

# **CITY OF BENNET, NEBRASKA**

## **PERSONNEL POLICIES AND PROCEDURES**

Dated: \_\_\_\_\_

Adopted by:  
RES.#2002-11.1  
Revised by:  
RES.#2005-12.2  
RES.#2011-7.2  
RES.#2011-12.2  
Addendum #1/RES.#2011-6.1  
RES.#2012-8.2  
RES.#2017-11.4  
Revised: 11-13-17  
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**I.**  
**INTRODUCTION**

- A. Purpose. These Personnel Policies and Procedures are established to:
1. Promote efficiency in the municipal service;
  2. To set forth certain general expectations of the City regarding employees of the City;
  3. To articulate the leave policies of the City and other employee benefits;
  4. To provide an understanding between the City and its employees relating to overtime and compensatory time off
- B. Applicability. Personnel Policies and Procedures shall apply to all employees except:
1. Elected officials;
  2. Appointed members of Boards and Commissions;
  3. Persons employed by contract;
  4. Volunteers or other personnel appointed to serve without pay.
- C. Administration. The City Council shall administer the City personnel program. It shall have the sole authority to authorize new positions, to approve salary levels, and to hire and terminate employees and will provide annual performance evaluations for all employees. The City Council may delegate specific duties by an official action duly recorded in the minutes.
- D. At-Will Employment. All employees of the City are at-will employees and serve at the pleasure of the City Council. Nothing herein is meant to, nor shall it be construed, to create a promise of employment between the City and any employee or to give any employee a property right in continued employment with the City.

**II.**  
**EMPLOYEE CLASSIFICATIONS**

- A. Salaried Employee. A salaried employee shall be a full-time employee who is compensated by a fixed wage working a minimum of 40 hours per week.
- B. Permanent Full-Time Employee (Includes Appointed Officials). A full-time employee shall be a person employed in a position that normally requires 30 hours or more per work week.
- C. Permanent Part-Time Employee. A permanent part-time employee shall be a person employed in a position which normally requires less than 30 hours work per week.
- D. Temporary Part-Time Employee. A temporary part-time employee shall be an employee who is hired for a limited period of time that requires less than 30 hours work per week.

**III.**  
**EQUAL OPPORTUNITY STATEMENT; VETERAN'S PREFERENCE; AMERICANS WITH DISABILITIES ACT**

The City of Bennet endorses the philosophy of equal opportunity. Applicants or employees may not be discriminated for or against on the basis of race, color, religion, sex, disability, national origin, marital status, or age. Applicants or employees capable of performing the duties of a class or position may not be discriminated against because of a physical handicap.

A preference shall be given to applicants who are preference eligibles as required by Neb. Rev. Stat. §§ 48-225 to 48-231.

The City will not discriminate against a qualified individual with a disability in regard to the job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

The City shall make reasonable accommodations to a known physical or mental disability of an otherwise qualified applicant or employee unless the accommodation imposes an undue hardship upon the business operations of the City.

Employees requesting reasonable accommodations shall provide written communication of the disability and requested accommodation to the employee's immediate supervisor prior to an accommodation being provided. A copy of the written communication shall be placed in the employee's file for future reference and/or additional future accommodations.

**IV.**  
**PROBATIONARY PERIOD**

All permanent full-time, salaried, and permanent part-time employees are subject to a six-month probationary employment period. This is the time during which the employee and employer determine the employee's suitability for the job. To help communication, both a verbal and a written performance report shall be done by the probationary employee's supervisor at the end of the sixth month of employment. The City Council shall have discretion to extend an employee's probation period for any reasonable amount of time.

Any employee subject to a promotion or demotion from their current position will be subject to a six month probation for their new position. The City Council shall have discretion to extend an employee's probation period for any reasonable amount of time.

**V.  
HOURS OF WORK**

<b><u>Position</u></b>	<b><u>Required Work Week Hours</u></b>	<b><u>Benefits</u></b>
Salaried	At least 40 hours per week	All provided benefits
Permanent full-time	At least 30 hours per week	All provided benefits
Permanent part-time	No more than 30 hours per week	All provided benefits Except medical insurance
Temporary/ Seasonal	No more than 30 hours per week, limited time of employment	No benefits

Work Week and On-Call Duty. Work schedules for permanent part-time and temporary employees shall be determined by the supervisor of each employee category with the approval of the City Council. It may be necessary for the work week to vary due to certain operational or emergency situations. Notification of changes in the work week shall be given in advance as soon as practical.

Employees are expected to report to work on time and shall notify their supervisor of any absence no later than ½ hour after the usual start time for the shift. Reasons for absence or tardiness shall be required.

