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CITY OF SEWARD

EMPLOYEE HANDBOOK

**APPROVED BY CITY COUNCIL
NOVEMBER 15, 2016**

**CITY OF SEWARD, NEBRASKA
PERSONNEL MANUAL**

Table of Contents

| <u>DESCRIPTION</u> | <u>PAGE NO.</u> |
|------------------------------------------------|-----------------|
| Welcome to the City of Seward..... | 1 |
| Purpose..... | 2 |
| Personnel Files..... | 2 |
| Affirmative Action..... | 3 |
| Americans with Disabilities..... | 3 |
| Coverage of Policies..... | 3 |
| Adoption of Policies..... | 3 |
| Organization for Personnel Administration..... | 3 |

Definitions

| | |
|----------------------------|---|
| Anniversary Date..... | 3 |
| Compensatory Time Off..... | 4 |
| Continuous Employment..... | 4 |
| Department..... | 4 |
| Department Head..... | 4 |
| Dismissal..... | 4 |
| Employee..... | 4 |
| Employee Target..... | 5 |
| Grievance..... | 5 |
| Holiday..... | 5 |
| Lay-Off..... | 5 |
| Leave..... | 5 |
| Overtime..... | 5 |
| Evaluation Period..... | 5 |
| Reprimand..... | 5 |
| Separation..... | 5 |
| Work Period..... | 5 |
| Suspension..... | 5 |
| Termination..... | 5 |
| Worker's Compensation..... | 5 |

General Personnel Policies

| | |
|---------------------------------------------------------|----|
| Appearance & Conduct..... | 6 |
| Attendance..... | 6 |
| Hours of Work..... | 6 |
| Complaint Policy..... | 6 |
| Personal Business..... | 7 |
| Cell Phone Policy..... | 7 |
| Outside Employment..... | 8 |
| Political Activity..... | 8 |
| Suggestions..... | 8 |
| Social Media Policy..... | 8 |
| Care & Use of City Property..... | 10 |
| Smoke Free Policy..... | 10 |
| Acceptable Use Guidelines for Computers & Internet..... | 10 |
| Drug & Alcohol Testing Policy..... | 14 |
| Use of City-Owned Vehicles..... | 22 |
| Safety..... | 22 |
| Violation of Safety Rules..... | 23 |

General Personnel Policies (Cont'd)

| <u>DESCRIPTION</u> | <u>PAGE NO.</u> |
|------------------------------------------|------------------------|
| Reporting of Accidents and Injuries..... | 23 |
| Changes in Names & Addresses..... | 24 |
| Records..... | 24 |
| Peddling and/or Solicitation..... | 24 |
| Conflict of Interest..... | 24 |
| Gratuities..... | 24 |
| Sexual Harassment Policy..... | 25 |
| National Origin Policy..... | 26 |
| Workplace Violence..... | 27 |

Employment - Appointment

| | |
|------------------------------------|----|
| Procedure..... | 28 |
| Physical Examinations..... | 29 |
| Residential Requirements..... | 29 |
| Evaluation Period..... | 30 |
| Promotion..... | 30 |
| Transfer..... | 30 |
| Equal Opportunity..... | 30 |
| Employment of Relatives..... | 30 |
| Rehiring of Retired Employees..... | 30 |

Pay Plan

| | |
|--------------------------------------------|----|
| Purpose of Pay Plan..... | 31 |
| Pay Plan Structure..... | 31 |
| Comparability Study..... | 31 |
| Performance Pay..... | 31 |
| Longevity Pay..... | 32 |
| Part-time & Seasonal Wages..... | 32 |
| Authorized Deduction..... | 32 |
| Incomplete Pay Period..... | 33 |
| Overtime Pay..... | 33 |
| Salary Basis Policy..... | 33 |
| Compensatory Time..... | 35 |
| On-Call..... | 35 |
| Termination Pay..... | 36 |
| Uniform Allowance..... | 36 |
| Pay in Lieu of Vacation..... | 37 |
| Payment of Leave Upon Death..... | 37 |
| Wages In Advance..... | 37 |
| Re-Employment..... | 37 |
| Emergency Situations Warranting Meals..... | 38 |
| Emergency Closing Policy..... | 38 |
| Holidays..... | 39 |
| Sick Leave..... | 40 |
| Worker's Compensation..... | 41 |
| Sick Leave Without Pay..... | 41 |
| Notification of Departments..... | 41 |
| Appointments..... | 41 |
| Accident-Injury Leave..... | 42 |
| Military Leave..... | 42 |
| Active Service & Induction..... | 42 |
| Vacation Leave..... | 44 |
| Scheduling of Vacations..... | 45 |

DESCRIPTION

PAGE NO.

Employee Benefits for Regular Full-Time Employees

Vacation Leave Cap.....45
Vacation Rights at Termination.....45
Maternity Leave.....46
Juror Leave.....46
Family Member Death.....46
To Attend a Funeral.....46
Voluntary Leave of Absence.....46
Termination Leave.....47
Family and Medical Leave Policy.....47
Family & Medical Leave Policy (Military).....50
Worker's Compensation Act.....53
Hospital and Medical Insurance.....53
Retirement.....53
Social Security Benefits.....54
Rest Periods.....54
Awards Program.....54

Employee Development

Orientation.....55
Travel, Training, Education & Expense.....55

Disciplinary Action

Policy.....57
Disciplinary Procedures.....57
Grounds.....58
Class A Offense.....58
Class B Offense.....59
Class C Offense.....60
Class D Offense.....61
Department Heads Failing to Report an "A" or "B" Offense.....62
Employees Failing to Report an "A" or "B" Offense.....62
Types of Disciplinary Action.....62
Disciplinary Authority.....62
Protective Suspension.....62
Employee Grievance - Appeal Procedure for Disciplinary Action.....62

Termination

Reduction in Force.....63
Resignation.....64
Retirement.....64
Dismissal.....65

SECTION 1 – WELCOME TO THE CITY OF SEWARD

Introduction

The personnel system of the City of Seward, Nebraska, provides a means to recruit, select, develop and maintain an effective and responsive work force and includes policies and procedures for employee hiring, advancement, training, job classification, salary compensation, benefits, discipline, dismissal and other related activities. The purpose of this guide is to serve as a written statement of the employment practices of the City of Seward, Nebraska, for all employees.

As an employee of the City, your job is to serve all of the people of the City with efficiency and courtesy. It is your obligation to treat all citizens fairly, ethically, and with special privileges to none.

Every job with the City is important in that it provides a service to your employers--the residents of Seward. The manner in which you serve the public strongly influences the public relations of the residents of the City. Their opinions of their City government are based, to a large extent, upon their contact with City employees such as yourself.

This Employee Handbook is an outline of the basic personnel policies, practices, and procedures in the City of Seward, Nebraska as it pertains to hourly employees. The Employee Handbook supersedes all previous personnel policies and procedures adopted by the City of Seward, Nebraska.

NO HANDBOOK CAN ANTICIPATE EVERY CIRCUMSTANCE OR QUESTION ABOUT POLICIES. AS WE CONTINUE TO GROW, THE NEED MAY ARISE TO CHANGE POLICIES DESCRIBED IN THIS HANDBOOK. THEREFORE, WE RESERVE THE RIGHT TO REVISE, SUPPLEMENT OR RESCIND ANY POLICIES OR PORTION OF THE HANDBOOK FROM TIME TO TIME, AS IT DEEMS APPROPRIATE, IN ITS SOLE AND ABSOLUTE DISCRETION. IF CHANGES ARE MADE, YOU WILL BE PROMPTLY NOTIFIED.

THIS HANDBOOK IS NOT A CONTRACT OF EMPLOYMENT. NOTHING CONTAINED IN THIS HANDBOOK OR IN ANY OTHER STATEMENT OF THE CITY'S PHILOSOPHY, INCLUDING STATEMENTS MADE IN THE COURSE OF PERFORMANCE EVALUATIONS AND WAGE REVIEWS, SHOULD BE TAKEN AS AN EXPRESS OR IMPLIED PROMISE OF CONTINUING EMPLOYMENT. THE CITY, LIKE THE EMPLOYEE, IS FREE TO TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME FOR ANY OR NO REASON. IF AND WHEN YOUR EMPLOYMENT ENDS, YOU ARE REQUIRED TO RETURN THIS HANDBOOK TO THE CITY AT THE TIME YOU COLLECT YOUR LAST PAYCHECK.

The Mayor and City Council of the City of Seward, Nebraska shall be the ultimate policy-making authority for the City in all matters pertaining to personnel administration.

Employee Initials _____

PURPOSE

The personnel policies of the City of Seward are designed to achieve the following objectives:

- Promote economy and efficiency in the City service;
- Maintain a compensation plan based upon the relative duties and responsibilities of positions in the City service;
- Provide fair and equal opportunity to all persons who enter City employment through fair and impartial methods of selection;
- Promote high morale among City employees by providing good working conditions, opportunity for advancement, consideration for employee welfare and a basis for understanding the conditions of City employment; and,
- Develop a program of recruitment, advancement and tenure that will make the City service attractive as a career and encourage each employee to give his best service to the City.

The purpose of this Personnel Manual, then, is to explain to you, the employee of the City of Seward, the personnel policies which affect your employment. This manual contains information on how your City government is organized, your responsibilities as an employee of the City and your job benefits. It is designed to answer questions which may arise concerning your job. However, if you have a question which is not answered in this manual or do not understand a stated policy, ask your Department Head to explain it. If the Department Head doesn't have the answer, the Department Head will get the information for you. It is hoped that your employment with the City of Seward will be both challenging and rewarding.

The Personnel Manual does not represent an employee contract or any aspect of an employment contract and should not be construed as such. Personnel policies may be modified by the City Council at any time and employees will be given notice of any such modifications. (Updated 11-15-16)

PERSONNEL FILES

Employee personnel files are the property of the City, and do not belong to the employee. Employees wanting to inspect their personnel file must file a request to review personnel file form with the Assistant Administrator/Clerk-Treasurer. Within five (5) day of receiving the employee's request form, the Assistant Administrator/Clerk-Treasurer will schedule an appointment during which the employee can review his or her personnel file. All appointments are scheduled during regular business hours. All personnel file inspections take place in city offices in the presence of a representative designated by the Assistant Administrator/Clerk-Treasurer. The employee cannot remove any personnel files from the City offices.

Employees can make handwritten notes to record information included in their personnel files. Copies of the documents are provided to the employee within a reasonable period of time after a request has been made. The City reserves the right to charge the employee a reasonable fee to cover the copying costs. (Added 12/2012)

Employee Initials _____

AFFIRMATIVE ACTION

It is the policy of the City not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, or status as a qualified individual with a disability or a protected veteran (i.e., disabled veteran, Armed Forces service medal veteran, recently separated veteran, or other veteran who served during a war, or in a campaign or expedition for which a campaign badge has been authorized). It is also the policy of the City to take affirmative action to employ and to advance in employment, all persons regardless of their race, color, religion, sex, national origin, or status as a qualified individual with a disability, or protected veteran, and to base all employment decisions only on valid job requirements. This policy shall apply to all employment actions, including but not limited to recruitment, hiring, upgrading, promotion, transfer, demotion, layoff, recall, termination, rates of pay or other forms of compensation and selection for training, at all levels of employment.

