen storage for at least 365 days. Within the 365-day period, the employee or a representative of the employee or the City of Nebraska City or a representative of the City of Nebraska City may request that the laboratory retain the sample for an additional period.

If, within the 365-day retention period, the laboratory has not received a proper written request to retain the sample for an additional period specified in the request, the sample may be discarded following the end of the 365-day period.

If the MRO determines that there is no legitimate medical reason for a confirmed positive test result other than unauthorized use of a prohibited drug, the split of the original sample must be re-tested if the employee makes a written request within 72-hours of receipt of the final test result from the MRO.

The City of Nebraska City may specify re-testing by the original laboratory or by a second National Institute of Drug Abuse (NIDA) certified laboratory. The City of Nebraska City may require that the employee or applicant pay in advance for shipping (if any) and re-analysis of the sample, however, the employee must be reimbursed if the re-test result is negative.

If the employee specified re-testing by a second NIDA certified laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.

Since some samples may deteriorate during storage, levels of the drug or alcohol below the detection limit established in Department of Transportation (DOT) procedures, but equal to or greater than the established sensitivity of the test, must be reported and considered corroborative of the original positive results.

Re-tests are not subject to a specific cut-off requirement; however, they must provide data sufficient to confirm the presence of the drug or metabolite.

8.7 Employee Assistance Program

The City of Nebraska City will provide the following drug and alcohol abuse information and education to all employees in a packet of information to be given to existing employees at the time the policy becomes effective and to new employees as they are hired:

- (a) Informational material about drug and alcohol use will be displayed and distributed in offices and work areas of employees covered by this policy.

- (b) A community service hot-line telephone number for employee assistance will be displayed and distributed in offices and work areas of employees covered by this policy.
- (c) Copies of the City of Nebraska City's policy on use of prohibited drugs will be given to employees and displayed in offices and work areas of employees covered by this policy.
- (d) Supervisors or Department Heads who will determine whether an employee must be drug-tested based on reasonable cause will have one hour (60 minutes) of bi-annual training on recognizing the physical, behavioral, or performance indications of possible drug use and one hour (60 minutes) of additional bi-annual training in recognizing signs and symptoms of possible alcohol use.
- (e) Information about testing procedures used will be displayed and distributed in offices and work areas of employees covered by this policy.
- (f) Information about the availability and contact numbers for rehabilitation programs will be displayed and distributed in offices and work areas of employees covered by this policy.

8.8 Recordkeeping

- (a) Records that demonstrate that the collection process conforms to the requirements of this policy will be kept for at least three (3) years. Records will be kept by the City Clerk or someone designated by the City Clerk.
- (b) Records showing that employees failed a drug test and the type of test failed must be kept for at least five (5) years and will include the following information:
 - (1) Functions performed by employees who failed a drug test.
 - (2) Prohibited drugs used by employees who failed a drug test.
 - (3) The disposition of employees who failed a drug test (termination, transfer, etc.)
- (c) Records showing that employees passed a drug test must be kept for at least one (1) year.
- (d) A record of the number of employees tested, by type of test, must be kept for at least five (5) years.
- (e) Records showing training for Supervisors and Department Heads, along with employees under this policy must be kept for at least three (3) years. Training records will include copies of all training materials.

8.9 Confidentiality

- (a) All records concerning drug or alcohol abuse testing results and rehabilitation will be maintained as private and confidential. This includes testing records of applicants for jobs and current and former employees. Records will be kept by the City Clerk or someone designated by the City Clerk.
- (b) Written records and test results will be kept in a locked, secure area, with access limited to personnel listed in the provisions below.
- (c) Only the Medical Review Officer (MRO), laboratory, the City Administrator, or the person designated by the City Administrator shall have access to results of individual tests. Individual results will not be disclosed to anyone else, including subsequent employers, without the express written permission of the individual tested.

The MRO may disclose information to the employer or a physician for determining the medical qualification of an employee if:

- (1) In the MRO's judgment, the information could result in the employee being determined to be medically unqualified; or
- (2) In the MRO's reasonable medical judgment, the information indicates that continued performance by the employee of his/her function could pose a significant safety risk.

Before obtaining medical information as part of the verification process, the MRO shall inform the employee that information may be disclosed to a third party as provided in this policy and the identity of any parties to whom information may be disclosed. Except as provided above, the MRO shall not disclose to any third party, medical information provided by the individual to the MRO as a part of the testing verification process.

Employees will be notified as to who will receive test data before testing is done.

- (d) Any employee who is subject to a drug or alcohol test shall, upon written request, have access to any records relating to his/her test and any records relating to the results of any relevant certification, review, or revocation of certification proceedings.
- (e) The laboratory shall release information on drug test results only to the MRO or the individual tested. The MRO may reveal quantitative results to the City of Nebraska City; the third-party administrator; or a decision maker in the case of a

lawsuit or grievance initiated by or on behalf of the employee and arising from a confirmed positive test.

8.10 Consequences of a Failed Drug or Alcohol Test

The policy above has been adopted to further the objective of providing a safe and productive environment for employees and effective, safe service to citizens of the City of Nebraska City.