Included in each day is a lunch break (non-compensated) and two fifteen-minute breaks (compensated).

Maintenance employees will be required to provide 24/7 on-call duty. This on-call duty provides personnel for certain operational and emergency situations outside of the normal work week. On-call duty can include but is not limited to weekend inspections, testing at the Wastewater Treatment Facility, lift station(s), wells, water system, snow removal, and any other duty as required by the supervisor. On-call responsibilities shall be delegated by the Maintenance Supervisor.

On-Call Compensation. Any employee who is called to work outside of their regular work hours receives a minimum of two (2) hours' time, compensated at their regular pay. For multiple calls within the first two (2) hours, only one two (2) hour block shall apply. Any time worked over the two (2) hour minimum shall be calculated as actual time worked. On-call time shall be billed as compensatory time subject to reasonable discretionary use by the employee.

Overtime and Compensatory Time Off. Eligible employees who work in excess of 40 hours in any workweek, are subject to the Federal Fair Labor Standards Act shall be compensated at one- and one-half times their regular rate of pay or may elect to earn compensatory time at the same one-and-one-half times regular rate of pay. Any compensatory time earned should be used or paid at the end of the calendar year the time was earned. The Mayor may authorize carryover to the next calendar year.

Salaried employees are not eligible for overtime. Employees in bona fide executive, administrative or professional positions are exempt from overtime compensation requirements of the Federal Fair Labor Standards Act and are not eligible for compensation for hours worked in excess of 40 hours

in any work week. Employees, other than bona fide executive, administrative, or professional employees, are subject to the wage and hour provisions of the Federal Fair Labor Standards Act

## **VI. TRAVEL EXPENSE**

Reimbursements will be made for travel expenses that are essential to the transaction of City Business. Reimbursements are permitted for:

1. Travel by train, bus, or aircraft
2. Ground transportation at the rate established by the Department of Administrative Services pursuant to Neb. Rev Stat. § 81-1176 (Reissue 2014) per mile to and from the destination of business being transacted
3. Meals (including tips and taxes) \$50.00 per day food allowance
4. Lodging
5. Parking
6. Tolls
7. Baggage handling
8. Taxi (including tip)
9. Postage
10. Rented Automobiles

Reimbursements will not be made for:

1. Alcoholic beverages
2. Personal excursions

No expenses will be advanced for travel expenses prior to the time that travel is completed. The City may purchase air, bus, or rail tickets. All expenses claimed must reflect only those amounts actually expended. In order to receive reimbursements, an employee must attach original receipts to expense vouchers in support of the above expenses.

## **VII. CITY VEHICLES**

The following rules and regulations govern the general operation of all City vehicles. Departments may develop specific guidelines for the use of vehicles assigned to that department. Employees shall comply with both the general rules and the departmental rules when operating any City owned vehicles.

1. An employee must have the appropriate valid driver's license for the vehicle or equipment to be operated and must be in compliance with any restrictions listed on the license in order to operate any City vehicle or equipment.
2. An employee who drives a City vehicle, even on an occasional basis, must notify their department head immediately if their driver's license is suspended or in any other way restricted.
3. City vehicles may not be operated at work or taken home by an employee without

- prior authorization of the employee's department head.
4. City vehicles shall be used for City business only and not for any personal use or gain.
  5. During the time the vehicle is under the employee's control, it shall be the responsibility of the employee to operate the vehicle safely, comply with all traffic and parking rules and regulations and to secure the vehicle when leaving it unattended.
  6. An employee must call for a local law enforcement agency to come to the scene of any work- related vehicular accident immediately, even if there is no apparent damage. Every accident shall also be immediately reported to the employee's supervisor.
  7. An employee may be held personally responsible for damage to a City vehicle if an investigation discloses negligence, carelessness or misuse.
  8. It is the responsibility of the employee to wear seat belts while operating and/or riding in City vehicles.
  9. Employees shall not transport non-work-related passengers in City vehicles at any time without prior approval from their department head.
  10. Employees shall not attempt to make any mechanical repairs to the vehicle unless properly authorized by the employee's department head or unless assigned to such duties.
  11. Employees shall immediately report to their department head any hazardous or unsafe condition of the vehicle, which may result in injury to themselves or others.
  12. Employees shall keep all City vehicles free of objects that might lodge under the brake pedal or interfere with safe operation of the vehicle.
  13. It is the responsibility of the employee operating a City vehicle or equipment to ensure that all supplies, equipment, machines and vehicles being hauled or transported are properly secured to the transporting vehicle or trailer.
  14. No employee shall use vehicles or equipment that has been tagged unsafe to use until such tag has been removed by order of a representative of the department.
  15. An employee who drives a City vehicle must be fully insurable under the City's motor vehicle and other insurance policies.
  16. The City may obtain a driving record for an employee who drives a City vehicle, and the employee must provide written consent to obtain the record if necessary.
  17. Using any tobacco or vaping products in a City vehicle is prohibited.