In furtherance of the City policy regarding Affirmative Action and Equal Employment Opportunity, the City has developed a written Affirmative Action Program which sets forth the policies, practices and procedures that the City is committed to in order to ensure that its policy of nondiscrimination and affirmative action is accomplished. (Added 12/2012)

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Seward abides by the requirements of the Americans with Disabilities Act, the ADA Amendment Act, and state laws governing employment of individuals with disabilities. Qualified individuals with disabilities may be entitled to an accommodation in the application process and/or in the workplace. Any qualified individual with a disability who requires reasonable accommodation in the employment process and/or in the workplace shall notify the City Administrator. It shall be the responsibility of a qualified individual with a disability to request reasonable accommodation in the hiring process or in the workplace. (Added 12/2012)

COVERAGE OF POLICIES: (New 11/01)

These policies shall apply to all departments, divisions and employees of the City except in cases of conflict with applicable City ordinances, state or federal laws or regulations or with the rules of the City of Seward Civil Service Commission as statutorily applicable.

ADOPTION OF POLICIES: (New 11/01)

These policies shall become effective when adopted by the Mayor and City Council, whereupon any conflicting rules, regulations, policies, or procedures previously adopted by the Mayor and City Council or by administrative directive shall be superseded to the extent of the conflict.

ORGANIZATION FOR PERSONNEL ADMINISTRATION

Mayor - City Council: The Mayor and City Council shall be the ultimate policy-making authority for the City of Seward in matters pertaining to personnel administration.

DEFINITIONS

ANNIVERSARY DATE: The calendar date upon which employment started with the City of Seward by a specific employee. An anniversary date will be adjusted to exclude calendar days of suspension and leave of absence without pay.

Employee Initials _____

COMPENSATORY TIME-OFF: Full-time employees who are eligible for overtime may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum set for their work period, if it is authorized in advance by the Department Head, with the approval of the appropriate authority. (Updated 2/07)

CONTINUOUS EMPLOYMENT: The time from original employment to the current date of employment excluding the calendar days when an employee is absent without leave, or when an employee is absent with leave without pay, and periods while an employee is under suspension. (Updated 11-15-16)

DEPARTMENT: A major functional unit of the City of Seward governmental structure.

DEPARTMENT HEAD: A person directly responsible for the administration of a City department.

DISMISSAL: The separation of an employee.

DEFINITIONS (Updated 12/17/96)

EMPLOYEE: An employee may be defined as:

- 1) Regular, full-time. This employee works at least forty (40) hours per week for a full year in his/her assigned classification and is eligible for full fringe benefits.
- 2) Regular, part-time. There are two (2) classifications for this position:
 - A. Regular part-time employee works a minimum of 1,040 hours over a 12 month period in his/her assigned classification and is therefore eligible for fringe benefits on a prorated basis; or
 - B. Regular part-time employee works at his/her assigned classification less than twenty (20) hours per week for a full year who is therefore not eligible for fringe benefits.
- 3) Temporary. This employee may be employed for any number of hours per week in positions declared to be seasonal or temporary in nature. This person may be assigned to a classification temporarily vacated by a regular employee while on military duty or other authorized absence, and is excluded from the fringe benefits.

EXEMPT EMPLOYEES: Employees paid on a salaried basis and whose primary duties and responsibilities meet the Fair Labor Standards Act criteria for executive, administrative or professional exemption from eligibility for overtime compensation.

NONEXEMPT EMPLOYEES: Employees paid on an hourly basis and whose primary duties and responsibilities meet the Fair Labor Standards Act criteria for mandatory eligibility for overtime compensation and minimum wages.

EMERGENCY EMPLOYEE: An employee whose primary duties and responsibilities include response to an emergency event during regular or non-regular hours. Emergency employees generally include Utility, Police and Public Works Department personnel.

NON-EMERGENCY EMPLOYEE: An employee whose primary duties and responsibilities do not include response to an emergency event (severe weather, utility disruption, etc.) during regular or non-regular hours. Non-Emergency employees generally include Administrative, Office, Library & Recreation personnel.

Employee Initials _____

EMPLOYEE TARGET SYSTEM (Updated 1/98): A target system designed to measure the performance of an employee in achieving his/her performance standards/targets mutually established by the employee and Department Head. Employee targets shall be evaluated after an employee's initial six month evaluation period and then semiannually (October 1st and April 1st).

GRIEVANCE: Any complaint, view or opinion relating to employment conditions or relationships.

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

LAYOFF: The involuntary non disciplinary separation of an employee due to no fault of the employee.

LEAVE: An authorized absence from regularly scheduled work hours which has been approved by proper authority.

OVERTIME: Authorized time worked by an employee in excess of his total normal working hours per week, or for hours worked when an employee is called to return to duty due to an emergency as defined in Section 3.9. (Updated 2-07)

EVALUATION PERIOD: A six (6) month working test period during which an employee is required to demonstrate his fitness for the position to which he is appointed by actual performance of the duties of the position.

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

SEPARATION: The termination of employment by reason of disqualification, end of temporary assignment, layoff, resignation, retirement or dismissal.

WORK PERIOD: For all regular, full-time employees other than law enforcement officers, the work period shall be 40 hours per week and shall begin at the end of the shift on Friday and conclude at the end of the shift on the following Friday.

For law enforcement officers, the work period shall be 80 hours over a 14 day time period and shall begin at the end of the shift on Friday and conclude after the 14 day time period at the end of the shift on Friday.

Non-exempt employees may only work during their scheduled work shift. All off-shift work is strictly prohibited without pre-authorization by the Department Head or appropriate authority. Working unauthorized overtime is grounds for disciplinary action, up to and including termination of employment.

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

TERMINATION: The permanent separation of an employee from the service of the City of Seward (see "Separation" above).

WORKERS' COMPENSATION: Benefits received by an employee who is injured while carrying out his assignment, as determined by the applicable state laws.

Employee Initials _____

1. GENERAL PERSONNEL POLICIES

1.1 Appearance and Conduct:

The City of Seward expects all City employees to maintain a neat, well-groomed appearance at all times. Employees should use good judgement and avoid extremes in dress and personal appearance.

The orderly and efficient operations of the City of Seward require that employees maintain proper standards of conduct at all times to succeed and promote efficiency, productivity and cooperation throughout their operations. All Departments shall strictly adhere to all Insurance underwriting criteria and recommendations on proper safety clothing and equipment requirements. Police Department and Pool employees may be regulated by separate policies based upon the conditions and risks associated with their positions.

Employees who fail to maintain proper standards of appearance and conduct toward their work environment, co-workers or customers, or who violate any of the City's policies will be subject to disciplinary action, up to and including termination of employment. In enforcing this dress and personal appearance policy, supervisors must make reasonable accommodations for dress or grooming directly related to the employees' religion, ethnicity, or disability; and specify any additional or alternate requirements that are necessary to maintain public health and employees' safety. Employees should discuss the accommodations they need with their supervisor or City Administrator.

All instances of misconduct shall be reported to the City Administrator, or appropriate authority. (Revised 12/2012)

1.2 Attendance

Employees shall be in attendance at their place of work in accordance with the policies regarding hours of work, holidays and leave.

If an employee, for some unavoidable reason, cannot report for work, the employee shall notify their supervisor or Department Head in advance of the first normal duty hour; in addition, if an employee has to leave work during the day for some unavoidable reason, they shall notify their Department Head or supervisor before they leave. Failure on the part of an employee to comply with these policies shall be cause for disciplinary action. (Updated 1-29-09)

1.3 Hours of Work

Work hours shall be established by the Department Head and be approved by the City Administrator or appropriate authority. Generally, eight (8) hours shall constitute a day's work and five (5) days shall constitute a work week. (Updated 3/2/99)

1.4 Complaint Policy

In situations where an employee feels a work-related complaint is in order, the following steps should be taken:

- 1) If an employee believes that he/she has a legitimate work-related complaint, the employee is encouraged to first attempt to resolve the issue(s) with their Department Head/Supervisor.

Employee Initials _____

- 2) If the situation is not satisfactorily settled within two working days, barring extenuating circumstances, the employee may request a meeting on their concern/complaint with their Department Head and the City Administrator.
- 3) If the complaint is between a Department Head and the City Administrator, the employee may request a meeting on their concern/complaint with the City Administrator and the Mayor.

The City will attempt to answer the employee's concerns/complaints within a reasonable time period. (Updated 12/2012)

1.5 Personal Business (Updated 10-06)

While on duty, personal phone calls (both incoming and outgoing), appointments and visitors should be conducted at break times or avoided unless absolutely necessary.

1.5(1)Cell Phone Policy

The City of Seward recognizes the need for certain City personnel to own and use cell phones to complete and enhance their job performance. This policy establishes the procedures for the use of City or personal cell phones, and allows for possible reimbursement for personal cell phone use.

All phone calls conducted while on duty should be for business-related calls. Any personal phone calls should be conducted during break times or avoided unless absolutely necessary as outlined in Section 1.5 - Personal Business.

In instances where cell phones have been purchased and provided by the City of Seward, all usage will be for business-related calls and Department Heads or the appropriate authority will be required to review monthly statements to insure that this policy is adhered to. If unavoidable personal calls are made with a City-owned cell phone, the employee shall reimburse the City for such use.

The following policy will apply for employees who choose to use their own personal cell phone:

- Department Heads must first verify the need and authorize an employee to use his/her personal cell phone for business related purposes by completing a "Cell Phone Policy Agreement/Authorization Form".
- Employees will be reimbursed \$30.00 per month for use of their personal cell phones for business-related purposes. The reimbursement will be paid quarterly. Employees requesting reimbursement shall present a claim to their Department Head quarterly and may be required to provide a copy of their cell phone bills that clearly illustrate business related calls.

The following additional rules shall apply when using a cell phone during employment with the City of Seward:

- Employees shall be required to get off the road to make or answer cell phone calls, unless they are using some type of hands free device. Law Enforcement officials are exempt from this policy when handling emergency situations. In those emergency situations, law enforcement employees will be expected to drive safely and obey the rules of the road.

Employee Initials _____

- No cell phone use will be allowed while driving in adverse weather or difficult traffic situations.
- Cell phone texting by all employees is expressly prohibited while operating a vehicle or equipment.
- Employees are prohibited from taking photos with their cell phones without the specific permission of the City Administrator or appropriate authority, except in law enforcement situations where the photos are necessary for completing reports or providing investigative information. (Updated 12/2012)

1.6 Outside Employment

Employees of the City of Seward may take occasional or part-time jobs if there is no conflict with normal working hours; the employee's efficiency in his work is not hampered; or conflicts with the interest of the City do not arise. The employee shall advise his Department Head of the nature of the outside employment, hours involved, and any other appropriate information prior to acceptance of the outside employment. The Department Head shall then recommend to the City Administrator or appropriate authority whether the outside employment should be approved. Outside employment by City employees shall not be authorized unless first approved by the City Administrator or appropriate authority. In any situation wherein extra duty will be necessary in an employee's normal City work, such extra duty shall be in preference to his outside employment.

1.7 Political Activity

No employee shall be prohibited from participating in political activities except during work hours or when otherwise engaged in the performance of his or her official duties. No employee shall engage in any political activity while wearing a uniform required by the City.