Any employee who tests positive for drugs or alcohol will be placed on suspension. Suspension can be with pay if the employee elects to use available sick leave, vacation leave, floating holiday time or administrative leave. Results of a positive test and reasons for dismissal shall remain confidential.

Refusal to take a drug or alcohol test in accordance with the terms of this policy, at any time during employment, will result in termination unless otherwise specified.

- (a) Failure of a Drug Test – All employees, with the exception of a sworn Police Officer, will be given one (1) opportunity to retain his/her employment upon failure of a drug test as verified by the MRO, provided they first:
 - (1) Have been evaluated face-to-face by a Substance Abuse Professional (SAP) and followed any recommendations for drug mis-use assistance.
 - (2) Been determined by a SAP to have successfully completed the required education or treatment and recommended for return-to-duty,
 - (3) Provide a specimen void of any illegal drugs before returning to duty.
 - (4) Agree to follow-up drug testing and do not fail a drug test after returning to duty. Such failure will result in termination. Any cost of the follow-up drug testing not covered by insurance is the responsibility of the employee. The City of Nebraska City has the authority to determine when the testing will occur.
 - (5) Rehabilitation will be offered one (1) time. The employee will be responsible for any cost of the program not covered by insurance. The employee will be allowed to take any accrued sick leave, vacation leave, floating holiday time or administrative leave or an unpaid leave of absence to participate in a rehabilitation program. The employee's job will be held for a period of up to twelve (12) weeks while the employee participates in a substance abuse treatment program with a health care provider. This time period may be shortened and an employee may be re-instated to normal duties if the SAP feels that drug use is no longer present and will not re-occur. However, before returning to duty, the employee's Supervisor and the City Administrator, will determine if the employee is

ready to return to normal duties or be terminated, based on the recommendation of the SAP.

- (b) Failure of an Alcohol Test: Disciplinary action as set forth below will be taken under each of the described circumstances.
 - (1) Consequences if the result is 0.02 or greater but less than 0.04.
 - (i) When the results of an alcohol (screen/confirmation) test indicate an alcohol concentration of 0.02 or greater, but less than 0.04, the employee will be:
 - (A) Suspended and allowed to take sick leave, vacation leave, floating holiday time or administrative leave for the remainder of his/her shift.
 - (B) Not allowed to resume work until the beginning of the employee's next regularly scheduled shift, or at least eight (8) hours, whichever is longer.
 - (ii) When an employee has an alcohol (screen/confirmation) test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04, on a second test within a six-month (6) period, the employee will be:
 - (A) Suspended and allowed to use sick leave, vacation leave, floating holiday time or administrative leave for the remainder of his/her shift; and,
 - (B) Referred to a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol mis-use.
 - (C) Follow and successfully complete all recommendations made by the SAP.
 - (iii) When an employee has an alcohol (screen/confirmation) test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04, on a second test within a six-month (6) period after a previous alcohol test of an alcohol concentration of 0.04 or greater, the employee will be:
 - (A) Suspended and allowed to use sick leave, vacation leave, floating holiday time, or administrative leave for the remainder of the employee's shift. The employee shall not be allowed to resume work until the beginning of the

employee's next regularly scheduled shift or at least eight (8) hours, whichever is longer; and,

- (B) Referred to a SAP who shall determine what assistance the employee needs in resolving problems associated with alcohol mis-use; and,
- (C) Follow and successfully complete all recommendations made by the SAP.
- (D) Any subsequent test at 0.02 or greater concentration will result in termination of the employee.

(2) Consequences if concentration result is 0.04 or greater.

- (i) When an employee has tested for alcohol that results in a concentration of 0.04 or greater, the employee will be:
 - (A) Suspended without pay for the remainder of the employee's shift; and,
 - (B) Referred to a SAP who shall determine what assistance the employee needs in resolving problems associated with alcohol mis-use; and,
 - (C) Follow and successfully complete all recommendations made by the SAP.
 - (D) Pass a return-to-duty alcohol test and any follow-up testing.
- (ii) In all cases when an employee tests at an alcohol concentration of 0.04 or greater after an alcohol test, which has on a previous occasion produced an alcohol concentration of 0.04 or greater, the employee shall be:
 - (A) Terminated; and,
 - (B) Referred to a SAP.

(3) Other Alcohol Consequences.

- (i) When an employee refuses to report for assessment, evaluation, and/or referral for treatment with a SAP within a period of ten (10) business days, he/she will be terminated. In cases where extenuating circumstances exist, the employee may be given

additional time upon the approval of his/her Supervisor and the designated City of Nebraska City representative.

