

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 7, 2023 AGENDA

Subject:	Type:	Submitted By:
PERSONNEL MANUAL UPDATE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	WENDY LOWERY HUMAN RESOURCES DIRECTOR

SYNOPSIS

A resolution has been prepared to update Section VII of the City's Personnel Manual, to modify the overtime hours calculation to include hours worked, holiday, vacation, and personal leave hours in excess of 40 hours effective March 3, 2023 payroll.

FISCAL IMPACT

Utilizing the FY22 numbers for overtime calculation, staff projects an annual impact of approximately \$2,000.

RECOMMENDATION

Approval.

BACKGROUND

This section of the Personnel Manual defines the overtime calculation to include only those of worked hours. This has been updated to allow vacation and personal leave hours to be included in the overtime calculation, which mirrors that of the FOP contract with the exception of including personal leave, instead of sick leave. This change better aligns both contracted and non-contracted employees.

The 3% increase edit is included to mirror that of the current Council Policy Statement Employee Compensation – Pay for Performance Section 4 which states “upon successful completion of their probationary period, employees may receive a 3% increase. Subsequent increases will follow the annual performance appraisal process.”

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AMENDING SECTION 7 OF THE CITY PERSONNEL POLICY AND PROCEDURES MANUAL REGARDING OVERTIME HOURS CALCULATION.

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

WHEREAS, it is being proposed that Subsection 7.10 in the manual regarding overtime calculation be amended to include vacation and personal leave hours; and

WHEREAS, it is the desire of the City Council to amend Section 7 of the Personnel Policy and Procedures Manual to incorporate the change to the above listed subsection.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the existing La Vista City Personnel Policy and Procedures Manual adopted on December 20, 2005, is hereby amended to reflect the proposed change to Subsection 7.10 as submitted at the City Council meeting.

PASSED AND APPROVED THIS 7TH DAY OF FEBRUARY 2023.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

SECTION VII: THE COMPENSATION PLAN

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

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

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

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

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

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

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

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

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

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

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

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

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

7.6 **Pay Day:** Employees shall be paid on a bi-weekly basis via direct deposit of funds into the account(s) specified by the employee. Direct deposit of funds will be made on the Friday following the end of the pay period. When payday falls on a banking holiday, the direct deposit will be issued the day prior to the holiday.

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

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

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

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

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

- (1) If the employee is placed on leave without pay for personal reasons.
- (2) If the employee is ill or injured and accrued and otherwise applicable leave is not used by the employee because:
 - (a) Permission for its use has not been sought by the employee or has been sought and denied;
 - (b) Accrued leave has been exhausted; or
 - (c) The employee chooses to use leave without pay.
- (3) If the employee is absent without prior permission (absent without leave).

(4) If the employee begins working later than the beginning of the work week during his/her initial week of employment or if the employee ceases working sooner than the end of the work week during his/her terminal week of employment.

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

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

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

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

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

(1) If chosen by the employee, accrual of Comp Time Leave will be allowed at the rate of one and one-half times the number of overtime hours worked. To choose Comp Time Leave, the employee must clearly indicate on his/her time card that the overtime hours worked are to be compensated in Comp Time Leave. If there is no such clear indication on the employee's time card, the overtime hours worked will be compensated in pay at the employee's overtime rate.