1.8 Suggestions

Suggestions for the improvement of any portion of the City's services are encouraged and welcomed. Suggestions shall be submitted to the Department Head, City Administrator, or appropriate authority, in writing, dated and signed. It shall be the responsibility of each Department Head to give full and fair consideration to each suggestion made by an employee. The Department Head shall consult with the employee on the merit and status of any suggestion in order to insure that the employee's suggestion has not been ignored or forgotten. (Updated 3/2/99)

1.8(1) Social Media Policy (New 11-15-16)

The City of Seward understands that social media can be a fun and rewarding way to share life and opinions with family, friends and co-workers around the world. However, use of social media also presents certain risks and carries with it certain responsibilities. This policy applies to all employees.

Guidelines

In the rapidly expanding world of electronic communication, *social media* can mean many things. *Social media* includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not associated or affiliated with the City of Seward, as well as any other form of electronic communication. The same principles and guidelines found in the City of Seward policies and three basic beliefs apply to your activities online. Ultimately, you

Employee Initials _____

are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow associates or otherwise adversely affects members, customers, suppliers, people who work on behalf of the City of Seward or the City of Seward's legitimate business interests may result in disciplinary action up to and including termination.

Know and Follow the Rules

Carefully read these guidelines. Inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

Be Respectful

Be fair and courteous to fellow city employees, co-workers, elected officials, other government officials and employees, customers, citizens, board and committee members, suppliers and volunteers who work on behalf of the City of Seward. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or Supervisor than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or City of Seward policy.

Be Honest and Accurate

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false.

Post Only Appropriate and Respectful Content

- Maintain the City of Seward's confidential information. Do not post internal reports, policies, procedures or other internal business-related confidential communications.
- Respect financial disclosure laws.
- Do not create a link from your blog, website or other social networking site to a City of Seward website without identifying yourself as a City of Seward employee.
- Express only your personal opinions. Never represent yourself as a spokesperson for the City of Seward. If the City of Seward is a subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the City of Seward, fellow city employees, co-workers, elected officials, other government officials and employees, customers, citizens, board and committee members, suppliers and volunteers working on behalf of the City of Seward. If you do publish a blog or post online related to the work you do

Employee Initials _____

or subjects associated with the City of Seward, make it clear that you are not speaking on behalf of the City of Seward. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the City of Seward."

Using Social Media at Work

Refrain from using social media while on work time, unless it is work-related as authorized by your Supervisor or consistent with the Cell Phone, Computer and Internet Services policy. Do not use the City of Seward's email addresses to register on social networks, blogs or other online tools utilized for personal use. (Added 10/2016)

1.9 Care and Use of City Property (Updated 1/98)

The City of Seward provides a pleasant, comfortable and well maintained working environment for its employees. City equipment is also provided and kept up to date. Proper use and care of both the facilities and equipment is required of all employees. Any employee who does not maintain city facilities and equipment in a proper manner or who is found to be responsible for damage to or loss of City equipment through negligence, carelessness or abuse shall be subject to disciplinary action and may be required to reimburse the City for such damage or loss.

Based not only on the Accountability & Disclosure rulings, but also for liability reasons, at no time will any employee or member of the public be allowed to use/borrow City equipment, or place or park their own personal vehicle in a City owned garage, shop or building. (This includes parking on city premises to change oil, wash vehicles, etc.).

This policy shall not apply to non-powered equipment such as chairs, tables, picnic tables, benches, ice skates, disc golf sets, field chalking equipment and like items which have been routinely loaned; or to the exchange of equipment to other City, County, School or approved group within the City of Seward.

The Seward Volunteer Fire Department members are not employees and therefore will be governed by the rules and regulations as outlined and enforced by the Fire Department Board of Control and Department Standard Operating Procedures.

1.9(1) SMOKE FREE POLICY (New section added 11-01)

Smoking by the public and City employees shall be prohibited in all municipal buildings and vehicles.

1.9(2) ACCEPTABLE USE GUIDELINES FOR COMPUTERS & INTERNET SERVICES

The City of Seward recognizes the need for computer & technology services to provide a productive professional work environment and will provide the necessary equipment to conduct such business. (Updated 11-15-16)

General Principles: Computers and internet services are provided by the City of Seward to support open communications and exchange of information and the opportunity for collaborative government-related work. The City of Seward encourages the use of electronic communications by its departments and employees. Although access to information and information technology is essential to the missions of government agencies and their users, use of computers and internet services is a revocable privilege. Conformance with acceptable use, as expressed in this policy statement, is required. City departments are expected to maintain and enforce this policy. Abuse of the internet access

Employee Initials _____

provided by the City in violation of law or City policy will result in disciplinary action, up to and including termination of employment. Employees may be held personally liable for any violations of this policy.

During business hours, computer use and internet communications to and from City employees and with outside government agencies, are presumed to be work-related. City computers and data stored in them are the property of the City, and may be accessed at any time by authorized City officials. The equipment, services, and technology provided to access the internet offered by the City remain at all times property of the City. As such, the City reserves the right to monitor internet traffic, and retrieve and read any data composed, sent, or received through their online connections and stored in their computer systems. Employees should not expect privacy in the use of City computers.

At a minimum, users of computers and internet services provided by the City of Seward are expected to:

- 1) Make a reasonable effort to inform themselves of this acceptable use policy, and acceptable and unacceptable uses of computer equipment and the internet in general. This burden of responsibility is on the user as to acceptable and unacceptable uses prior to use. Compliance with all applicable acceptable use restrictions is mandatory.
- 2) During on-duty hours, City provided computers and internet services are to be used only for City government-related activities.

The City library provides use of computers and internet services to the public free of charge. Therefore, no charge will be assessed to employees who use the computers and these internet services during off-duty hours for personal business of a legal/ethical nature.

- 3) Respect the legal protection provided by copyright and license of programs and data.
- 4) Respect the privileges of other users.
- 5) Respect the integrity of computing systems connected to the internet.
- 6) Know and follow generally accepted etiquette of the internet. For example, always use civil forms of communication and avoid being drawn into "flame wars".
- 7) Avoid uses of the network that reflect poorly on other agencies or on the City.
- 8) During normal requirements of the various jobs within the City, protection of programs, data and select files may be required. Encrypting and/or use of passwords may be necessary to protect sensitive data. Sensitive data to be defined as personnel records, any information used in pending legal action, draft materials, and/or any information that if released prior to appropriate action may be detrimental to any City function. All passwords and/or encrypting methods including encrypting programs in use on City of Seward owned or leased computerized equipment must be on file with the Department Head or City Administrator. Such passwords shall be listed on forms provided by City offices. The password or encrypting information must be filed and available within three working days from the date the password or encryption is used. When changing or updating passwords the three working days is from the date that change is made.

Employee Initials _____

Evaluation of the guidelines of this acceptable use policy may require the City Administrator, Department Heads or supervisors to view any document, program or materials displayed on any City computer, terminal or monitor on request.

Users should remember that the City of Seward's personnel rules and regulations on employee conflict of interest, legal/ethical conduct, and appropriate use of City property apply to the use of electronic communications systems supplied by the City.

SPECIALLY ACCEPTABLE USES:

- 1) Communication and information exchange directly related to the mission and goals of the City, and work tasks of its departments.
- 2) Communication and exchange for continuing professional development, to maintain currency of training and education, or to discuss issues related to the user's City activities.
- 3) Application for or administration of grants or City contracts.
- 4) Utilization for advisory, standards, research, analysis, and professional society activities related to the user's City work tasks and duties.
- 5) Announcement of new City regulations, ordinances, procedures, policies, rules, services, programs, information, or activities.
- 6) Any other City administrative communications not requiring a high level of security.
- 7) Communication incidental to otherwise acceptable use, except for illegal or specifically unacceptable uses.

SPECIFICALLY UNACCEPTABLE USES FOR CITY INTERNET USAGE:

- 1) Any purpose which violates a federal, state or local law.
- 2) Any for-profit activities unless specific to the mission, goals or duties of the City, or related work tasks of a department.
- 3) Purposes not directly related to the City's mission and goals or department's work tasks during normal business hours.
- 4) Using the City's time and resources for personal gain.
- 5) Access to and distribution of: a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated offensive representations or descriptions of excretory functions, masturbation, or lewd exhibition of the genitals, b) Material sent or received in violation of the Protection of Children Against Sexual Exploitation Act of 1977, as amended, 18 U.S.C. 2252.

An exemption is allowed for authorized City law enforcement officers searching for information pertaining to specific criminal activity directly related to active investigations within the jurisdiction of the City of Seward.

- 6) Access to and distribution of computer games that have no bearing on the City's mission and goals or a department's work tasks. Some games that help teach, illustrate, training, or simulate City related issues may be acceptable.

Employee Initials _____

- 7) Interference with or disruption of network users, services or equipment.
- 8) Intentionally seeking out information on, obtain copies of, or modify files and other data which are confidential under federal, state, or local law, unless specifically authorized to do so once the legal conditions for release are satisfied.

No intentional copy is to be made of any software, electronic file, program or data using City provided internet services without a prior, good faith determination that such copying is, in fact, permissible. Any efforts to obtain permission should be adequately documented.
- 9) Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to others without authorization of the file owner. Seeking passwords of others or the exchanging of passwords is specifically prohibited.
- 10) Users intentionally representing themselves electronically as others, either on the City internetwork or elsewhere on the internet unless explicitly authorized to do so by those other users. Users shall not circumvent established policies defining eligibility for access to information or systems.
- 11) Intentionally developing programs designed to harass other users or infiltrate a computer or computing system and/or damage or alter software components of same.
- 12) Fund raising or public relations activities not specifically related to City activities.
- 13) Using the internet for political causes or activities, religious activities, or any sort of gambling.
- 14) Sending or posting discriminatory, harassing, or threatening messages or images.
- 15) Sending or posting messages or material that could damage the City's image or reputation.
- 16) Participating in the viewing or exchange of pornography or obscene materials.
- 17) Refusing to cooperate with a security investigation.

ADDITIONAL GUIDELINES: Computer viruses on downloaded software. Any software obtained from outside City government should be virus checked prior to use. Internet users should take the necessary anti-virus precautions before downloading or copying any file from the Internet. All downloaded files are to be checked for viruses; all compressed files are to be checked before and after decompression.

Use by Contractors. Contractors and other non-City employees may be granted access to City provided internet services as the discretion of the City Administrator. Acceptable use by contractors and other non-City employees working for the City is the responsibility of the contract administrator. The contract administrator is expected to provide contractors who use City Internet services with this information.

Passwords. Use passwords associated with the City information system only on that system. When setting up an account at a different information system that will be accessed using the Internet, choose a password different from ones used on City information systems. Do not use the same password for both local and remote internet-accessed site.

Employee Initials _____

Logoff (Exiting). Always make a reasonable attempt to complete the logoff or other termination procedure when finished using a remote, Internet-accessed system or resource. This will help prevent potential breaches of security.

E-Mail Security. Unencrypted electronic mail sent or received outside any Department and on the internet cannot be expected to be secure.

Large File Transfers and Internet Capacity. The internet connection is a shared resource. While routine electronic mail and file transfer activities won't impact other users much, large file transfers and intensive multimedia activities will impact the service levels of other users.