## **VIII. LEAVE PROVISIONS**

A. Military Leave. Employees who are in the military reserve of the Armed Forces shall be granted paid leave of up to fifteen (15) days to fulfill their service obligation. Pay from the City shall be adjusted in accordance with the amount received from military duty.

Employees who are ordered to active duty by the Governor under emergency conditions will receive the difference between their full City pay and their military pay provided their military pay is less than their City pay.

B. Civil Leave. Employees are eligible for leave with pay when required to serve on a jury, in a national disaster or other civil service.

When an eligible employee is summoned for jury duty by a court of competent jurisdiction and actually reports to a court for jury duty, they will receive their regular pay for normally scheduled hours during the term of their jury duty. If during the time jury is impaneled, such employees are not required to report for jury duty on a given day or if they are dismissed prior to noon, they will be required to report for their regular City duties. In the case of shift employees working other than the “day” shift reporting to work and the number of required hours to be worked will be determined on a case-by-case basis.

C. Vacations. Salaried, Permanent full-time, and Permanent part-time employees are eligible for paid vacation leave. All eligible employees shall earn vacation leave credit annually as follows:

After original appointment	at the factored hourly equivalent of 40 hours per year
After 1 year of service	at the factored hourly equivalent of 80 hours per year
After 3 years of service	at the factored hourly equivalent of 88 hours per year
After 4 years of service	at the factored hourly equivalent of 96 hours per year
After 5 years of service	at the factored hourly equivalent of 108 hours per year
After 6 years of service	at the factored hourly equivalent of 112 hours per year
After 7 years of service	at the factored hourly equivalent of 120 hours per year
After 8 years of service	at the factored hourly equivalent of 128 hours per year
After 9 years of service	at the factored hourly equivalent of 136 hours per year
After 10 years of service	at the factored hourly equivalent of 144 hours per year
After 11 years of service	at the factored hourly equivalent of 152 hours per year
After 12 years of service	at the factored hourly equivalent of 160 hours per year

The above-factored hourly equivalent shall be based upon a normal work year of 2080 hours or 260 working days and shall accrue pro-rata with each pay period.

Vacation leave shall accrue beginning the first day of employment but shall not be taken during the first 6 months of employment with the City. Use of accrued vacation leave shall be coordinated through the office of the City Clerk.

On December 31<sup>st</sup> of each year, employee vacation accounts are balanced for the year and payment made to the employee for all hours accumulated over the maximum of 200 hours per year. Any employee who separates from the City service shall be compensated for vacation leave accrued and accumulated to the date of separation calculated at the employees pay rate at the time of separation.

D. Holidays. Holidays, which occur during a vacation period, do not count as vacation leave and such time is not deducted from an employee's vacation record.

Salaried, Permanent full-time, and Permanent part-time employees will receive the following holidays as time off with pay:

New Year's Day

Martin Luther King Jr. Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus/Indigenous Peoples' Day  
Veterans Day  
Thanksgiving Day  
The Day After Thanksgiving (Black Friday)  
Christmas Day

Permanent part-time employees will receive the designated holidays off with pay in proportion to the hours normally worked during the week

Should any holiday fall on a Saturday, the preceding Friday will be observed and should a holiday fall on a Sunday, the holiday will be observed on the following Monday.

Employees shall have two (2) floating holidays to use anytime throughout the year.

E. Sick Leave. All Salaried, Permanent full-time, and Permanent part-time employees earn sick leave. Permanent full-time employees earn 14 sick days per year. All Permanent part-time employees earn sick leave in proportion to the time they work. Sick leave is accrued for each month and year of employment to a maximum of 120 days or 960 hours.

Sick leave is taken on a working-hour basis. Holidays, which occur during the period an employee takes sick leave, do not count as sick leave and the time will not be deducted from an employee's sick leave record.

Employees shall notify their supervisor in advance when planning to use sick leave for dental appointments, physical examinations, etc. In case of sickness, injury, emergency or any other absence, which cannot be approved in advance, the supervisor should be advised of the circumstances as soon as possible.