- (ii) When an employee, after assessment, is referred for rehabilitation and/or treatment and refuses to enter a rehabilitation and/or treatment program within a period of ten (10) business days or refuses to successfully complete such a rehabilitation and/or treatment program, he/she will be terminated. In cases where extenuating circumstances exist, the employee may be given additional time upon the approval of his/her Supervisor and the designated City of Nebraska City representative.
- (iii) The employee must successfully complete an approved rehabilitation and/or treatment assessment program. The employee will be responsible for any cost of the program not covered by insurance. The employee will be allowed to take any accrued sick leave, vacation leave, floating holiday time, or administrative leave or an unpaid leave of absence to participate in a rehabilitation program. The employee's job will be held for a period of up to twelve (12) weeks while the employee participates in a substance abuse treatment program with a health care provider. The time period may be shortened and an employee may be re-instated to normal duties, based on the recommendation of the SAP. However, before returning to duty, the employee's Supervisor and the City Administrator will determine if the employee is ready to return to normal duties or be terminated, based on the recommendation of the SAP.
- (iv) Any employee who refuses to submit to an alcohol test without a valid medical explanation after being given notice of the requirement by the designated City of Nebraska City representative shall be deemed as having an alcohol concentration of 0.04 or greater and will be dealt with in accordance to paragraph (2) of this Section. A second refusal shall result in termination of employment. Any employee who engages in conduct that is clearly intended to obstruct the testing process shall be terminated.
- (v) Possession of alcohol on company time, including lunch and break-periods, on company premises, or in company vehicles and equipment is prohibited.
- (vi) On-duty and "on-call" use of alcohol will result in the employee being:
 - (A) Suspended without pay for the remainder of the employee's shift for a first offense.

- (B) For a second offense, the employee will be required to undergo an SAP evaluation, and complete any recommended treatment or education program, and follow-up testing.
- (C) For a third offense, the employee will be terminated.

8.11 Release of Information Form

The City of Nebraska City will ask that the employee sign a release of information form, so that the City of Nebraska City may receive the following information from the treatment facility or counselor:

- (a) An approximate date the employee may return to work.
- (b) Verification that the employee is attending and participating in counseling sessions as scheduled.
- (c) Verification that treatment is progressing as expected.
- (d) Help will be given to the employee and company personnel to assist them in making the employee's transition back to work smooth and successful.

8.12 Commercial Driver's License (CDL) Additional Provisions

Some job duties performed by employees require a Commercial Driver License (CDL). In those cases, employees with a CDL are covered by the preceding drug abuse and alcohol misuse provisions, as well as those that follow. These provisions apply ONLY to employees whose job description or duties require a CDL.

The reason for the employer's drug abuse and alcohol miss-use prevention plan is Title 49, Code of Federal Regulations (CFR), Part 382, Subpart A, which requires operators subject to 49 CFR Part 383, and their contractors, to test drivers for prohibited drugs or miss-use of alcohol under the following work-related circumstances:

- Post-accident
 - Reasonable suspension
 - Return-to-duty
 - Follow-up
 - Random
 - Pre-employment
- (a) Drivers Subject to Alcohol Testing – Any applicant or employee who performs a transportation function regulated by Part 383 (Title 49, Code of Federal Regulations), is subject to alcohol testing under this program. The person may be

employed by the City of Nebraska City, be a contractor engaged by the City of Nebraska City, or be employed by such a contractor.

- (b) Definitions - For purposes of the Federal Motor Carrier Safety Administration (FMCSA) portion of this plan, the following definitions apply:

Actual Knowledge: knowledge by the City of Nebraska City that a driver has used alcohol or controlled substances based on the City of Nebraska City's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a Commercial Motor Vehicle (CMV) while under the influence of alcohol or controlled substance use, or an employee's admission of alcohol or controlled substance use, except as provided in Section 382.121 (Title 49, Code of Federal Regulations). Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Section 382.307 (Title 49, Code of Federal Regulations).

Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Concentration (or Content): the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test (EBT) under this part.

Alcohol Use: the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication), containing alcohol.

Commerce:

- (1) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

Commercial Motor Vehicle (CMV): a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds (4,563 kilograms); or,

- (2) Has a gross vehicle weight rating of 26,001 or more pounds (11,794 or more kilograms); or,
- (3) Is designed to transport sixteen (16) or more passengers, including the driver; or,
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act (49, U.S.C. 5103 (b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, sub-part F).

Confirmation (or Confirmatory) Drug Test: a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or Confirmatory) Validity Test: a second test performed on a urine specimen to further support a validity test result.

Confirmed Drug Test: a confirmation test result received by a Medical Review Officer (MRO) from a laboratory.

Consortium/Third Party Administrator (C/TPA): a service agent that provides or coordinates one (1) or more drug and/or alcohol testing services to Department of Transportation (DOT) regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the City of Nebraska City's drug and alcohol testing programs. This term includes, but is not limited to groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (ex. Having a combined random testing pool). C/TPAs are not "employers" for purposes of this part.

Controlled Substances: those substances identified in Section 40.85 of this title (Title 49 Code of Federal Regulations).

Designated Employer Representatives (DER): an individual identified by the City of Nebraska City as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the City of Nebraska City. Service agents cannot serve as DERs.