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- (2) An employee will be allowed to use accrued and unused Comp Time Leave within a reasonable time after the employee requests to use such leave if the requested use of the time off does not unduly disrupt the operations of the City or the Department. This will be interpreted by the City, and the employees to mean:
 - (a) Comp Time Leave may be taken only with the approval of the Department Head and only if the requested use of the time off would not unduly disrupt the operations of the City or the Department. Factors to be considered in this regard include (1) the normal schedule of work, (2) anticipated peak workloads based on past experience, (3) emergency requirements for staff and services, and (4) the availability of qualified substitute staff.
 - (b) Comp Time Leave shall not be taken in increments of less than one hour.
 - (c) ~~Use of Comp Time Leave in increments of less than four hours must be approved at least forty eight (48) hours in advance and may be taken only at the beginning or at the end of the employee's work day~~
 - (d) Employees will be allowed to use accrued and unused Comp Time Leave during the initial probationary period.
- (3) Comp Time Leave may not be accrued beyond a total of seventy-five (75) Comp Time Leave hours during any fiscal year (i.e., the Comp Time Leave which would be awarded for 50 overtime hours worked). If an employee has seventy-five (75) hours of Comp Time Leave accrued and unused, no additional Comp Time Leave hours may be ~~accrued~~accrued, and overtime hours worked by the employee will be compensated in overtime pay.
- (4) An employee may request to be paid for accrued Comp Time Leave at any time by submitting a request in writing to the Payroll Department. If the request is made at least three (3) business days prior to preparation of the next payroll, payment will be made by the City with the next regular payroll after the request is made. Whenever the City pays an employee for Comp Time Leave, payment will be at the employee's then current regular hourly rate of pay; provided, however, that when an employee's employment terminates, payment for accrued Comp Time Leave shall be made at the greater of (a) the employee's final regular hourly rate of pay or (b) the average regular hourly rate received by the employee during the last three years of employment.
- (5) Whenever an employee uses any accrued Comp Time Leave, the use shall be reported by the employee on a *Request for Time Off* form in the category designated.
- (6) At the end of each fiscal year, any Comp Time Leave accrued but not used by the end of the final full pay period in the fiscal year (September), will be paid by the City to the employee and the employee's accrued Comp Time Leave balance will be reduced to zero.
- (7) The Department Head may, by not later than the 5th day of any calendar month, request an employee to schedule with the scheduling officer the employee's use of a designated number of hours of accrued Comp Time Leave within a calendar month which begins after the date of the request (EXAMPLE: By January 5, the Department Head may request the employee to schedule

use by the employee of X hours of accrued Comp Time Leave during the following month of February or during the following month of March or during the following months of February and/or March, and so forth.) If the employee has not, within the ~~two-week~~^{two-week} period following the date of the request, arranged for the scheduling of the requested use of the Comp Time Leave, the Department Head may schedule the employee to use the Comp Time Leave as requested.

7.12 **Call Out Time:** A non-exempt employee shall be entitled to receive wages at one and one-half times the regular rate of pay when called out to work during off-duty hours. In no case shall such an employee receive less than two hours pay at one and one-half times the employee's regular rate for each call out. For any call out which requires in excess of two hours of work, such employee shall be reimbursed at time and one-half for the actual minutes worked; provided, that after the first two hours of call out work, any portion of an hour worked in excess of 15 minutes shall be considered a full hour. Inasmuch as all call out time of such employees is compensated at a minimum of one and one-half times the regular rate of compensation, the call out time actually worked shall not be re-counted in determining time worked in the workweek for overtime pay purposes. Time worked beyond the end of the employee's normal quitting time, and time worked prior to the employee's normal starting time by an employee who is called in or directed to report early for service which continues into the employee's scheduled normal work hours, shall not be considered call out time under this paragraph, as it is the intent hereby to provide extra compensation only when the employee is specially called out to perform service which is not merely part of a lengthened work day. This paragraph shall not apply to employees covered by a labor agreement with the City; employees covered by such an agreement shall be paid call out pay as provided in the labor agreement.

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

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

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

~~issued, but not expended by the employee, volunteer or MVFD for actual food costs, shall be returned to the City within 15 days after completion of the travel.~~

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

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

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

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

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

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

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

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

(2) If the employee's rate of pay in the higher position was within the pay range established for the position to which the employee is demoted, the employee's rate of pay shall remain unchanged.

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

7.18 **Payment of Accrued Wages, Vacation Leave and Sick Leave Upon Death of an Employee:** Upon the death of an employee, his/her accrued wages, and any accrued but unused vacation leave, shall be paid to his/her surviving spouse unless the employee has previously filed a written designation with the City Clerk that such payment shall be made to the employee's estate rather than to the employee's surviving spouse. If the employee leaves no surviving spouse, such payment shall be made to the employee's estate. No payment shall be made for any accrued but unused sick leave upon the death of an employee, except respecting (1) a regular full-time employee who has completed twenty or more years of service with the City and who dies while an active employee of the City, and (2) a regular full-time employee who, after October 1, 1999, sustains an injury which is compensable by the City or the City's insurer under the Nebraska Worker's Compensation Act and such injury causes the death of the employee within two years after the date of injury. Any payment made pursuant to the preceding sentence shall be made to the surviving spouse of the employee; provided, such payment shall be made to the employee's estate if the employee leaves no surviving spouse or if, prior to his or her death, the employee has filed with the City Clerk a written designation of his or her estate as beneficiary of such payment.