Employees who use all of their accrued sick leave during an illness or injury may, with the City Council approval, use accrued vacation leave. Upon written request to the City Council, an employee may be granted a leave of absence without pay for the remainder of an illness or injury period.

Employees leaving City employment for reasons other than retirement may elect to have 50% any remaining sick leave rolled over into a Post Employment Health Plan (PEHP).

Employees who retire at age 55 or over with at least ten (10) years of service shall be paid for one third (1/3) of their unused sick leave, at the employee's pay rate, per hour, at the time of retirement.

F. Family and Medical Leave. The City provides leave in accordance with the Family and Medical Leave Act of 1993 (FMLA). Generally, the FMLA provides up to twelve (12) weeks unpaid leave (every twelve (12) months) to an employee with at least twelve (12) months of service and at least 1,250 hours of service working during the previous twelve (12) months.

(1) Such leave can be taken for:

- The birth and newborn care of a child;
- The placement with the employee of a child for adoption or foster care;
- Care for a spouse, child or parent (includes persons who acted as parents) of an employee, who has a “serious health condition” (as defined by the FMLA);
- When the employee cannot work because of a “serious health condition”;
- Any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces in support of a “contingency operation”.

(2) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a total of twenty-six (26) work weeks of leave during a twelve (12) month period to care for the service member. The leave described in this paragraph is only available during a single twelve (12) month period.

(3) Combined leave total. During the single twelve (12) month period described in (2) above, an eligible employee shall be entitled to a combined total of twenty-six (26) work weeks of leave under paragraphs (1) and (2).

(4) An employee on approved unpaid FMLA leave will be required to first exhaust all available paid leave which shall run concurrently with the FMLA leave, including and in the following order: Worker’s Compensation (when applicable), accrued sick leave, and vacation leave (at the option of the employee).

(5) An employee needing to invoke and use FMLA shall apply as far in advance as possible (at least thirty (30) days in advance if the leave is foreseeable) by submitting a letter request to his or her department Manager/Director and completion of the FMLA form in the accounting department. The letter will state the reason for request, start date of leave, and anticipated return date. Employees should consult with the City when planning medical treatment to make reasonable efforts to schedule the leave so as not to unduly disrupt the City’s operations. The City may, for justifiable cause, require employees to attempt to reschedule treatment. If the employee fails to give 30 days’ notice for foreseeable leave with no reasonable excuse, the City may deny the taking of the leave until at least 30 days after the notice has passed, as long as the employee had actual notice of the FMLA notice requirement. The City reserves the right to

designate any leave qualifying as FMLA leave as FMLA leave based upon information provided by the employee. The City will notify the employee of such designation.

G. Funeral Leave. All permanent full-time, salaried, and permanent part-time employees may be granted three (3) to five (5) days leave at the discretion of the Mayor with pay per occurrence to attend funerals for members of the immediate family of the employee or the immediate family of their spouse. "Immediate family" means, wife, husband, children, parents, grandparents, grandchildren, brothers, sisters, or persons bearing the same relationship to the spouse. Step-persons bearing these relationships are included. Immediate family may also be defined at the discretion of the Mayor.

For funerals of persons not in the immediate family, up to one (1) day of leave with pay per occurrence may be granted with supervisor approval.

Permanent part-time employees will receive funeral leave with pay in proportion to the hours normally worked during the week.

H. Leave of Absence. Salaried, Permanent full-time, and Permanent part-time employees may be granted an unpaid leave of absence of up to one year. A request for a leave of absence must be approved by the Board. Accrual and use of any and all benefits are suspended during a leave of absence.

## **IX. INSURANCE**

All Salaried and Permanent full-time employees working a minimum of thirty (30) hours per week, on average, during a calendar quarter shall be eligible, during the succeeding calendar quarter, to a monthly payment from the City, as set by the City Council and reviewed on an annual basis, to off set the cost of the employee's health insurance. No payment shall be due and owing unless the employee has enrolled in a health insurance plan. This amount, not to exceed the actual premium, will be paid to the employee upon submittal to the City Clerk/Treasurer of satisfactory proof of payment of the employee's health insurance premium for that month.

Changes in premium amounts shall be reported by the employee to the City Accounting Department at least thirty (30) days in advance of upcoming premium payments. Increases in premiums not reported in a timely manner will be the responsibility of the employee.

All permanent full-time and salaried employees receiving payments under this provision will be evaluated on a calendar quarter basis for compliance with the thirty (30) hour average requirement. Employees not maintaining a minimum thirty (30) hour work week on average during a calendar quarter will be ineligible for payments for the next succeeding calendar quarter and until such employee maintains a thirty (30) hour work week on average over a calendar quarter.