Users contemplating file transfers over 10 megabytes per transfer or interactive video activities should, to be considerate of other users, schedule these activities early or late in the day.

Disclaimers. Users should avoid being drawn into discussions where disclaimers like "this represents my personal opinion and not that of my Department or the City of Seward" need to be used. When you are using Internet services provided by the City, users need to remember that they are representing the City of Seward.

PROCEDURES: The City Administrator, Department Head or their delegated representative are responsible for their employees' compliance with the provisions of this policy and for investigating non-compliance. When an instance of non-compliance with this policy is discovered or suspected, the management shall take action in accord with City personnel policies. Suspension of service to users may occur when deemed necessary to maintain the operation and integrity of the City of Seward Internetwork. User accounts and password access may be withdrawn without notice if a user knowingly violates the acceptable use policy. Discipline may be appropriate in cases of criminal or civil action where laws are violated.

1.9(3) Drug and Alcohol Use and Testing Policy/Procedure (New section added 11-01)

Drug Testing Policy: All full-time and regular part-time employees shall be subject to a drug and alcohol test prior to being hired. Applicants who test positive without a suitable explanation will not be offered a position.

Employees can be asked to submit to a test if cause exists to indicate that their health or ability to perform work might be impaired. Factors that could establish cause include, but are not limited to:

- 1) Sudden changes in work performance;
- 2) Repeated failure to follow instructions or operating procedures;
- 3) Violation of City safety policies;
- 4) Involvement in an accident or near-accident;
- 5) Discovery or presence of illegal or suspicious substances or materials in an employee's possession or near the employee's workplace;
- 6) Odor of alcohol and/or residual odor peculiar to some clinical or controlled substances;
- 7) Unexplained and/or frequent absenteeism;

Employee Initials _____

- 8) Personality changes or disorientation; and
- 9) Arrest or conviction for violation of a criminal drug statute.

Employees may be tested if they are involved in an on-the-job vehicle accident cited for a moving vehicle violation, personal injury, or property accident on the job. Employees are prohibited from using alcohol or controlled substances following such an incident until they have been tested. Any employee who is seriously injured and cannot provide a specimen at the time of the incident must provide the necessary authorization for obtaining hospital records and other documents that would indicate whether there was alcohol and/or controlled substances in the employee's system. (Added 12/2012)

The following policy provides the City of Seward regulations for compliance with the United States Department of Transportation regulations regarding a drug and alcohol-free transportation environment and applies to all persons who are commercially-licensed drivers in service to the City.

Policy: It is the policy of the City of Seward that its commercially-licensed drivers be free from substance abuse and alcohol abuse. Consequently, the use of illegal drugs by drivers is prohibited. Further, drivers shall not use alcohol to engage in "prohibited conduct" as defined herein. The overall goal of this policy is to ensure a drug-and alcohol-free transportation environment and to reduce accidents injuries and fatalities.

This policy has been adopted as part of the City's required compliance with United States Department of Transportation (DOT) regulations 49 C.F.R. Part 382. Those portions of this policy regarding disciplinary action or related to compliance with Nebraska law are based upon independent authority and are not prescribed by the DOT regulations.

In addition to this policy, employees and other persons may be subject to other City policies and governmental regulations relating to alcohol and drug abuse affecting work activities that are not governed by DOT regulations related to functions performed by commercially-licensed drivers.

Refusal to Test: Refusal to submit to drug and alcohol tests described herein will be grounds for refusal to hire driver/applicants and to terminate employment of existing drivers. Refusal to test means either failure to provide adequate breath or urine sample without valid medical explanations or engaging in any conduct which would obstruct the implementation of any test required herein.

Consequences of Policy Violation: Any driver who becomes unqualified or engages in prohibited conduct as set forth herein is subject to disciplinary action up to and including discharge.

Types of Tests: The City has implemented six circumstances for drug and alcohol tests pursuant to regulations promulgated by the U.S. Department of Transportation (DOT); 1) pre-employment testing; 2) random testing; 3) post-accident testing; 4) reasonable suspicion testing, 5) return-to-duty testing; and 6) follow-up testing.

Pre-Employment Testing: All applicants for positions requiring a Commercial Driver's License (CDL) must submit to urine drug tests, or provide documentation that they have participated in a drug testing program within the previous 30 days and have no records of a violation of the DOT drug misuse rules within the previous 6 months (verified through previous employers); and were drug tested within the past 6 months (from date of application) or participated in a random drug testing program for the previous 12 months (also from the date of application).

Employee Initials _____

Random Tests: The City conducts random drug and alcohol testing for persons it assigns to operate Commercial Motor Vehicle (CMV). The City will submit all CDL drivers to a random selections system which provides an equal chance for each driver to be selected each time random selection occurs. Random selections will be reasonably spread throughout the year.

The City will drug test, at a minimum, 25% of the average number of driver positions in each calendar year. The City will select, at a minimum 10% of the average number of driver positions for random alcohol testing. Random selection, by its very nature, may result in drivers being selected in successive selections or more than once a calendar year. Alternatively, some drivers may not be selected in a calendar year.

A City official will notify the driver when a driver is selected at random for either drug or alcohol testing. Once notified, the driver must take appropriate action intended to lead to testing. Any conduct by the driver which does not lead to a test as soon as possible after notification may be considered a refusal to test.

Post-Accident Test: As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers: (1) who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or (2) who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident.

Note: Safety-sensitive functions means any of those on-duty functions set forth in 49 Code of Federal Regulations 395.2, on-duty time, paragraphs (1) through (7), generally, driving and related activities. See Attachment 1 following this section for a reproduction of these requirements.

A driver involved in an accident must contact his or her supervisor as soon as possible following the accident. The driver must comply with the instructions contained on the DOT post-accident cab cards contained in the vehicle's glove compartment.

The DOT requires that any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If a test is not administered within two hours, the responsible supervisor must report the reasons why, in writing, to the City Administrator. Attempts to collect a breath sample are to cease in instances where alcohol collection cannot be made within 8 hours. Attempts to collect urine samples are to cease in instances where urine collection cannot be completed for purposes of post-accident testing within 32 hours.

The results of a breath, blood, or urine tests for the use of alcohol, or controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer. The employee must sign a release allowing the City to obtain the test result from federal, state or local officials.

A driver who is unable to provide a urine or breath specimen at the time of the accident because of serious injuries, must provide necessary authorization for the City to obtain hospital records or other documents that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.

A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an

Employee Initials _____

accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Reasonable Cause/Reasonable Suspicion Test: Reasonable cause/reasonable suspicion for requiring a driver to submit to drug and/or alcohol testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Such driver must be witnessed by at least one supervisor trained in compliance with DOT regulations.

NOTE: 49 Code of Federal Regulations 382.307, Reasonable Suspicion Testing, discusses reasonable suspicion testing in detail. See Attachment 2 for a reproduction of these requirements.

PROHIBITED CONDUCT UNDER DOT REGULATIONS: The content of Title 49 of the Code of Federal Regulations, Part 382-Controlled Substances and Alcohol Use and Testing, subpart B-Prohibitions, is reproduced below. Drivers who fail to comply with the following requirements will be considered to have engaged in prohibited conduct for the purposes of this policy.

"No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater. No employer having knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions."

"No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions."

"No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions. (Alcohol use in this context means consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.)

"No driver required to take a post-accident alcohol test under 382.303 of this part (Post-accident testing) shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first."

"No driver shall refuse to submit to a pre-employment controlled substance test required under §382.301, a post-accident alcohol or controlled substance test required under §382.303, a random alcohol or controlled substances test required under §382.305, a reasonable suspicion alcohol or controlled substance test required under §382.307, a return-to-duty alcohol or controlled substances test required under §382.309, or a follow-up alcohol or controlled substance test required under §382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions."

"No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I."

"No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when

Employee Initials _____

the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle."

"No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function."

"An employer may require a driver to inform the employer of any therapeutic drug use."

"No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions".

The City may require the driver to submit to drug and/or alcohol testing if the City has actual knowledge or has reason to believe that a driver has engaged in prohibited conduct.

A driver who engages in prohibited conduct is not qualified to drive a commercial motor vehicle and must be immediately removed from service. The City may, in its discretion and at the request of the driver, keep the driver's position open during a period of disqualification from driving a commercial vehicle resulting from failure to comply with the above laws, while the driver attempts to become re-qualified. The City may also take disciplinary action against the employee up to and including discharge.

RELATED NEBRASKA STATUTES

Persons with commercial driver's licenses must comply with Nebraska law concerning operation of commercial motor vehicles when using commercial motor vehicles during working hours, in response to calls when scheduled to be on call, in response to unscheduled call-outs, or at any other time.

SUBSTANCE ABUSE EVALUATION AND TREATMENT AND RETURN-TO-DUTY AND FOLLOW-UP TESTING

Any driver who engages in prohibited conduct will be provided with the name, address and telephone number of qualified substance abuse professionals. If the driver desires to become re-qualified, the driver must be evaluated by a Substance Abuse Professional (SAP) and submit to any treatment prescribed by the SAP following evaluation and treatment, if any, in order to become re-qualified, the driver must submit to and successfully complete a return-to-duty drug and/or alcohol test.

Such driver is also subject to follow-up testing. Follow-up testing is separate from and in addition to the City's reasonable cause, post-accident, and random testing procedures. Follow-up testing will be on a random basis and be in accordance with the instructions of the Substance Abuse Professional. Follow-up testing may continue for a period of up to 60 months following the driver's return to duty. No fewer than six tests will be performed in the first 12 months of follow-up testing. The City does not guarantee or promise a position to the driver should he or she regain qualified status.

AUTHORIZATION FOR PREVIOUS TEST RECORDS

DOT requires the City to obtain certain Drug and Alcohol testing records from a driver's employers for the previous two years. This must be done within 14 days of assigning the

Employee Initials _____

driver to perform safety-sensitive functions. Accordingly, as a condition of employment, the driver must provide a written authorization for such employers to release required drug and alcohol testing records.

DRUG URINALYSIS

Drug testing shall be performed by urinalysis for the presence of drugs and/or metabolites of the following controlled substances: (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, (5) phencyclidine (PCP).

The urinalysis procedure starts with the collection of an urine specimen by an authorized Collection Site Person (CSP). The CSP will submit the urine specimen(s) to a Substance Abuse and Mental Health Services Administration (SAMHSA) - approved laboratory for testing. As part of the collection process, the specimen provided will be split into two vials; a primary vial and a secondary vial. The SAMHSA-certified laboratory will perform initial screening on all primary vials. In the event that the primary specimen tests positive, a confirmation test of that specimen will be performed before being reported by the laboratory to the MRO as a positive.

The testing laboratory will report all results to a MRO designed by the City. The MRO will report all negative test results to the City. The MRO will attempt to contact the driver to discuss positive test results before reporting it to the City. However, the MRO will contact the City Administrator if unable to contact the driver directly. The City Administrator will then contact the driver and direct the driver to contact the MRO. The driver must contact the MRO immediately upon notification or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. It is the MRO's sole discretion to determine whether a result is positive or negative.