Disabling Damage: damage, which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) Exclusions:

- (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- (ii) Tire disablement without other damage, even if no spare tire is available.
- (iii) Headlight or taillight damage.
- (iv) Damage to the turn signals, horn, or windshield wipers, which make them inoperative.

Department of Transportation (DOT) Agency: an agency or “operating administration” of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with part 40 of this title (Title 49, Code of Federal Regulations).

Driver: any person who operates a commercial motor vehicle. This includes, but is not limited to: Full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer: a person or entity employing one (1) or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

Licensed Medical Practitioner: a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Performing (a safety-sensitive function): a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive Rate: the number of positive results for random controlled substance tests conducted under this part plus the number of refusals of random controlled substance tests required by this part, divided by the total number of random controlled substance tests conducted under this part plus the number of refusals of random tests required by this part.

Refusal to Submit (to an alcohol or controlled substance test): a driver holding a CDL whom:

- (1) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City of Nebraska City, consistent with applicable DOT agency regulations, after being directed to do so by the City of Nebraska City. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see Section 40.61 (a) of Title 49, Code of Federal Regulations);
- (2) Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before a pre-employment test commences is not deemed to have refused to test (See Section 40.64 (c) of Title 49, Code of Federal Regulations);
- (3) Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test (See Section 40.63 of Title 49, Code of Federal Regulations);
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (See Sections 40.67 (1) and 40.69 (g) of Title 49, Code of Federal Regulations);
- (5) Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (See Section 49.193 (d) (2) of Title 49, Code of Federal Regulations);
- (6) Fails or declines to take a second test the City of Nebraska City or the collector has directed the driver to take;
- (7) Fails to under-go a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Section 40.193 (d) of Title 49 of the Code of Federal Regulations. In the case of a pre-employment drug test, the employee is deemed to have

refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.

- (8) Fails to cooperate with any part of the testing process (ex. refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or
- (9) Is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function: all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

- (1) All time at the City of Nebraska City's or a shipper's plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City of Nebraska City;
- (2) All time inspecting equipment as required by Section 392.7 and 392.8 of this sub-chapter (Title 49, Code of Federal Regulations) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of Section 393.76 of Title 49, Code of Federal Regulations);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and,
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening Test (or initial test):

- (1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.

- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Stand-Down: the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation Rate: the number of drivers (as reported under Section 382.305 of Title 49, Code of Federal Regulations) found during random tests given under this part to have an alcohol concentration of 0.04 or greater, plus the number of drivers who refuse a random test required by this part, divided by the total reported number of drivers in the industry given random alcohol tests under this part plus the total reported number of drivers in the industry who refuse a random test required by this part.

(c) Additional Alcohol Tests Required:

(1) Post-Accident Testing

- (i) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the City of Nebraska City shall test for alcohol for each of the surviving drivers:
 - (A) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or,
 - (B) Who received a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i. Bodily injury to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or,
 - ii. One or more motor vehicles incurring disabling damage a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- (ii) Each employee shall be required to submit to a drug test within 32 hours following the accident. If the test is not administered within 32 hours the City of Nebraska City shall cease attempts to administer a

controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.

- (iii) A driver who is subject to post-accident testing, and who fails to remain readily available for testing, including notifying the City of Nebraska City representative of his/her location, leaves the scene of an accident prior to submission to such test, may be deemed to have refused to submit to testing.
- (iv) The City of Nebraska City shall provide drivers with necessary post-accident information, procedures, and instructions prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements for post-accident testing.
- (v) The results of a breath or blood test for the use of alcohol, or urine test for the use of a controlled substance conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this Section, provided such tests conform to applicable Federal, State, or local requirements, and that the results are obtained by the City of Nebraska City.

(2) Random Testing:

- (i) The minimum annual percentage rate of alcohol testing shall be ten percent (10%) of the average number of CDL drivers. The minimum annual percentage rate for drug testing shall be fifty percent (50%) of the average number of drivers who have a CDL.
- (ii) The Federal Motor Carrier Safety Administration (FMCSA) decides to increase or decrease the minimum annual percentage rate based on the reported violation rate for the entire industry.
- (iii) If a driver is used, but not employed, more than once per year, the Alcohol Program Manager shall verify, every six (6) months, that the driver is participating in an alcohol program that meets DOT requirements.

(3) After Rehabilitation/Return-to-Duty Testing: Follow-up testing schedules shall be completed on a schedule recommended by the program's Substance Abuse Professional (SAP).

(4) Drug Testing Panel: As per DOT regulations, specimens shall be submitted to a five (5)-panel test for the following drugs: Cocaine, Amphetamines, Marijuana, Opiates, and Phencyclidine. These are the same as in Section 8.3(g) of this Personnel Manual.

- (d) Possession of Alcohol: No driver shall be on duty or operate a motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. The City of Nebraska City may not, having actual knowledge that a driver possesses un-manifested alcohol, permit the driver to drive, or continue to drive, a commercial motor vehicle.