## **X. SIMPLE IRA**

All Salaried and Permanent City employees are entitled to enrollment in the City's retirement plan after an employee has successfully completed their probationary period. A matching contribution will be allocated by the City to the SIMPLE IRA established by the City in an amount equal to an elective deferral by the employee, not to exceed 3% of the employee's gross pay.

## **XI. PAY INCREASES**

A. It is the policy of the City Board to grant annual pay increases at the discretion of the City Council to eligible City employees based upon an annual review of the employee's performance in the preceding year with consideration given to the recommendation of the Personnel Committee thereon. Nothing herein shall preclude the Board from granting an increase at variance with the above based upon exceptional circumstances or when deemed to be in the best interest of the City.

B. A maintenance worker's hourly wage shall be increased by an amount set by the Personnel Committee upon obtaining the following:

- (1) Wastewater Treatment Facility Operator Certification from the Nebraska Department of Environmental Control for the operation of a municipal wastewater treatment facility for the classification required to operate the City wastewater treatment plant and facilities.

A maintenance worker shall receive an additional increase of an amount set by the Personnel Committee per hour in wages upon receipt of a certificate of competency to operate a public water system (Class IV or better) from the Nebraska Department of Health and Human Services Regulation and Licensure.

The increase in pay shall commence on the next succeeding City pay period after the presentation of a copy of the certificate to the City Clerk/Treasurer for retention in their files.

## **XII. HARASSMENT**

A. The City does not tolerate harassment of any kind and forbids retaliation against anyone who has reported harassment in good faith.

1. Ethnic or racial slurs, jokes and other verbal or physical conduct relating to a person's race, color, national origin, religion, sex, age, marital status, and physical or mental disability or any other prohibited basis of discrimination under applicable local, state, or federal law constitute harassment when they unreasonably interfere with the person's work performance or create an intimidating work environment.
2. Age harassment has been defined by federal and state regulations as a form of age discrimination. It can consist of demeaning jokes, insults, or intimidation based on a person's age.

3. Sexual harassment consists of any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is explicitly or implicitly a requirement of the individual's employment; 2) used as a basis for any employment decision concerning that individual; 3) has the purpose or effect of unreasonably interfering with the individual's work performance; or 4) creates an intimidating or hostile or offensive work environment.

B. Reporting an incident:

1. Any employee who believes they have been or are subject to harassment should immediately report the matter to their supervisor.
2. If the matter is not resolved or involves conduct of a supervisor, it should be reported to the Chairman of the City Board, who has the responsibility for the final resolution of the matter.
3. The offending party will be disciplined in a way consistent with the disciplinary policy.
4. Any incident involving harassment of an employee in the workplace by a non-employee will not be tolerated and should be reported immediately to a supervisor.

C. Additionally, the City's rules prohibit the harassment of or by members of the public involving City employees.

### **XIII. REPORTING OF ACCIDENTS AND INJURIES**

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees shall within 24 hours notify their supervisor or appropriate department head in writing. Such reports are necessary to comply with the laws and initiate insurance and workers' compensation benefits procedures. Employees who have an accident with a City-owned vehicle shall first notify a law enforcement agency and then their supervisor or department head. All accident and injury reports should be submitted to the Clerk's office within 2 business days or as early as possible.

### **XIV. ALCOHOL AND DRUGS**

A. The City recognizes its right, obligation, and intent to maintain a safe and efficient working environment for all of its employees and to protect the City's property, equipment and operations. Being impaired as a result of the use of drugs or alcohol may pose serious safety and health risks to the employee and other employees.

B. Covered Workers are any individual who conducts business for the organization, is applying for a position, or is conducting business on the organization's property. The policy

includes, but is not limited to managers, supervisors, salaried, permanent full-time employees, permanent part-time employees, temporary employees, and applicants.

C. It is a violation of this policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs, or intoxicants.

- a. Prescription Drugs: Prescription and over-the-counter drugs are not prohibited when taken in the standard dosage and according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and pharmacist to ascertain whether the medication may interfere with the safe performance of their job. If an employee has a prescription for a prohibited drug, they should visit with their prescribing physician to determine if an alternative treatment or medication is available that does not render them medically unqualified under applicable regulations to perform their position or is likely to pose a significant safety risk. If the use of medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to notify their supervisor.
- b. Misuse of Prescription Drugs: The illegal or unauthorized use of prescription drugs is prohibited including taking medication in a manner, dose, or timeframe other than prescribed, taking someone else's prescription, or nonmedical use of prescription drugs.