Pursuant to DOT regulations, individual test results for driver/applicants and drivers will be released to the City and will be kept strictly confidential unless consent for the release of the test results have been obtained. Any individual who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

An individual testing positive may make a request of MRO to have the secondary vial tested. The driver may request that the secondary vial be tested by a different SAMHSA-certified lab than the one which tested the primary specimen. The individual making the request for a test of the second specimen must pre-pay all costs of the additional test and all handling and shipping costs associated with the transfer of the specimens to the different laboratory. The request for testing of a second specimen is timely if it is made to the MRO within 72 hours of the individual being notified by the MRO of a positive test result.

ALCOHOL TESTS

An authorized Breath Alcohol Technician will perform alcohol tests using an evidential breath-testing device. The driver must follow all instructions given by the Breath Alcohol Technician.

A driver with a blood-alcohol content of .02 to .0299 based on an evidential breath test will be removed from duty for 24 hours or until the next scheduled on-duty time, whichever is longer. Tests indicating a blood-alcohol concentration of .04 or over will be considered evidence the employee engaged in prohibited conduct and may result in disciplinary action up to and including discharge.

Employee Initials _____

REVIEW OF DETERMINATIONS-APPEALS

Persons determined to have positive alcohol or drug test results will have a right to an impartial internal management review of those determinations when a review is requested. This review must be in accordance with the appeal process outlined in the City's Personnel Manual with such modification as are necessary to accommodate alcohol and drug testing pursuant to the DOT regulations. Disciplinary action taken against an employee because of such positive alcohol or drug test results is reviewable under the City's Grievance Policy.

TRAINING

The City Administrator or his/her designated representative will develop specific training for drivers and their supervisors. (For purposes of this policy, a supervisor is any person who assigns or directs an individual to perform Safety-Sensitive Functions as defined in Attachment 1). A supervisor must complete this training before assuming this responsibility. The City will provide at least 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on controlled substances to affected supervisors. The training will cover the physical, behavioral, speech, and performance indicators of probable use of controlled substances and alcohol misuse.

The City will also provide each driver with education materials which explain the DOT drug and alcohol testing regulations and the City's policies for compliance. DOT regulations require each driver to sign a statement certifying receipt of these materials.

ATTACHMENT 1

DEFINITION OF SAFETY-SENSITIVE FUNCTIONS

Title 49 of the Code of Federal Regulations Part 382 (Controlled Substances and Alcohol Use and Testing) defines "safety-sensitive function" as "all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

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

Employee Initials _____

ATTACHMENT 2
REASONABLE SUSPICION TESTING

Title 49 Code of Federal Regulations 382.307, Reasonable Suspicion Testing, discusses reasonable suspicion testing in detail. This section is reproduced below. Referenced to "subpart B of this part" means Title 49 of the Code of Federal Regulations, Part 382- Controlled Substances and Alcohol Use and Testing, subpart B-Prohibitions. The test of subpart B is reproduced in this policy in the section title "Prohibited Conduct Under DOT Regulations".

382.307 Reasonable Suspicion Testing:

- 1) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of subpart B of this part concerning alcohol. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
- 2) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of subpart B of this part concerning controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- 3) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or company official who is trained in accordance with §382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
- 4) Alcohol testing is authorized by this section only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this part. A driver may be directed by the employer to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- 5)
 - a) If an alcohol test required by this section is not administered within two hours following the determination under paragraph (a) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (a) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
 - b) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver

Employee Initials _____

is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until:

- i. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
 - ii. Twenty four hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this part concerning the use of alcohol.
- c) Except as provided in paragraph (5)(b) of this section, no employer shall take any action under this part against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit an employer with independent authority of this part from taking any action otherwise consistent with law.
- 6) A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances test are released, whichever is earlier."

1.10 Use of City-Owned Vehicles (Updated 10-06)

Department Heads and other employees, as designated by the appropriate authority, shall be allowed to use City-owned vehicles during duty hours. Such vehicles shall not be used for other than official City business. Non-City employees (engineers, other government officials, spouses) will be allowed to ride in City owned vehicles for City related business, meetings or conferences with the approval of the Mayor, City Administrator or appropriate authority. In addition, Non-City employees shall be allowed to participate in the Police Department ride along program with approval of the Chief of Police. Employees using City vehicles will be expected to keep them clean and schedule regular service checks and shall always drive such vehicles in a manner so as to conform with existing traffic regulations and not bring discredit upon the City.

1.11 Safety (Updated 11/01)

Employees shall observe prudent safety precautions at all times. Department Heads shall train their personnel to work safely. Each employee shall know what to do in case of fire or other disaster as well as the location and use of first aid supplies. Safety precautions include the observance of traffic regulations when driving or operating City vehicles and equipment.

- 1) Equipment
 - A. Safety Belts - All employees shall wear safety belts (shoulder and/or lap), as supplied by the City, when driving or operating City vehicles and equipment.
 - B. Hard Hats - All employees shall wear hard hats, as supplied by the City, whenever working in an environment where a blow to the head could

Employee Initials _____

occur. Specifically, City employees shall wear hard hats in the following activities:

- i) When cutting, trimming and/or loading trees, shrubs and overgrowth;
- ii) When working in or around an area where a jackhammer is being used to remove concrete;
- iii) When working in or around an area where a backhoe or loader is to be used on the project;
- iv) When working in or around an area where others are working overhead. For example, when working in a trench or pit or when working in or around scaffolding or buildings under construction or repair;
- v) When working in a bucket truck or digger derrick and when working as a groundman for linemen in a bucket truck;
- vi) When working with underground electrical work.

Non-authorized persons shall not be allowed to be at a construction site or other area where hard hats are required.

C. Safety Vests - Orange, reflectorized vests, as provided by the City, shall be worn by all City employees working on construction, repair or a maintenance project on a public street. Said vests shall be in addition to the necessary barricades and flashers used at a street construction site.

2) Violations of Safety Rules

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

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

1.12 Reporting of Accidents and Injuries

Employees shall report all accidents and injuries to their Department Head as soon as possible after the incident. Injuries of a minor, first aid nature may be treated at the job site or department office. If the injury requires medical attention, the employee may consult his family doctor. Rescue Squad services shall be used to transport employees to a hospital if the accident or injury results in incapacitation of the employee. Employees who have an accident with a City-owned vehicle shall first notify a law enforcement agency and then the Department Head. This shall be done regardless of how minor the accident. Within twenty-four (24) hours of the incident, the affected employee and Department Head shall file an accident-injury report at City Hall for insurance and Safety Committee review purposes. In addition, the Department Head shall insure that the City's insurance carrier is notified of the accident/injury if a claim may be filed. These same conditions apply when employees are operating privately owned vehicles while conducting City business.

Employee Initials _____

1.13 Changes in Name, Address and Dependents

Employees shall report to the Department Head and City Clerk's Office any changes of name resulting from a change in marital status, and any change of dependents. Also to be reported are any changes in address, telephone number or information which will impact the personnel record of the employee. This information is required for insurance and tax purposes.

1.14 Records

The City Clerk shall maintain records on each employee to include pertinent personal data such as name, address, telephone number, title of position held, the department to which assigned, current salary and changes in employment status.

1.15 Peddling, solicitation, etc.

No peddling, solicitation or sale for charitable purposes or other reasons shall be allowed among or by City employees during working hours and in working areas, unless approved by the City Administrator or appropriate authority, or the Chief of Police for Police Department personnel.

1.16 Conflict of Interest

No employee shall engage in any activity or enterprise which conflicts with his duties as a City employee or with the duties, functions and responsibilities of the department in which he/she is employed. The following activities shall be considered a conflict of interest with City employment:

- 1) Any employment, activity or enterprise which involves the use for private gain of the City's time, facilities, equipment or supplies, or the badge, uniform, prestige or influence of a City office or employment.
- 2) Involves the receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for performance of an act which the officer or employee would be required or expected to render in the regular course of City employment or as part of his duties as a City employee.
- 3) Involves the performance of an act in other than his capacity as a City officer or employee which may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by such officer or employee or the department by which he is employed.
- 4) Involves so much of the employee's time that it impairs his attendance or efficiency in the performance of his duties as a City officer or employee.

1.17 Gratuities

No employee of the City of Seward shall accept any fee, reward, gift or gratuity that has any connection with said employee's municipal employment or from the performance of an employee's official duties. This acceptance limitation of any gift or gratuity shall not apply in those instances where a departmental gift or gratuity of nominal value is given by some individual or organization. The policy is intended, however, to discourage all gifts and gratuities which may be offered any employee or group of employees. Each employee should decline acceptance of such gifts or gratuities in the most courteous manner possible. For those individuals or organizations who may be offended by the nonacceptance of gifts or gratuities, it is recommended that the employee suggest the contribution be donated to a

Employee Initials _____

nonprofit organization on behalf of the City; for example, the United Way, the hospital, a local church, etc.

1.18 Sexual Harassment Policy.

The City of Seward expressly prohibits its officials or employees from engaging in any form of unlawful harassment or discrimination. Harassment or discrimination of any employee is a serious violation of City policy and will not be tolerated. (Added 12/2012)

It is the policy of the City of Seward to provide an environment free of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communication constituting sexual harassment. The purpose of this policy statement is to establish clearly and unequivocally that the City prohibits sexual harassment by and of its employees and to set forth procedures by which allegations of sexual harassment may be filed, investigated and adjudicated.

Sexual harassment is a form of employee misconduct which interferes with work productivity and wrongfully deprives employees of the opportunity to work in an environment free from unsolicited and unwelcome sexual advances, requests for sexual favors and other such verbal or physical misconduct. Sexual harassment is a prohibited personnel practice and is a violation of the law.

The U.S. Equal Employment Opportunity Commission has issued guidelines interpreting Section 703 of Title VII as prohibiting sexual harassment. Sexual harassment is defined in those guidelines as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical misconduct of a sexual nature constitutes sexual harassment when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or;
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

It shall be a violation of City policy to harass another employee sexually or to permit the sexual harassment of an employee by a non-employee. Sexual harassment may take many forms, including, but not limited to:

- 1) Verbal harassment or abuse;
- 2) Subtle pressure or requests for sexual activity;
- 3) Unnecessary touching of an individual, e.g., patting, pinching, hugging, repeated brushing against another employee's body;
- 4) Requesting or demanding sexual favors accompanied by implied or overt threats concerning an individual's employment status; or
- 5) Requesting or demanding sexual favors accompanied by implied or overt promise of preferential treatment with regard to an individual's employment status.

Employee Initials _____

- 6) Distribution of representations or descriptions of actual or simulated sexual acts, representations or descriptions of excretory functions, masturbation, or lewd exhibition of the genitals in hard copy, email, cell phone cameras, IMS, texts or in any other manner.

Any employee who feels he or she has been subjected to sexual harassment has several ways to make his or her concerns known.

- 1) Aggrieved persons who feel comfortable doing so should directly inform the person engaging in sexual harassing conduct or communication that such conduct or communication is offensive and must stop.
- 2) If an aggrieved person does not wish to communicate directly with the person whose conduct or communication is offensive or if direct communication with the offending party has been unavailing, the aggrieved employee shall contact his or her supervisor or the offending party's supervisor.
- 3) Aggrieved employees alleging either sexual harassment by anyone with supervisory authority or the failure of a supervisor to take immediate action on the employee's complaint should communicate with the supervisor at the next level of command or file a grievance in accordance with the provisions of the appropriate grievance procedure.