Conclusion

All City of Nebraska City employees help provide the services that the citizens of Nebraska City pay for and expect. Professional City management, good community planning, safe and improved streets, enjoyable parks, and Police and Fire protection do not just happen. As you join the City of Nebraska City, we know that you will give your best effort to provide the people of this community with the services that they have come to expect. It is not an easy task, but it is worthwhile.

Everyone with the City of Nebraska City wishes you well on your new job. We hope that your working relationship with the City of Nebraska City is long, pleasant, challenging, and rewarding.

Appendix A

Personnel Manual for Police Department Personnel

The City of Nebraska City Personnel Manual applies to all employees of the City. However, as listed in this Appendix A, certain provisions are different for Police Department employees.

In the event that there is a conflict between any provision contained within the Personnel Manual and any provision contained within this Appendix A, the provision contained within this Appendix A shall control. In the event that there is a conflict between any provision contained within either the Personnel Manual or this Appendix A and any provision contained within the Agreement between the City and the Nebraska City Police Officers Bargaining Unit (“FOP Agreement”), the provision contained within the FOP Agreement shall control. If an employment position is covered by the FOP agreement, the employee should obtain a copy of that FOP agreement and read it.

DEFINITIONS

PROBATION – The employment status of an employee hired into an officer position who has not completed twelve (12) months in the position from the time of his or her certification by the Nebraska Law Enforcement Training Center or a non-sworn employee for twelve (12) months from the date of hire.

Section 1: General Personnel Policies

1.2 Outside Employment

Outside employment by Police Department regular, full-time employees shall be approved by the Chief of Police.

1.5 Use of City-Owned Vehicles

Police Department employees as designated by the Chief of Police may be allowed to use City-owned vehicles as transportation, to and from their home and to their place of work, in addition to use during normal duty hours. Such vehicles shall not be used at any time for other than official City business. These vehicles shall be kept clean and shall be driven in conformance with existing traffic regulations and without bringing discredit upon the City. Any such use may be subject to Internal Revenue Service rules regarding fringe benefits. Any employee who will have opportunity to drive a City-owned vehicle must possess a valid driver’s license and must present the number of such license to the Chief of Police before receiving authorization to use the vehicle.

If a City vehicle is unavailable and with the Chief of Police’s approval, a private vehicle may be used for City-related travel. The owner of the vehicle shall be reimbursed mileage at the rate authorized by the Internal Revenue Service and/or Nebraska State Statute for the shortest route between the starting point and the ending point.

2.1 Procedures

Probationary Period: See Article 6, Fraternal Order of Police Agreement

2.2 Physical Examinations

An appropriate physical examination shall be required of all Police Officers prior to employment by the City of Nebraska City. Should the examination show that the applicant cannot perform the duties of the job the offer of employment will be withdrawn. The expense of the medical examination shall be borne by the City of Nebraska City.

3.5 Pay Computation

Employees of the Police Department work on a pay period that begins Sunday at 12:00 a.m. to the following Saturday at 11:59:59 p.m. It is not unusual for a shift to start in one pay period and end in the next pay period. At these times, the pay calculation shall include the entire shift based on when the shift began.

3.8 Overtime Pay

Police Officers working in excess of forty (40) hours in a seven (7) day pay period, which pay period shall begin Sunday at 12:00 a.m. to the following Saturday at 11:59:59 p.m., shall be paid overtime compensation for those hours worked in excess of forty (40) hours in said seven (7) day pay period. Employees working regular twelve (12) hour shifts shall receive overtime for all hours worked in excess of eighty (80) hours in a fourteen (14) day pay period starting on Sunday at 12:00 a.m. The change from 8-hour or 10-hour shifts to 12-hour shifts, and changes back from 12-hours to 8 or 10-hours, must start on Sunday at 12:00 a.m. and be communicated to the Deputy City Clerk-Treasurer/Benefits Administrator by the person authorized to make that change at the Police Department when the decision is made.

4.3 Holidays

Police Officers, who fall under the FOP contract, and are required to work on any observed holiday, shall receive additional compensation for said holiday worked based on their regular hourly rate. When the holiday falls on a day off for a full-time Police Officer, the Officer will receive pay at their regular hourly pay rate for the number of hours in their usual shift (8, 10 or 12 hours). Police Officers who are required to work during an official holiday and whose shift starts on the holiday, will be compensated for time worked at a total of two and one-half times their regular rate of pay to the end of their shift. Police Department employees not covered by the FOP agreement will be paid for holidays as given in the general Personnel Manual at Section 4.3.

4.9 Jury Duty, Witness Leave, and Court Appearances

(b) Witness Duty

The City recognizes that employees must appear in court for witness duty when subpoenaed to do so. If employees have been subpoenaed or otherwise requested to testify as a witness by the State of Nebraska, Otoe County, or the City of Nebraska City, then they will receive leave with pay for the entire period of witness duty.

Employees will be granted unpaid time off to appear in court as a witness when requested by a party other than the State of Nebraska, Otoe County or City of Nebraska City. Employees may use vacation leave or floating holidays to receive compensation for the period of this absence.