D. Searches: Entering the organization's property constitutes consent to search and inspections. If an individual is suspected of violating this policy, they may be asked to submit to a search or inspection at any time. Searches can be conducted of pockets and clothing, lockers, wallets, purses, briefcases, lunchboxes, desks, workstations, vehicles, and equipment.

E. Drug Testing:

- a. Record Keeping- All drug-testing will be maintained in separate confidential records, the City shall perform and confirm all drug and alcohol tests, and preserve specimens resulting from such tests, in the manner consistent with and to the extent required under the Nebraska Drug and Alcohol Testing Act, Neb. Rev. Stat. §§ 48-1901 to 1910.
- b. Condition of Employment- Each employee, as a condition of employment, may be required to participate in drug and alcohol testing.
- c. Prohibited Substances- the prohibited substances that will be tested for are consistent with DOT regulations 49 CFR 40 as amended currently include marijuana, cocaine, amphetamines, opioids, and phencyclidine.

- d. Drug and Alcohol Testing Procedures- Drug and alcohol testing will be conducted as required by 49 CFR Part 40 as amended and Neb. Rev. Stat. §§48-1901 to 48-1910.

An employee will be subject to the same consequences of a positive test if they refuse the screening or the test, adulterates or dilutes the specimen, substitutes the specimen, sends an imposter, does not sign the required forms, or refuses to cooperate in the testing process in such a way that prevents completion of the test.

D. Being in possession of alcohol or being impaired as a result of the use of alcohol by an employee while on duty, performing City business, or while in a City facility is prohibited. The City facilities include all lands and buildings under the control of the City.

E. The use, sale, purchase, transfer, or possession of an illegal drug by an employee while in or on City property, while on duty or performing City business away from the facilities is prohibited. The presence of any detectable amount of any illegal drug in an employee while performing City business or while in or on City property is prohibited.

“Illegal Drug” means: any drug which is not legally obtainable or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and prescription drugs not being used for prescribed purposes. This also includes marijuana.

F. Except as provided below, the use of or being impaired by any legally obtained drug by any employee while performing City business or while in a facility under City control is prohibited to the extent such use or impairment may affect the safety of co-workers or members of the public, the employee’s job performance, or the safe or efficient operations of the City. An employee may continue to work, even though impaired by a legal drug, if the Supervisor has determined, after consulting with the employee’s doctor that the employee does not pose a threat to his or her own safety or the safety of co-workers and that the employee’s job performance is not significantly affected by the drug. Otherwise, the employee may be required to take sick leave, a leave of absence or comply with other appropriate action determined by the City.

“Legal Drug” includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured. Employees are obligated to inform their Supervisor of any medication they are taking whose side effects or label warnings indicate the drug could impact their job performance.

G. Violation of this drug and alcohol policy can result in disciplinary action, up to and including termination.

H. The City may require a blood test, urinalysis, or other drug/alcohol screening of those persons seeking employment with the City; for employees suspected of using or being impaired by a drug or alcohol; following any accidents or injury on the job; or where circumstances or workplace conditions justify it. An employee’s consent to submit to such a test is required as a

condition of employment and the employee's refusal to consent may result in disciplinary action, including termination for a first refusal or any subsequent refusal.

I. Types of Tests:

- a. Pre-employment Testing: All applicants for covered positions may undergo drug testing and a negative result must be obtained before commencing employment. If testing is positive, the applicant may reapply after one year and must successfully pass a pre-employment drug test.
- b. Reasonable Suspicion Drug Testing: The City may require an employee to submit to drug and alcohol testing when a manager, supervisor, or Department Head of the City has reasonable suspicion to believe the employee is under the influence of alcohol or illegal drugs at the workplace. Whether a manager, supervisor, or Department Head has reasonable suspicion depends on the totality of the circumstances. Factors that may be considered when determining reasonable suspicion exists include, but are not limited to, the following: the employee's appearance, behavior, odors, and speech; the employee's involvement in a crime involving illegal drug use; reliable reports of alcohol use or intoxication at the workplace or illegal drug use by the employee; the employee's involvement in a workplace accident; and the employee's attendance and punctuality.
  - i. The employee will be placed on administrative leave pending the result of the test. An employee who refuses an instruction to submit to a drug and/or alcohol test shall not be permitted to finish their shift and shall immediately be placed on administrative leave pending disciplinary action. A written record of the observations that led to a drug and alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation.
- c. Post-Accident Testing: As soon as practicable following an occurrence involving the loss of life, an at-fault motor vehicle accident, an accident where an injury occurred (to the employee or a non-employee), or damage greater than a value determined by the City Council, employees will be tested for prohibited drugs and alcohol.
- d. Return-to-Duty and Follow-up Testing: An employee who previously tested positive on a drug or alcohol test or refused a test and is given a second-chance opportunity, must test negative for drugs, alcohol, or both and be evaluated and released by a Substance Abuse Professional before returning to work. Employees who have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years as determined by a Substance Abuse Professional with a minimum of six tests to be performed the first year.