Regardless of the means selected for resolving the problem, the initiation of a complaint of sexual harassment will not cause any reflection on the complainant nor will it affect such person's future business dealings with the City, his or her employment, compensation or work assignments. (Updated 1-19-10)

1.19 National Origin Policy and other protected classifications: (updated 8/2001)

The City of Seward expressly prohibits its officials or employees from engaging in any form of unlawful harassment or discrimination. Harassment or discrimination of any employee is a serious violation of City policy and will not be tolerated. (Added 12/2012)

It is the City's policy that harassment of its employees by anyone, whether management/supervisory personnel, co-workers, or others on the basis of race, color, religion, gender (nonsexual in nature - sexual harassment is covered by a separate policy), national origin, age, or disability, will not be tolerated. Such conduct will result in immediate disciplinary action, including possible termination of employment.

Harassment is verbal or physical conduct that denigrates or show hostility or aversion toward an individual because of his/her race, color, religion, gender, national origin, age, or disability, or that of his/her relatives, friends, or associates, and that:

- 1) Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- 2) Has the purpose or effect of unreasonably interfering with an individual's work performance, or
- 3) Otherwise adversely affects an individual's employment opportunities.

Employee Initials _____

Harassing conduct includes, but is not limited to, the following:

- 1) Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts, that relate to race, color, religion, gender, national origin, age, or disability. This includes acts that purport to be "jokes" or "pranks" but that are hostile or demeaning with regard to race, color, religion, gender, national origin, age, or disability.
- 2) Written or graphic material that denigrates or show hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, or disability and that is placed on walls, bulletin boards, or elsewhere on the employer's premises, or circulated in the workplace.

It is the responsibility of management personnel to maintain a working environment free of harassment on any of these bases and to make known to employees the policy of the City on such harassment. In addition, management is expected to take immediate action to deal promptly with known situations involving such harassment.

It is the employee's responsibility to report all incidents or perceived incidents of such harassment, pursuant to the following complaint procedure:

Complaint Procedure: Any employee who feels he or she has been subjected to harassment has several ways to make his or her concerns known.

- 1) Aggrieved persons who feel comfortable doing so should directly inform the person engaging in harassing conduct or communication that such conduct or communication is offensive and must stop.
- 2) If an aggrieved person does not wish to communicate directly with the person whose conduct or communication with the offending party has been unavailing, the aggrieved employee shall contact his/her supervisor or the offending party's supervisor.
- 3) Aggrieved employees alleging either harassment by anyone with supervisory authority or the failure of a supervisor to take action on the employee's complaint should communicate with the supervisor at the next level of command or file a grievance in accordance with the provisions of the appropriate grievance procedure.

Regardless of the means selected for resolving the problem, the initiation of a complaint of harassment will not cause any reflection on the complainant nor will it affect such person's future relationship with the City, his or her employment, compensation or work assignments.

1.20 Workplace Violence (New section added 11/01)

The City of Seward expressly prohibits its officials or employees from engaging in any form of unlawful harassment or discrimination. Harassment or discrimination of any employee is a serious violation of City policy and will not be tolerated. (Added 12/2012)

It is the policy of the City to expressly prohibit any acts or threats of violence by any employee or former employee in or about its facilities or elsewhere at any time. The City will not condone any acts or threats of violence against its employees, customers, or visitors by any individual on the City's premises at any time or while such individual is engaged in business with or on behalf of the City, on or off the City's premises.

Employee Initials _____

In keeping with the spirit and intent of this policy, and to ensure the City's objectives in this regard, the City is committed to the following:

- 1) Providing a safe and healthful work environment;
- 2) Taking prompt remedial action up to and including immediate termination against any employee who engages in any threatening behavior or acts of violence or who uses any obscene, abusive or threatening language or gestures;
- 3) Taking appropriate action when dealing with customers, former employees, or visitors to the City's facilities who engage in such behavior. Such action may include notifying police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law; and
- 4) Prohibiting employees, former employees, customers, and visitors from bringing unauthorized firearms or other weapons onto the City's premises.

Duty to Warn: In furtherance of this policy, employees have a "duty to warn" their supervisors of any suspicious workplace activity, situations, or incidents that they observe or know of that involve other employees, former employees, customers, or visitors and that appear problematic. This would include, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence, to the maximum possible extent. The City will not condone any form of retaliation against any employee for making a report in good faith under this policy.

2. EMPLOYMENT – APPOINTMENT

2.1 Procedure (Updated 12/2012)

- 1) Department Heads shall make a request to the City Administrator or appropriate authority as far in advance as possible for the need for additional employees in their Department, and their intent to budget accordingly. If the request is approved by the City Administrator and Council, or appropriate authority through the budget process, recruitment from within or from outside sources shall be initiated. Advertisements will be placed in the Seward County Independent a minimum of two consecutive weeks. Advertisements may also be placed in newspapers with state-wide and regional coverage, and appropriate trade journals as well as local government related publications if it is determined to be necessary for the type of position being offered. All written advertisements will be processed through the Assistant Administrator/Clerk-Treasurer's Office. The City will make an individualized assessment of whether a qualified individual with a disability meets hiring criteria and, to the extent its selection criteria have the effect of disqualifying an individual because of a disability, those criteria will be job-related and consistent with business necessity.

After the deadline for submittal, Department Heads, Boards or Commissions, shall thoroughly screen the applications for completeness and then rank them on the basis of how well each meets the hiring criteria (education, experience, skills/abilities, special training and certifications, etc.). Hiring criteria shall be assigned numerical weighting according to their degree of importance to successful performance of the position. Department Heads, Boards or Commissions shall present the ranked applications to the City Administrator for final review/evaluation.

Employee Initials _____

Depending on the number of applications for a vacancy, from three (3) to five (5) of the highest ranked applicants shall be formally interviewed. Prior to conducting interviews, Department Heads, Boards or Commissions shall conduct thorough reference/background checks, including but not limited to: verification of previous employment, work performance and performance issues. They shall then prepare and submit written interview questions (with numerical weighting) to the City Administrator for review and approval as to proper format, technical content and compliance with employment laws. Department Heads and the City Administrator or appropriate authority shall jointly conduct interviews. Applicants who are interviewed shall be asked the same questions and their answers recorded in writing or on tape. Applicants shall be interviewed more than once if deemed necessary. Upon completion of the interview process, Department Heads and the City Administrator or appropriate authority shall jointly assign each applicant a final ranking based upon their responses to the interview questions.

The applicant determined to be the most qualified (i.e., highest ranked) shall be offered the vacancy.

- 2) Applicants for full-time employment must: have the legal right to work in the United States; be at least eighteen (18) years of age; be physically fit to perform the essential functions of the position at issue, with or without reasonable accommodation for qualified persons with a disability; and be of good moral character.

For Police Department employees subject to the Civil Service Act, the appointment procedure in the Civil Service Rules & Regulations governs. (Update 12/2012)

2.2 Physical Examinations (Updated 8/2001)

An applicant may be required to submit to a medical examination only after a conditional offer of employment and only if the examination is required of all applicants for the position. If the examination disqualifies an individual because of a disability, the examination standards shall be job-related and consistent with business necessity. An employee's medical records will be retained separate from personnel files and kept confidential in compliance with the regulations of the U.S. Equal Employment Opportunity Commission and the Nebraska Fair Employment Practice Act.

2.3 Residential Requirements

City employees are encouraged, but not required, to live within the boundaries of the City of Seward. It is in the best interest of the City to require its personnel to be able to respond adequately in the event of an emergency, therefore, when called, the response time for all personnel to the Department facility, shall be as soon as possible, with a maximum allowable time of 30 minutes. It shall be the responsibility of each Department Head to monitor response time of his/her employees pursuant to this section and report any discrepancies to the City Administrator. Failure of an employee to respond within the maximum allowable response time when called shall result in disciplinary action.

An employee living outside of the City limits who cannot report to work because of weather conditions, shall have the time lost deducted from his/her wages, vacation time, or the time lost shall be made up within the pay period during which the work was missed.

Employee Initials _____

2.4 Evaluation Period

Every person employed by the City of Seward shall serve an evaluation period for the first six calendar months of his employment or re-employment. The purpose of this is to permit the Department Head to closely observe and evaluate the capabilities and willingness of the new employee. During this time, the Department Head or appropriate authority shall encourage and assist the new employee in making a successful adjustment to his job.

2.5 Promotion

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

2.6 Transfer

City employees shall have the privilege of requesting a transfer to another department at any time there exists a vacancy for which they qualify. Department Heads or appropriate authorities shall give deliberate and impartial consideration to such requests within their respective departments.

2.7 Equal Opportunity (Updated 8/2001)

No applicant shall be prohibited from securing employment with the City of Seward as a result of his race, creed, color, religion, marital status, sex, protected age, pregnancy, disability, national origin or political affiliation. Neither shall any employee be denied promotional or transfer opportunity as a result of his race, creed, color, religion, marital status, sex, age, pregnancy, disability, national origin or political affiliation. Any evidence of discrimination shall be brought to the attention of the affected employee's Department Head and the City Administrator or appropriate authority as necessary. The City will make reasonable accommodations for the known physical or mental limitations of a qualified applicant or employee with a disability upon request, unless the accommodation would cause an undue hardship on the operation of the City's business.

2.8 Employment of Relatives

No applicant for a regular full time or regular part-time City position shall be considered for employment if the position for which he is applying would result in his working in the same department as a member of his immediate family. These same conditions will apply for an employee who is promoted or transferred to a position in any department which would result in his working in the same department as a member of his immediate family. These policies apply to all members of the immediate family of all personnel of the City. Seasonal and temporary full-time or part-time positions are exempt from this policy.

2.9 Rehiring of Retired Employees

Employees who have been retired from active City employment, whether or not they are receiving pensions from funds provided by the City, shall not be eligible for active employment pay from any City department funds unless approved by the City Administrator or appropriate authority or with approval of the City Council.

Employee Initials _____

3. PAY PLAN FOR REGULAR, FULL-TIME EMPLOYEES

3.1 Purpose of Pay Plan

Within the limitations of its financial position, it is the policy of the City of Seward to maintain a Pay Plan which promotes the retention, and if necessary, the recruitment of competent employees. In addition, the City seeks to pay fair and equitable salaries to all employees based upon the value of each position per Nebraska State Statutes and the decisions of the Nebraska Commission of Industrial Relations (NCIR). Finally, it is the City's policy to maintain a salary program which provides peak motivation to employees by paying salaries which reflect an individual's accomplishments, as long as they remain within the limits of the established ranges for each position. (Updated 11-15-16)

3.2 Pay Plan Structure:

Each position in the City is classified into a "Pay Range: according to the level of responsibilities assigned the position. Each pay range shall be defined by a Minimum Salary and a Maximum Salary with seven salary steps in between. Except as affected by Longevity Pay, an employee's salary shall not be lower than or higher than the Pay Range for his position.