A copy of the subpoena shall be given to the employee's Supervisor or Department Head immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

If a Police Officer is required to appear in court while not on duty, the Police Officer shall be compensated at a rate of time and one-half (assuming they have already met their 40-hour requirement for that week, not including vacation leave, sick leave or floating holiday time). They shall be paid for a minimum of two (2) hours of pay, or the hours worked, whichever is greater.

4.14 Voluntary Leave of Absence without Pay

Requests for leave of absence without pay shall be in writing to include a complete justification for the leave. All such requests must be approved by the City Administrator, except for the Police Department. The Chief of Police shall make the necessary approval of their personnel and advise the Civil Service Commission accordingly.

5.2 Retirement Plans

The retirement system for the regular full-time Police Officers is set out in full in Section 16-1001 through 16-1019 of the R.R.S. Nebraska, 1943 as amended, which requires an employee contribution to the Police Retirement System of 7% and an equal match by the City. The plan has a graduated vesting schedule that starts with 40% after two (2) years of service and the employee will be 100% vested after seven (7) years of employment. The program is mandatory, and Police Officers shall be considered eligible for participation in the retirement program beginning with their first (1st) day as an employee of the City of Nebraska City. The Deputy City Clerk-Treasurer/Benefits Administrator can provide a copy of the retirement plan and/or a copy of the Plan Highlights upon request.

7.1.1 Scientific Testing for Police Department Internal Investigations; Use of Polygraphs; and Providing Financial Disclosure Statements

Any Police Department employee, who is reasonably believed to be involved in a situation which is the subject of an internal investigation, may be ordered by the Chief of Police or a designee to submit to certain examinations or procedures related to the issues being investigated. Any tests or procedures required of an employee during in internal investigation will be conducted in a reasonable time and by individuals trained and qualified to perform such tests. Any examinations or procedures, if administered, shall be completed according to professionally accepted standards. Submission shall be mandatory.

When identification of the employee is an issue, the employee may be required to submit to DNA tests, lineups, being photographed, photographic lineups, fingerprinting, voice printing, or handwriting samples.

- (a) Upon prior approval by the Chief of Police or a designee, an employee who is the subject of an internal investigation may be ordered to submit to a medical examination, which is specifically directed and narrowly related to such investigation. Any such examinations or procedures, if administered, shall be completed within a reasonable time and according to professionally accepted standards. Submission shall be mandatory.
- (b) Results of any test performed on the body fluid or breath specimen of an employee, as directed by the Chief of Police or designee, to determine the presence of drugs or alcohol shall not be used to deny any continued employment or in any disciplinary or administrative action unless the following requirements are met:
 - (1) A positive finding of drugs by preliminary screening procedures has been subsequently confirmed by Gas Chromatography-Mass Spectrometry (GC/MS) or other scientific testing technique required by law.
 - (2) A positive finding of alcohol by preliminary screening procedures is subsequently confirmed by either:
 - (i) Gas chromatography with a flame ionization detector or other scientific testing technique as required by law; or,
 - (ii) A breath-testing device operated by a breath-testing device operator.
- (c) When truthfulness is an issue or needs to be verified, the employee may be required to submit to a polygraph. The following guidelines along with policy, contract (when applicable), and State Law, shall be adhered to when administering a polygraph in conjunction with an internal investigation:

- (1) The polygraph shall be used only in allegations of serious misconduct or as directed by the Office of the Chief of Police.
- (2) All other means shall be exhausted to either confirm or refute any alleged misconduct prior to requesting or ordering a complainant, witness, or accused employee to submit to a polygraph.
- (3) Upon prior approval by the Chief of Police or a designee, the accused employee may be requested to voluntarily submit to a polygraph.
- (4) Upon prior approval by the Office of the Chief of Police, an employee may be ordered to submit to a polygraph.
 - (i) The order shall be in writing.
 - (ii) The order shall specify the date, time, and location of the examination.
 - (iii) The order shall be signed by the Chief of Police or the Chief of Police's designee.
- (d) The investigator shall make available to the examiner any information necessary to conduct a proper and thorough examination.
- (e) Polygraph examinations conducted during the course of an internal investigation shall be in the presence of at least two examiners. The examiners shall be:
 - (1) Selected by mutual agreement of the Chief of Police and the employee.
 - (2) Licensed in the jurisdiction in which the test will be administered.
 - (3) Considered the internal investigator during the time the examination is being conducted.
- (f) Prior to administering a polygraph examination or pre-test interviews with an employee of the Nebraska City Police Department, the Garrity Warnings will be given to the employee. No polygraph release or waiver will be obtained from an employee ordered to submit to the examination.
- (g) At the conclusion of the examination, all notes, notices, reports, recordings, charts, forms, and correspondence dealing with the internal investigation shall be placed in the case file for storage. No copies shall be retained by the examiner.
- (h) In conformance with policy, the results of any polygraph examination used in an internal investigation shall be reported only to the Chief of Police or the Chief of Police's designee.