J. Consequences: If an individual violates the policy, they will be subject to disciplinary action, up to and including termination. The City may discipline or terminate an employee possessing, consuming, controlling, selling, or using alcohol, drugs, or other controlled substances during work hours. The City may also discipline or terminate an employee who exhibits an ongoing

dependence on alcohol, drugs, or other controlled substances which impairs the employee's work performance, poses a threat to the public confidence, or is a safety risk to the City or others. The City may suspend an employee pending the outcome of any drug and/or alcohol test. If an applicant for employment fails a pre-employment drug test, the offer of employment will be withdrawn.

K. As a condition of employment, the employee will notify the City in writing of any criminal drug statute or alcohol related conviction no later than five (5) calendar days after such conviction.

## **XV. EMPLOYEE DRESS**

Salaried and Permanent full-time employees of the City are expected to maintain a high standard of dress and grooming. Clothing worn on the job should be in good taste and reflect the requirements of the working conditions.

## **XVI. DISCIPLINARY PROCEDURE**

### A. Grievances

It is the policy of the City to give employees the opportunity to initially discuss their complaints or grievances with their supervisors in order to try and find mutually satisfactory solutions.

If a mutually satisfactory solution cannot be achieved, the employee may present their grievance to the Mayor at a time and place agreeable to both parties within two (2) weeks after the occurrence of the event upon which the grievance is based. After the discussion between the Mayor and the employee, the Mayor may endeavor to resolve that matter. If the employee is not satisfied with the resolution proposed by the Mayor, the employee may submit their grievance in writing to the Personnel Committee of the City Council, which shall schedule a meeting with the employee to discuss the grievance at a time and place agreeable to all parties, but in no event more than thirty (30) days after submission of the grievance to the Committee. Such meeting shall normally be closed to the public to protect the reputation of the employee. Following the meeting, the Personnel Committee may make recommendations to the Mayor, who shall have final decision-making authority.

### B. Disciplinary Action

Employees are expected to always conduct themselves to reflect credit for themselves and the City. Any action which reflects discredit upon the City or is a direct hindrance to the effective operation of public services may result in disciplinary action by their supervisor or the Mayor. To the extent possible, the City will attempt to correct work-related issues using progressive discipline.

However, some offenses are so serious that a single incident will result in immediate dismissal or suspension. The following are examples of unacceptable conduct and the performance of which by the employee will result in the employee being subject to immediate suspension or dismissal:

1. Insubordinate conduct. Insubordination is defined as an action, including but not limited to, the use of profane, vile or threatening language to a supervisor or about a supervisor, or any comments that openly undermine a decision or policy implemented by the Mayor or City Council .
2. Neglect of duty
3. Consumption of alcoholic beverages or drugs while on duty
4. Unauthorized disclosure of confidential information
5. Reporting for work while under the influence of alcohol or drugs
6. Theft or willful destruction of the City 's property
7. Sleeping during work hours
8. Unauthorized absence during working hours (misuse of sick leave, overtime, break, or lunch time)
9. Deliberate falsification of employment records or other job-related reports
10. Sexual or other unlawful harassment of other employees or the public
11. Conviction of any felony charge known or unknown to the City
12. Endangering the life or property of others

Examples of the types of issues that will usually be dealt with through a system or progressive discipline include:

1. Unsatisfactory work performance
2. Attendance and tardiness issues
3. Horseplay
4. Failure to properly carry out, in a timely manner, instructions from a supervisor
5. Use of inappropriate or profane language in the presence of the public or co-workers
6. Violation of any safety rules
7. Inappropriate working attire
8. Failure to return on time from breaks or lunch
9. Failure to return to work or call in, in accordance with policy
10. Discourtesy to members of the public
11. Damage to the City property due to carelessness
12. Misuse of the City facilities, vehicles, or equipment

These rules of conduct are not all-inclusive. Each situation must be dealt with on an individual basis according to the particular facts of the incident. However, it is important for employees to have these guidelines to understand the City's expectations of its employees.