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

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

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

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

- (1) An employee who voluntarily retires after twenty or more years of service with the City and has no disciplinary action pending against him/her at the time of his/her retirement shall be paid for his/her accrued and unused sick leave.
- (2) An employee who began his/her employment with the City on or after January 1, 2005, or who began his/her employment prior to January 1, 2005 but elected to waive his/her eligibility for

emergency sick leave on or before January 31, 2005, subject to any restrictions established in Section VIII, shall be paid for any unused sick leave according to the following sliding schedule:

- (a) After 10 years of employment – 100% of sick leave hours accrued over 660 hours;
- (b) After 15 years of employment – 100% of sick leave hours accrued over 440 hours;
- (c) After 20 years of employment – 100% of sick leave hours accrued up to 880 hours.

7.22 Pay During National Guard or Reserve Active Duty:

- (1) **State of Nebraska Non-Emergency Active Service:** All employees who are active members of the National Guard or other military reserve component (Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve or Coast Guard Reserve) shall be entitled to a military leave of absence from their respective City duties at their full regular City pay or compensation when employed with or without pay on a non-emergency basis under the orders or authorization of competent authority in the active service of the state or of the United States, for not to exceed the Limitations set forth in this paragraph. Such military leave of absence may be taken in hourly increments and shall be in addition to the employee's regular annual leave. Limitations: (1) A City employee who normally works or is normally scheduled to work 120 hours or more in three consecutive weeks shall be eligible to receive such a military leave of absence of up to 120 hours each fiscal year. (2) A City employee who normally works or is normally scheduled to work less than 120 hours in three consecutive weeks shall be eligible to receive such a military leave of absence each fiscal year equal to the number of hours he or she normally works or would normally be scheduled to work, whichever is greater, in three consecutive weeks. See also, subsection 8.1(5) of this Manual.
- (2) **State of Nebraska Emergency Active Service:** If such an employee is ordered into active service of the state pursuant to a declaration of an emergency by the Governor of Nebraska, the employee shall be entitled to a state of emergency leave of absence until the employee is released from active service of the state by competent authority. During a state of emergency leave of absence because of the call of the Governor, the employee shall receive his or her normal City salary or compensation less the state active duty base pay he or she receives in the active service of the state. Such an employee may alternatively choose to receive his or her full City salary and to remit his or her military compensation to the City. See also, subsection 8.1(5) of this Manual.

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

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

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

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

7.25 Budget-Required Furloughs

- (1) This Section 7.26 applies to and regarding all City employees.
- (2) As used in this Section 7.26, the terms “budget-required furlough” and “furlough” mean a period or periods of time during which, due to budget restriction or constraint or other need of the City to reduce expenditures, the City temporarily does not schedule an employee to work or to perform any employment service for the City, or temporarily relieves an employee from duty, and for which period or periods of time the employee will not be and is not compensated by the City. The terms “budget-required furlough” and “furlough” do not include a reduction in the City’s workforce that is intended to be permanent or for an indefinite period of time.
- (3) The City Administrator may impose furloughs on City employees for reasons of budget restriction or constraint, or other need of the City to reduce expenditures. The City Administrator will provide notification to the City Council prior to the imposition of any furloughs.
- (4) In all instances, furloughs shall be scheduled so as to minimize any undue disruption or delays in City operations or the provision of City services.
- (5) Furloughs may be imposed on groups of employees or on individual employees at the same time or at different times.
- (6) Furloughs imposed on employees within a City department shall be imposed on and distributed among the employees within that department so that during a fiscal year, the burden and impact of such furloughs will be approximately evenly borne, to the extent reasonable and practicable, by all of the employees within that department or by all of the employees of the same classification or classifications within that department. This subparagraph shall not apply, however, if the City Administrator determines that so distributing required furloughs among employees would be contrary to the needs of the City for services of employees having particular skills or would unduly disrupt or delay City operations or the provision of City services. In that connection, the City Administrator may exempt designated employees from furlough in order to maintain City services or for other necessary business reasons.