- (i) If further unrelated misconduct is discovered during the course of the polygraph, no further questioning or examination shall be done in regard to the further misconduct without the approval of the Chief of Police.
- (j) At the conclusion of any polygraph examination, when the person being examined is determined to be deceptive, the examiner and/or the internal investigator shall:
 - (1) Advise the person being examined of the results.
 - (2) Advise the person being examined, if an employee, that they are still under Garrity.
 - (3) Question the subject about the results of the polygraph to allow the subject to explain the reason for the deception.
- (k) When financial matters are at issue and need to be verified, the employee may be required to provide financial disclosure statements which are specifically directed and narrowly related to such investigation.

7.4 Reduction in Pay

The Chief of Police may discipline Police Department employees through a reduction in pay, provided such reduction does not result in a salary below the minimum of their job classification. This form of discipline shall be used when suspension is not considered severe enough, but the value of the employee to the Department does not warrant demotion. Reduction in pay by the Chief of Police may be reviewed by the City Council at their discretion.

7.8 Grievance Procedure

- (d) Disciplinary procedures for the Police Department shall conform to those established by the Civil Service Commission.

8.10 Consequences of a Failed Drug Test

Upon failure of a drug test by a sworn Police Officer, said Police Officer will be terminated immediately.

Appendix B

Personnel Manual for Fire Department Personnel

The City of Nebraska City Personnel Manual applies to all employees of the City. However, as listed in this Appendix B, certain provisions are different for Fire Department employees.

In the event that there is a conflict between any provision contained within the Personnel Manual and any provision contained within this Appendix B, the provision contained within this Appendix B shall control.

1.2 Outside Employment

Outside employment by Fire Department regular, full-time employees shall be approved by the Fire Chief.

2.2 Physical Examinations

An appropriate physical fitness test and medical examination shall be required of all Fire Department employees prior to employment by the City of Nebraska City. Should the examination show that the applicant cannot perform the duties of the job, the offer of employment will be withdrawn. The expense of the medical examination shall be borne by the City of Nebraska City.

3.5 Pay Computation

Fire Department employees are scheduled and paid on a 24-hour per day basis. Fire Department employees shall receive regular hourly pay when called back because of vacation, sick leave, or floating holiday of a regularly scheduled Fire Department employee and when called back for responding to a fire call at the order of the Fire Chief.

When a shift starts in one standard work week and ends in the next standard work week the pay calculation will include the entire shift and will be paid in the pay period when the shift began.

3.8 Overtime Pay

- (d) When overtime work is shown on the time sheet, the overtime hours are paid at one and one-half times the regular rate per hour for those employees working in excess of 168 hours per a 14-day work period. Federal law does not require the payment of overtime to full time fire department employees in a small department of less than five employees.
- (f) When a nonexempt employee is un-scheduled and called to work as a responder (call-in) to an emergency, time shall be shown on the time sheets with the employee guaranteed a minimum of two (2) hours of pay for the call-in work. An

emergency is defined as an unforeseen situation requiring services be performed by City employees in order to reduce or eliminate damage or injury. The rate paid to Fire Department personnel is the regular hourly rate of pay.

4.2 Hours of Work

Paid Fire Department employees shall work on the three (3) platoon system, twenty-four (24) hours on duty and forty-eight (48) hours off-duty as directed by their supervisor due to staffing issues.

4.3 Holidays

The City also gives full-time Fire Department employees one 24-hour floating holiday. Employees may use their floating holidays any time during the calendar year subject to the prior approval of the employee's Department Head. New employees are entitled to floating holidays after sixty (60) days of continuous employment with the City of Nebraska City. The floating holidays must be used during the calendar year or be forfeited. A Department will not be allowed to close for a day declaring that all employees are taking a floating holiday. Upon termination of employment, floating holiday hours will be paid at the regular pay rate.

Each Fire Department employee shall receive paid time off of eight (8) hours for any official holiday that occurs during the pay period. Fire Department employees who work during an official holiday shall be compensated for the full shift time worked at two times their regular rate of pay when the shift starts on a holiday. When the shift ends on a holiday, the Fire Department employee will be paid the regular rate of pay before the holiday then receive two times the regular rate of pay for the hours worked during the holiday, starting at midnight of the holiday. Holidays are 24 hours long starting at 12:00 midnight.

4.4 Vacation Leave

(b) Vacation time will accumulate and be credited to the Fire Department employee bi-weekly as follows, unless otherwise specified:

<u>Years of Service</u>	<u>Bi-weekly Accrual Rate</u>	<u>Annual Accrual Total</u>
0-5	4.62 hours per pay period	120.12 hours annually
5-10	5.54 hours per pay period	144.04 hours annually
10-15	6.46 hours per pay period	160.16 hours annually
15-20	7.38 hours per pay period	191.88 hours annually
20+	9.23 hours per pay period	239.98 hours annually

4.6 Funeral Leave

Paid full-time Fire Department employees shall receive one, twenty-four (24) hour day for funeral leave as described in Section 4.6 of the General Personnel Manual.

4.14 Voluntary Leave of Absence without Pay

- (c) Requests for leave of absence without pay shall be in writing to include a complete justification for the leave. All such requests must be approved by the City Administrator, with the exception of Fire Department personnel. The Fire Chief shall make the necessary approval of their personnel and advise the Civil Service Commission accordingly.