All new employees shall be paid at the minimum wage of the Pay Range for the position for which they were hired. The only exception to this rule would be a new employee who significantly exceeds the minimum requirement of the position, either in education or experience. This employee may, with the recommendation of the Department Head and City Administrator or appropriate authority, receive a salary commensurate with their qualifications within the limits of the Pay Range.

SUBJECT TO THE CITY'S FISCAL CONDITION AND THE LOCAL ECONOMY, a new employee who maintains above average work performance should expect to receive the maximum pay of his/her respective pay range in a 9 to 10 year period. Existing employees, subject to their current placement in the pay range, should expect to advance to the maximum salary at the same pace.

3.3 Comparability Study (Updated 11-15-16)

The City strives to pay all employees fair and equitable salaries based upon the value of each position per Nebraska State Statutes and the decisions of the Nebraska Commission of Industrial Relations (NCIR). Toward this objective the City shall complete a Comparability Study of wages and benefits in accordance with the Nebraska State Statutes and the decisions of the Nebraska Commission of Industrial Relations (NCIR). The Comparability Study shall be completed at least once every three years by a recognized expert in the field of job analysis, wage and fringe benefit surveying and experience in testifying in such matters before the NCIR.

In interim years, City staff shall be responsible for completion of the Study, with the results being reviewed and approved by the expert who most recently completed the City's Comparability Study. Comparability adjustments as approved by the City Council shall become effective annually each December 1st.

3.4 Performance Pay (Updated 1/98)

Job performance increases shall be awarded annually through a target sheet evaluation system and step-plan structure, the first pay period in April to employees whose work performance is above average. All new employees must have completed a six month evaluation period and all employees who have changed positions or been promoted must

Employee Initials _____

hold their new position for a minimum of six months with above average performance (based on evaluation) to be eligible for such pay increases. No performance increase will be awarded to an employee who has been demoted, suspended from work that results in disciplinary action, or who has two written reprimands in a 12 month period.

In the City's step-plan structure, each position pay range has 9 steps (from Minimum to Maximum). Annual performance increases are determined based on the average score of an employee's previous 2 target sheets. Employee performance target sheets are completed and reviewed with the employee semiannually (October 1st and April 1st). Under the City's target sheet system, employees with above average target sheet scores advance one step on their pay range. For employees at the top of their pay ranges, performance pay for above average target sheet scores will be awarded in the form of a one-time lump payment (not added to base pay). This pay will be based on the difference between Step 8 and Step 9 for a twelve month time period. The lump sum pay award will have to be re-earned each year through above average performance.

The target sheet evaluation system rewards good work performance and provides an incentive to both new and long-term high achieving employees. The step-plan assures movement of employees along their pay ranges in 9 to 10 years (based on performance) in accordance with the prevalent practice of other municipalities.

3.5 Longevity Pay:

Each employee, who is a full-time employee, may, for each two years of service to the City, receive five dollars (\$5.00) per month in addition to the established base pay in his/her respective Salary Range.

3.6 Part-time and Seasonal Employees:

1. Pay for temporary employees shall be based on the duties and responsibilities of the temporary position as determined by the Department Head with the approval of the City Administrator or appropriate authority. (Updated 3/2/99)
2. All wages for part-time and seasonal employees shall be determined by the Salary Administrators of the City, with information from the Comparability Study and input from the appropriate authority. All positions shall be advertised for in accordance with Equal Opportunity Regulations through the office of the City Clerk-Treasurer. The only exception to the advertising requirement will be for seasonal employees returning to the same job each season and temporary positions. (Updated 3/2/99)

3.7 Authorized Deductions (Updated 11-15-16)

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

Federal Withholding Tax
Social Security
State Withholding Tax
Retirement
Cancer Insurance
Supplemental Health Insurance/Health Savings Account
Supplemental Dental & Vision Insurance
Supplemental and additional Life Insurance & AD&D
Supplemental Short Term or Long Term Disability
Supplemental Accident Insurance

Employee Initials _____

3.8 Incomplete Pay Period

An employee who does not work his/her regular scheduled work week shall have a percentage of his/her regular pay deducted from his/her pay, unless such absence is authorized as leave as hereinafter provided for and is authorized by his Department Head or the appropriate authority.

3.9 Overtime Pay (Updated 11-15-16)

Overtime (1.5 times the employee's hourly rate) shall be paid to those entitled regular, full-time employees working in excess of the maximum set for their work period. All overtime pay must be pre-approved and documented. Working unauthorized overtime is grounds for disciplinary action, up to and including termination. If an employee is called to return to work to respond to an emergency, they shall be paid the overtime rate no matter how many regular hours they worked that week (benefits will be deducted as if the employee worked a regular shift). Emergency shall include utility service disruptions, snow and ice removal and other situations that are similar in nature which occur outside of normal working hours. Part-time, seasonal, and temporary employees working less than forty (40) hours per week, pool employees, and the following positions which are considered administrative, professional, and/or executive (subject to change with U.S. Department of Labor Laws) are not eligible for overtime pay.

City Administrator
Assistant Administrator/Clerk-Treasurer/Budget & Human Resources Director
Deputy Clerk/Finance Director/Assistant Treasurer
Electric & Power Resource Director
Water/Wastewater Superintendent
Chief of Police
Assistant Chief of Police
Street/Transportation & Recycling Superintendent
Library Director
Public Facilities/Capital Improvements & GIS Director
Building/Zoning & Code Enforcement Director
Parks/Recreation/Cemetery/Golf Director
Golf Course Grounds Superintendent
Assistant Library Director
Civic Center Manager
Assistant Recreation Director
Golf Shop Manager

3.9(1) Salary Basis Policy

The Fair Labor Standards Act (FLSA) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 (*\$913) per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

Employee Initials _____

Salary Basis Requirement

To qualify for exemption, employees generally must be paid at not less than \$455 (*\$913) per week on a salary basis. These salary requirements do not apply to outside sales employees, teachers, and employees practicing law or medicine. Exempt computer employees may be paid at least \$455 (*\$913) on a salary basis or on an hourly basis at a rate not less than \$27.63 an hour. (Updated 11-15-16; effective December 1, 2016).

*Subject to change – U.S. Department of Labor Overtime Rule

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work. If the employer makes deductions from an employee's predetermined salary, i.e., because of the operating requirements of the business, that employee is not paid on a "salary basis." If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

Circumstances in Which the City May Make Deductions from Pay

Deductions from pay are permissible when an exempt employee is absent from work for one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness; to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions (see City Policy on penalties for workplace conduct rule infractions). Also, an employer is not required to pay the full salary in the initial or terminal week of employment; for penalties imposed in good faith for infractions of safety rules of major significance, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions may be made.

City Policy

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all city managers from making any improper deductions from the salaries of exempt employees. We want employees to be aware of this policy and that the City does not allow deductions that violate the FLSA.

What to Do If An Improper Deduction Occurs

If you believe that an improper deduction has been made to your salary, you should immediately report this information to your direct supervisor, or to the City Administrator.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

Employee Initials _____

3.10 Compensatory Time (Updated 11-15-16)

The City's policy on Compensatory Time is that it may be used in an effort to minimize overtime costs. All compensatory time must be approved in advance by the Department Head, or appropriate authority.

Compensatory time off will be calculated at a rate of one and one-half hours for each hour of overtime worked. If compensatory time is approved, it will be the employee's responsibility to adhere to the following regulations: No more than 60 hours can be accrued; and all but 20 hours must be taken within 90 days of the actual date of accrual.

The Golf Shop Manager position is exempt from this regulation, due to the seasonal activities of the golf course. This position shall not accrue more than 480 hours compensatory time in any calendar year, which shall be used prior to April 1 of the following year, unless the City Administrator authorizes an extension of this date. (Subject to change based on U.S. Department of Labor Overtime Rule – December 1, 2016)

The use of compensatory time earned by Police Officers while attaining certification may be exempt from this regulation with approval of the Chief of Police and City Administrator. The City shall have the option of buying back accrued compensatory time from employees on an annual basis at their discretion at the end of the fiscal year. If accrued compensatory time is bought back from the employee, the compensation shall be paid at the regular rate earned by the employee at the time the employee receives the payment. If compensatory time is approved, and compensation is paid to an employee for said accrued compensatory time off, the compensation shall be paid at the regular rate earned by the employee at the time the employee receives the payment. An employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than : A) the average regular rate received by the employee during the last three years of the employee's employment or, B) the final regular rate received by the employee, whichever is higher. If compensatory time is approved, an employee shall be permitted to use such time within a reasonable period if the use of the compensatory time does not unduly disrupt the operations of the Employer.

Salaried employees shall be allowed time off for attendance at official evening meetings or events, weekend meetings or events, and for extra time spent in order to complete special projects, with approval of the City Administrator or appropriate authority, and as long as such time off does not interfere with completion of their duties.

3.11 On-Call Duty (Updated 11-15-16)

Employees in the Electric, Water, Wastewater, and Public Properties Departments are subject to regular "On-Call" duty. Regular on-call duty consists of a seven day period when the employee is responsible for any emergency or trouble call in the respective utility and any regular weekend or holiday duty. Compensation for remaining available for the regular seven-day period shall consist of two hours of straight time-off, or four hours of straight time off if it occurs during a holiday week, for the seven day period. If an employee is on regular on-call duty, the two hours or four hours of straight time will be taken off during the same pay period. If, in the opinion of the Department Head, the workload is such that the employee cannot take the straight time off, the employee will be paid at the regular hourly rate for the two hours earned while "on-call".

All other employees are subject to on-call duty if they are provided written notification of a possible event/emergency by their Department Head. Once written notification has been given, they shall be compensated with 1/4 hour, or 1/2 hour if it occurs during a holiday week, for each day during the week they are placed on the on-call duty.

Employee Initials _____

For all employees called in to work, who are eligible to receive overtime pay, compensation shall consist of a rate not less than one and one half times the employees hourly rate (double time on the City's observed holiday), for a minimum of two hours. (Updated 10/2016)

During on-call duty, employees are not to become intoxicated so as to exceed the legal limit as found in the driving under influence statutes, or impaired to the degree that they cannot work if called to duty, although total alcohol abstinence is not required. Employees must always be reachable by telephone, cell phone or other method as agreed to by the City. An employee may be required to submit to an alcohol or controlled substance test when the employer has reasonable suspicion to believe that this policy has been violated. In the event that additional employees are called in to work on an emergency, they will be paid for a minimum of two hours at a rate of one and one half times the regular hourly rate, double time on holiday's, regardless of the time actually worked. (Updated 12/2012)

3.12 Termination Pay

An employee who is dismissed or who voluntarily resigns shall receive a final payroll payment on the next regularly scheduled payday or within two weeks of the last regularly scheduled payday, whichever date is earlier. If the employee is separated from the payroll less than one week prior to the next regularly scheduled payday, the final payroll payment for the employee will be made within two weeks of the next regularly scheduled payday. (Updated 11-15-16)

3.13 Travel and Official Expense for Mileage and Meals (Combined with Section 5.2 - 11/01)

3.14 EMPLOYEE UNIFORM ALLOWANCE POLICY (Electric, W/WWTW, Street, Public Properties Division) (Updated 11/01)

The following Uniform Allowance Policy is hereby adopted in accordance with City Ordinance and State Law.