## **Guidelines for Disciplinary Action**

### **Verbal Reprimand**

The first level in the City's progressive disciplinary system is the verbal reprimand. This is a verbal warning to an employee from their supervisor or the Mayor that their conduct is unacceptable, and that further infractions will lead to more severe penalties. In cases involving performance deficiencies, the employee will first be counseled by their supervisor and told which improvements are needed before they are subject to a written warning. A notice of the reprimand

will be placed in the employee's personnel file. The reprimand notice will be inactive after thirty-six (36) months if the misconduct does not recur, or the performance deficiencies have been corrected.

### **Written Reprimand**

The second level is a written reprimand. This reprimand will describe the unacceptable conduct or performance and specify the improvement needed. This written reprimand is filed permanently in the employee's personnel file.

### **Suspension**

The third level is suspension. Employees may be suspended for repeated instances of minor misconduct or for a single serious offense. Notice of suspension will be filed permanently in the employee's personnel file. Employees who fail to improve their conduct or performance after imposition of a disciplinary suspension may be dismissed.

All suspensions will be approved by the Mayor. When the Mayor finds it necessary to relieve an employee from duty for disciplinary reasons, the Mayor has the authority to place the offending employee on suspension, at their discretion, depending upon the nature of the suspension, with or without pay. An employee who disagrees with the suspension may request a hearing with the City Council. Such request shall be made in writing within three (3) business days of the employee receiving notice of suspension. The hearing shall be scheduled within 14 days after the notice and be closed to the public to protect the reputation of the employee. Following the hearing, the Mayor shall have final decision-making authority.

### **Termination**

The final level is dismissal of the employee if prior disciplinary action does not have the result of satisfactorily resolving the misconduct. Notice of the circumstances of dismissal will be filed permanently in the employee's personnel file.

All terminations will be approved by the Mayor. An employee who disagrees with the termination may request a hearing with the City Council. Such request shall be made in writing within three (3) business days of the employee receiving notice of termination. The hearing shall be scheduled within 14 days after the notice and be closed to the public to protect the reputation of the employee. Following the hearing, the Mayor shall have final decision-making authority.

**THE CITY IS NOT REQUIRED TO FOLLOW THE PROGRESSIVE DISCIPLINARY STEPS OUTLINED ABOVE AND MAY MODIFY ITS DISCIPLINARY PROCEDURES TO THE PARTICULAR CIRCUMSTANCES.**

### **Resignation**

An employee who wishes to resign their position is required to notify their supervisor or the Mayor in writing of their anticipated departure date at least two (2) weeks in advance or the agreed upon

time frame in the initial employment offer letter. Vacation leave is not to be used to cover the two (2) weeks' notice time period with vacation leave paid out as previously documented within the employee handbook.

All employees are subject to termination of employment at the will of the City. Final paychecks shall be disbursed in accordance with the Nebraska Wage Payment and Collection Act (Neb. Rev. Stat §48-1230).

## **EMPLOYEE ACKNOWLEDGEMENT AND RECEIPT**

I have received a copy of the Employee Handbook for the City of Bennet and have either read it or had it read to me carefully. I understand all of its rules, policies, terms and conditions, and agree to abide by them, realizing that failure to do so may result in disciplinary action, up to and including termination.

I UNDERSTAND AND AGREE THAT MY EMPLOYMENT IS TERMINABLE-AT-WILL, SO THAT BOTH THE CITY AND I REMAIN FREE TO CHOOSE TO END OUR WORK RELATIONSHIP, AT ANY TIME, AND FOR ANY LAWFUL REASON OR NO REASON. SIMILARLY, NO CITY OFFICIAL HAS THE AUTHORITY TO ENTER INTO AN ORAL EMPLOYMENT CONTRACT, AND ONLY THE MAYOR OR CITY COUNCIL MAY ENTER INTO A WRITTEN EMPLOYMENT CONTRACT. I UNDERSTAND THIS HANDBOOK SUPERSEDES ALL PRIOR POLICIES AND PROCEDURES, WHETHER WRITTEN OR UNWRITTEN. I FURTHER UNDERSTAND THAT THE MATTERS DISCUSSED IN THE EMPLOYEE HANDBOOK ARE SUBJECT TO CHANGE WITHOUT NOTICE.

I UNDERSTAND NOTHING IN THIS HANDBOOK IN ANY WAY CREATES AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT BETWEEN THE CITY AND ME, BUT RATHER IS INTENDED TO FOSTER A BETTER WORKING ATMOSPHERE WHILE THE EMPLOYEE/ EMPLOYER RELATIONSHIP EXISTS.

Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Employee Name (Printed): \_\_\_\_\_

City Clerk Signature: \_\_\_\_\_