5.2 Retirement Plans

The retirement system for paid Fire Department employees is set out in full in Section 16-1020 to 16-1042 of the R.R.S. Nebraska, 1943, as amended, which requires an employee contribution of 7% and a contribution by the City of 14% of each participant's salary. The plan has a graduated vesting schedule that starts with 20% after three (3) years of service and the employee will be 100% vested after seven (7) years of employment with the City. Participation is mandatory and Fire Department employees shall be considered eligible for participation in the retirement program beginning with their first (1st) day as an employee of the City of Nebraska City. The Deputy City Clerk-Treasurer/Benefits Administrator can provide a copy of the retirement plan and/or a copy of the Plan Highlights upon request.

5.3 Social Security Benefits

Fire Department employees are excluded from the federal Social Security Program.

7.8 Grievance Procedure

Disciplinary procedures for the Fire Department shall conform to procedures established by the Civil Service Commission.

Appendix C

Personnel Manual for Rescue Department Personnel

The City of Nebraska City Personnel Manual applies to all employees of the City. However, as listed in this Appendix C, certain provisions are different for Fire Department employees.

In the event that there is a conflict between any provision contained within the Personnel Manual and any provision contained within this Appendix C, the provision contained within this Appendix C shall control.

1.2 Outside Employment

Outside employment by Rescue Department full-time employees shall be approved by the Rescue Manager.

2.2 Physical Examinations

An appropriate physical fitness test and medical examination shall be required of all Fire Department employees prior to employment by the City of Nebraska City. Should the examination show that the applicant cannot perform the duties of the job, the offer of employment will be withdrawn. The expense of the medical examination shall be borne by the City of Nebraska City.

3.5 Pay Computation

Rescue Department employees are scheduled and paid on a 24-hour per day basis. Full time Rescue employees shall receive regular hourly pay when called back because of vacation, sick leave, or floating holiday of a regularly scheduled Rescue employee.

When a shift starts in one standard work week and ends in the next standard work week the pay calculation will include the entire shift and will be paid in the pay period when the shift began.

As given in Sec. 4.2, Rescue Department employees are “on-call” as scheduled. On-call hours are paid on a per hour basis as noted on the Pay Step Plan. On-call or call-back hours are only paid the hourly rate based on the actual hours the employee is on-call. Earned benefits such as vacation hours, and other miscellaneous hours are not available to substitute for on-call hours. On-call hours paid are not worked hours in the calculation of overtime. During periods when an employee is on-call, said employee is required to main geographic proximity close enough to respond to any requests for assistance within a five (5) minute timeframe.

Employees shall receive a stipend when called back to respond to a 911 call or ambulance transfer.

Part-time Rescue Department employees are paid an hourly rate within the ranges set out in the approved Pay Step Plan for the hours worked. Part-time Rescue employees also receive on-call pay as given above and receive a stipend when called back to respond to a 911 call or ambulance transfer.

4.2 Hours of Work

Paid full-time Rescue Department employees shall work one twenty-four (24) hour shift and be considered “on-call” as scheduled.

4.3 Holidays

The City also gives each full-time Rescue Department employee one 24-hour floating holiday. Employees may use their floating holidays any time during the calendar year subject to the prior approval of the employee’s Department Head. New employees are entitled to floating holidays after sixty (60) days of continuous employment with the City of Nebraska City. The floating holidays must be used during the calendar year or be forfeited. A Department will not be allowed to close for a day declaring that all employees are taking a floating holiday. Upon termination of employment, floating holiday hours will be paid at the regular pay rate.

Each Rescue Department full time employee shall receive eight (8) hours of paid time off for any official holiday that occurs during the pay period. Rescue Department full-time employees who work during an official holiday shall be compensated for the time worked at two times their regular rate of pay when the shift starts on a holiday. When the shift ends on a holiday, the Rescue Department employee will be paid the regular rate of pay before the holiday, then receive two times the regular rate of pay for the hours worked during the holiday, starting at midnight of the holiday. Holidays are 24 hours long starting at 12:00 midnight.

For part-time Rescue employees who work on a holiday, they receive two times the regular rate of pay for the hours worked during the actual holiday.

4.4 Vacation Leave

(b) Vacation time will accumulate and be credited to the Fire Department employee bi-weekly as follows, unless otherwise specified:

<u>Years of Service</u>	<u>Bi-weekly Accrual Rate</u>	<u>Annual Accrual Total</u>
0-5	4.62 hours per pay period	120.12 hours annually
5-10	5.54 hours per pay period	144.04 hours annually
10-15	6.46 hours per pay period	160.16 hours annually
15-20	7.38 hours per pay period	191.88 hours annually
20+	9.23 hours per pay period	239.98 hours annually

4.6 Funeral Leave

Full-time Rescue Department employees shall receive one, twenty-four (24) hour day for funeral leave as described in Section 4.6 of the General Personnel Manual.