- (7) A furlough may be imposed in a single continuous segment of time (such as sixteen hours consisting of two consecutive workdays) or may be spread over a longer period of time (such as sixteen hours consisting of two hours in each of eight different workweeks), as the City Administrator deems appropriate. In that connection, the City Administrator will endeavor to minimize or diffuse the economic impact of a furlough on an employee to the extent that the City Administrator determines such impact may be minimized or diffused without unduly disrupting or delaying City operations or the provision of City services.
- (8) No furlough or furloughs imposed on any individual employee under this Section 7.26 may exceed, in total, eighty (80) hours of furlough during any fiscal year of the City, without the express approval of the City Council.
- (9) At the end of any period of furlough, the employee shall return to the position held by the employee prior to the furlough. Failure to promptly report and return to work at the end of a furlough period may result in disciplinary action, up to and including dismissal from employment.
- (10) A furlough shall have no effect on performance evaluations, pay rate increases, City contributions to employee insurance during a furlough period, sick leave accruals or vacation leave accruals during a furlough period. A period of furlough shall not constitute a break in service.
- (11) A furlough is not a disciplinary action. The City Administrator may impose furloughs on City employees only for reasons of budget restriction or constraint, or other need of the City to reduce expenditures. Disciplinary matters shall be addressed under other applicable provisions of this Personnel Manual or under applicable civil service laws and regulations, and not under this Section 7.26.
- (12) This Section 7.26 is intended to comply with the Fair Labor Standards Act regulation, 29 C.F.R. §541.5d (b), which permits furloughs for budgetary reasons without affecting the exempt status of certain salaried employees except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

7.26 Reduction in Force Policy for Police Department Employees.

- (1) As used in this Policy, "reduction in force" and "reduction" shall mean the implementation of a decision of the Mayor and City Council that the need exists to reduce, within the Police Department of the City, the number of full-time employees ("Employees") or the number of non-vacant full-time employment positions ("Employment Positions") on a permanent basis or for an indefinite period of time.
- (2) The City Administrator shall make a preliminary determination that a reduction in force is necessary and of the ranks or pay grades of the Employees or Employment Positions to be reduced, as well as the number of Employees to be affected by the proposed reduction.

- (3) The City Administrator shall present the proposed reduction to the Mayor and City Council, with an explanation of the reasons for the proposed reduction as well as a recommendation regarding the ranks or pay grades of the Employees or Employment Positions proposed to be reduced and the numbers of Employees proposed to be reduced.
- (4) The Mayor and City Council will then approve, reject or modify the City Administrator's proposed reduction and recommendations, and adopt an appropriate resolution or motion regarding the proposed reduction.
- (5) In accordance with the resolution or motion adopted by the Mayor and City Council, the City Administrator shall select any Employees to be reduced. In selecting such Employees, the City Administrator shall consult with the Chief of Police, and the City Administrator and Chief of Police shall consider such selection factors as they deem appropriate. However, in accordance with the provisions of Nebraska statutes and of the City Code of Ordinances, the City Administrator and Chief of Police must at a minimum consider each of the following factors, giving to the various factors such weight as the City Administrator and Chief of Police consider prudent and advisable under the circumstances:
 - (A) The multiple job skills recently or currently being performed by the Employee;
 - (B) The knowledge, skills, and abilities of the Employee;
 - (C) The performance appraisal of the Employee, including any recent or pending disciplinary actions involving the Employee;
 - (D) The employment policies and staffing needs of the Police Department together with contracts, ordinances, and statutes related thereto;
 - (E) Required federal, state, or local certifications or licenses; and
 - (F) Seniority.
- (6) The City Administrator shall notify each Employee who is to be affected by a reduction, as well as any certified or recognized collective bargaining representative of such Employee, at least thirty (30) calendar days before the proposed effective date of the reduction.
- (7) An Employee reduced in force shall be considered to have been released from service with honor and shall upon request be provided a letter to that effect.
- (8) A reduced Employee shall have a preferred right of re-appointment to a full-time position of employment within the Police Department that becomes vacant or is newly created within two (2) years after the effective date of the reduction of the Employee

(“Recall Position”). This right of recall shall be limited to Recall Positions for which the Employee is qualified, as determined by:

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

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

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

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

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

(10) The following procedure shall be used in recalling qualified Employees to Recall Positions within the two (2) year period during which they have preferred rights:

- (A) If the City Administrator determines that a Recall Position for which a reduced Employee has a right of recall is or will become available, the City Administrator shall notify the reduced Employee in writing of the availability of the Recall Position and its commencement date. The City Administrator shall further notify the reduced Employee that the reduced Employee has ten (10) calendar days from the date of the City Administrator’s notice in which to communicate to the City Administrator the reduced Employee’s acceptance of the offered Recall Position. The City Administrator’s notice will be deemed to have been given on personal delivery to the Employee, or on the mailing of the notice to the reduced Employee by certified mail at the most recent mailing address shown for the reduced Employee in the reduced Employee’s City personnel file. Reduced Employees shall

have the responsibility of keeping the City Clerk informed of any change of mailing address.

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

7.27 Voluntary Dock Day Program

- (1) This Section 7.28 applies to and regarding all City employees. It is established pursuant to principles of public accountability, which require that public funds not be used to pay an employee for time not worked except as provided under some form of approved or collectively negotiated paid leave benefit.
- (2) Policy and Effective Dates: It is the policy of the City of La Vista to allow for a Voluntary Dock Day Program (VDDP) to reduce and/or defer payroll costs on a short-term basis. The purpose of the VDDP is to help reduce City expenditures during periods of challenging budget shortfalls, yet maintain critical City services at acceptable levels. The VDDP offers employees the opportunity to pursue educational goals, address family issues or handle other personal needs that require time off from work, without pay but without loss of health benefits or seniority. The VDDP is available to all full-time employees, irrespective of the

funding sources for their positions. Department heads may determine, however, which of the two VDDP Options to allow, based on the operational needs of their departments.

(3) Eligibility: The VDDP is available to all full-time regular employees of the City who have completed at least six (6) full pay periods of employment and who request to participate, subject to approval of their department heads. Part-time, seasonal and temporary employees are not eligible to participate in the VDDP. In addition, employees must be on a paid status at the time of enrollment and on the workday prior to first taking time off under the VDDP. Employees must also ensure that they have performed sufficient compensable work to have adequate wages being paid to them to cover their normal payroll deductions and benefit contribution amounts, as applicable.

(4) Voluntary Time Off:

(a) VDDP Options: There are two VDDP Options for taking voluntary dock leave: (1) An employee's scheduled work hours or workdays may be reduced on a biweekly basis, with a corresponding reduction in pay, or (2) a block of time off may be scheduled as unpaid leave.

The employee and department head will mutually determine the amount of time reduction and the scheduling required (i.e., the reduced work day, work week or scheduled block of time off).

(b) Employees participating in the VDDP will be allowed continuation of their employee benefits while on voluntary dock leave. They will retain their full-time work status for benefit purposes. Voluntary dock days will have no effect on the following benefits:

(1) Flexible benefit allowance;

(2) Medical/dental/vision/life insurance eligibility and coverage;

(3) Retirement eligibility; and

(4) Rate of other pay that is included in the compensation base for pension calculation, except to the extent that such pay is based on the actual number of hours worked. This includes FTO pay, educational incentive pay, etc.

(c) Voluntary dock leave will not cause a break in service, or a reduction in an employee's service credit for the purposes of seniority, probationary period, retirement, leave accumulation, or anniversary date/merit salary adjustment. VDDP participants who take a block of time off will not lose their seniority and vesting status for the voluntary dock leave period, or any leave accrual(s) during the voluntary dock leave period.

(e) Payroll taxes and withholdings will be calculated based on the actual hours worked and the actual pay and benefits received. Eligibility for overtime during the voluntary dock

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leave period will be calculated based on actual hours worked. Voluntary dock leave hours will not count as “hours worked” for overtime pay purposes.

(f) Voluntary dock leave must be taken in increments of full hours per pay period. For a block of time taken as voluntary dock leave, the leave must be taken in full days. Total voluntary dock leave shall not exceed forty (40) hours in any fiscal year for any single employee.

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

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

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

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

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

(7) **Payroll Contributions/Deductions:** Participation in the VDDP will reduce the employees’ immediate take home pay. In determining the amount of time off to request, an employee must ensure that he or she has performed sufficient compensable work to be receiving adequate wages from the City to cover the employee’s usual required payroll deductions (such as tax withholdings, credit union deposits, deferred compensation contributions and loan payments, union dues, life insurance, dependent care and health care Flexible Spending Accounts, and so forth).

(8) **Furlough Credits:** If, after the employee has taken voluntary dock leave during a fiscal year, the City Administrator imposes a budget-required furlough under section 7.26 for that same fiscal year, then that employee shall be allowed a credit against the imposed furlough period equivalent to the voluntary dock leave earlier taken by the employee. To the extent of the voluntary dock leave earlier taken, the employee may continue to work during the furlough

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period (if the employee's department/building is open) or the employee may use accrued vacation, holiday, or compensatory time to receive pay for that credited portion of the furlough period.

(9) Cost Savings to City/Advantages to Employees: The savings to the City from the VDDP include direct salary savings, reduction in FICA/Medicare taxes and reduction in pension contributions in the current fiscal year (both employer portion and employee pick-up). The advantage to the employee is a reduction in work hours to accomplish other personal goals, without loss of employee benefits.

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