Items Covered: Uniform shirts

POLICY STATEMENT

All new employees will be given their initial issue (7) of uniform shirts. After their one year anniversary, the Department Head may use the allotment in the uniform budget to repair or replace items. Employees shall be required to wear these shirts during regular working hours, including reporting to work and leaving for home. Employees will be allowed to wear their shirts while stopping for supplies after work. No employees shall consume or have in their possession, while in uniform and/or on duty, any alcoholic beverages.

After initial issue, it will be the employee's obligation to properly maintain or replace uniforms as needed. All uniforms will be repaired or replaced from the various Department budgets. No item will be replaced until it has been inspected and approved by the Department Head.

Upon retirement or termination of employment, all uniform items shall be returned to the City of Seward.

Subject to the City's fiscal condition and the local economy, funds for uniforms will be allotted for each employee each year, after their initial year. This money is to be wisely invested and only necessary purchases shall be made from this budget.

Employee Initials _____

SEWARD POLICE DEPARTMENT: The following Uniform Allowance Policy is hereby adopted in accordance with City Ordinance and State Law:

Items Covered: Officers - Uniform shirts, hats, pants, coats, safety gloves, ties, uniform blouses, skirts, or slacks; Community Service Officer - Uniform shirts, uniform blouses, coats, safety gloves, ties, skirts, slacks or approved skorts.

POLICY STATEMENT

All new employees will be given their initial issue of uniforms. (Six shirts and 3 pairs of slacks, skirts or skorts). After their one year anniversary, the Chief of Police may use the allotment in the uniform budget to repair or replace items.

After initial issue, it will be the employees obligation to properly maintain or replace uniforms as needed. All uniforms will be repaired or replaced from the Police Department Uniform Budget. No item will be replaced until it has been inspected and approved by the Chief of Police.

Upon retirement or termination of employment, all uniform items shall be returned to the City of Seward.

Subject to the City's fiscal condition and the local economy, funds for uniforms will be allotted for each officer; each year after their initial year. This money is to be wisely invested and only necessary purchases shall be made from this budget.

3.15 Pay in Lieu of Vacation Leave

The purpose of vacation leave is to provide the employee the opportunity for rest and relaxation, free from the rigors of his job. Therefore, it is the policy of the City of Seward that an employee not be paid in lieu of vacation leave, but that he actually take the vacation leave which he has accrued.

3.16 Payment of Leave Upon Death of Employee

Upon the in-service death of a regular full-time employee who has completed his evaluation period, his estate shall be entitled to payment for such accumulated vacation leave as was available to the employee at the time of his death.

3.17 Wages in Advance

It is the policy of the City of Seward that no advance on future wages including accrued vacation leave (see above) shall be made.

3.18 Re-Employment (Updated 11-15-16)

An employee who is separated from service with the City and did so in good standing, either due to a resignation or the elimination of a position, may be re-employed in either a regular or temporary position by complying with all requirements of a new employee. The employee shall once again serve an evaluation period regardless of the employee's status prior to the separation.

An employee who is re-employed shall be given credit for one-half of the years of service from a prior employment, given the re-employment date is within three (3) years of a previous employment ending date.

Employee Initials _____

3.19 Emergency Situations Warranting Meals for Employees

Nonalcoholic beverages and meals; may be provided for employees while performing or immediately after performing relief, assistance, or support activities in emergency situations, including, but not limited to tornado, severe storm, fire or accident. Meals will be provided for employees who begin performing emergency service 4 hours prior to the hours their normal work day begins; or for work that continues 4 hours past their normal work hours, as long as they remain within the boundaries of the per diem established by State of Nebraska. (Updated 12/2012)

3.20 Emergency Closing Policy

This policy establishes a procedure to determine pay allowances that will be given employees when the City closes a facility due to emergency conditions prior or subsequent to the commencement of a workday. It applies to all City activities and facilities.

The interpretation and administration of this policy shall be the responsibility of the Mayor and/or City Administrator. They shall have the responsibility for canceling work or closing a facility, or, if emergency conditions arise after a workday has begun, for closing a facility and permitting employees to leave work early.

When an emergency condition exists or arises (such as a power failure, severe weather, bomb threat, etc.) the Mayor and/or City Administrator shall make a determination as to whether or not a cancellation of work and facility closing is necessary.

The City Administrator shall coordinate and make arrangements with Department Heads to notify their employees of facility closings due to an emergency condition.

Employees will be required to provide their Department Head with a phone number and location where they can be contacted during regular non-work hours in the event an emergency condition should necessitate the cancellation of work or facility closing before the regular workday has begun.

When an emergency condition necessitates the closing of a facility after the regular workday has begun, employees will be required to provide their Department Head with a phone number and location where they can be contacted should the emergency condition end and work can be resumed.

When a facility is closed before the workday is scheduled to begin, both exempt and nonexempt regular full and part-time employees will be paid for the entire workday or, their regularly scheduled work hours.

When a facility closes after the regular workday has begun, all employees are considered to be on "leave-with-pay" status during the time the facility is shut down (except those on official leave). Employees who report to work but leave prior to the time the facility is officially closed, or who cannot be contacted to return to work should the facility reopen, will be paid only for actual hours worked. They will be required to either make up the time absent from work, or charge such time absent from work to accrued vacation or compensatory time leave. If a non-exempt employee does not have accrued vacation or compensatory-time leave and is not able to make up that time during the same pay period, their work absence will be treated as non-paid leave.

Depending on the nature of the emergency, essential employees required to work during any closing of City facilities will be paid regular time for the hours they worked. In addition, they will be allowed to place their regular hours worked in their compensatory leave bank.

Employee Initials _____

Essential employees are expected to take all reasonable steps to be able to respond to emergency events. If an essential employee fails to report to work, the Mayor, City Administrator and Department Head shall jointly determine the validity of the employee's reason for fail to report to work. Should they determine the reason to be invalid, the employee may be subject to disciplinary action in accordance with the City Personnel Manual.

In the event an emergency causes a City facility to be closed for two (2) or more days, or in the event of unusual circumstances, pay allowance provisions for all employees shall be determined by the Mayor and/or City Administrator. (Updated 1-19-11)

4. EMPLOYEE BENEFITS FOR REGULAR FULL-TIME EMPLOYEES

4.1 Holidays (Updated 11-15-16)

1) Official Holidays Declared, Closing of Offices.

The following named days shall be the official holidays for City of Seward Employees:

New Year's Day - January 1
Birthday of Martin Luther King Jr. – third Monday in January
Memorial Day-last Monday in May
Independence Day-July 4
Labor Day-1st Monday in September
Veteran's Day-November 11
Thanksgiving Day-4th Thursday in November
Discretionary-Day after Thanksgiving
Christmas Day-December 25
3 Personal Days (twenty-four (24) hours) – **subject to Personal Day Cap**
(Effective 3-1-06-eliminated Birthday Holiday)

City offices, except the Police Department and such other offices that are open twenty-four (24) hours a day shall be closed on the above noted Holidays. If an official holiday shall occur on a Saturday, when such offices are normally closed, the holiday shall be determined to occur as on the Friday just preceding it. If said holiday shall occur on a Sunday, when such offices are normally closed, the holiday shall be determined to occur on the Monday following.

Personal Day Cap: All full-time employees will acquire twenty-four (24) hours of Personal leave time each January 1 (twelve (12) hours for regular part-time). Any Personal leave time not used by December 31 of each year will be carried over to the next year; however, time carried forward from the prior year will be deducted from the twenty-four (24) hours acquired on January 1 so that no employee will have more than twenty-four hours (twelve (12) hours for regular part-time) of Personal time available at any given time. Personal leave must be taken a minimum of two hours at a time. (New employees will be eligible for this leave on a pro-rated basis from their date of hire). Unused Personal leave payouts upon resignation, termination or employee death will follow the vacation payout policy. (Updated 11-15-16)

Due to the work schedule of the Police Department, all regular full-time sworn Police Officers will be compensated for authorized holidays on the day of the actual holiday, all other Police non-sworn personnel and salaried sworn personnel, will take the holiday off on the same date all other regular, general full-time personnel of the City take the holiday. Compensation for those Police personnel working on the designated holiday is time and one-half for the hours worked. For Police personnel not working on the designated holiday,

Employee Initials _____

compensation is eight (8) regular-time hours for each holiday. (Updated 12/29/04 – effective 1-3-05)

2) Employees not required to Work on Holidays

Each regular full-time employee, who is not required to be on duty, will be allowed to be absent from work without loss of pay on an official holiday; each regular part-time employee, who is not required to be on duty, will be allowed to be absent from work without loss of one-half pay on an official holiday.

4.2 Leave

1) Sick Leave (Updated 11-15-16)

A. How Earned and Accumulated

- i) Each regular, full-time employee, shall be entitled to sick leave with full pay in the amount of 96 hours per year. This leave is to be accumulated at the rate of 8 hours per month. Each regular part-time employee working 20 or more hours per week shall be entitled to sick leave with full pay in the amount of 48 hours per year. This leave is to be accumulated at the rate of 4 hours per month. An employee must be employed for 1 month, after which the sick leave will begin accumulating. If a new employee has no accumulated sick leave and is absent due to illness or for any other reason for which sick leave is allowed, a deduction shall be made from his/her wages. If an employee has accumulated sick leave but it has been used due to illness or for any other reason for which sick leave is allowed, a deduction shall be made from his/her wages.
- ii) If a new employee has no accumulated sick leave and is absent due to illness or for any other reason for which sick leave is allowed, or if an existing employee who has accumulated sick leave and used it due to illness or for any other reason for which sick leave is allowed, a deduction shall be made from his/her wages. The new or existing employee, may however, be granted an advance of sick leave. For regular full-time employees, they may request an advance up to a maximum of 48 sick leave hours; and for regular part-time they may request up to a maximum of 24 sick leave hours.
- iii) The maximum accumulated sick leave for regular full-time employees will be 900 hours and the maximum sick leave for regular part-time employees will be 450 hours. Effective January 1, 2007 - An employee who retires in good standing after reaching the age of 55 years or older; or an employee who resigns in good standing with twenty (20) years of continuous service to the City; or an employee who dies while in service to the City, shall be paid fifty percent (50%) of their accumulated sick leave balance.
- iv) All other sick leave credits accumulated by an employee shall terminate when the employee retires, resigns or is dismissed by the City.
- v) Any employee who is laid off from his position for reasons beyond his control who is reappointed within 12 months, will be provided any unused sick leave existing at the time of his layoff. When an employee is transferred to another position, any leave which may have accumulated to his credit shall transfer with him.

Employee Initials _____

B. How It Can Be Used

- i) An employee eligible for sick leave with pay shall be allowed to use such earned sick leave for the following reasons:
 - (a) Personal Illness: An employee may use sick leave benefits for a personal illness or physical incapacity resulting from causes beyond the employee's control. For the benefit of all City employees, any employee who has a contagious illness will be expected to stay home. Depending on the seriousness of the illness, the employee may be required to present a doctor's certificate indicating that they are well before they can return to work. Department Heads will have the authority to send employees home if they feel it is necessary for the well being of all employees. Any employee who does not follow this rule shall be subject to disciplinary actions.
 - (b) Family Illness: An employee may be allowed sick leave to care for an eligible family member with a serious injury or illness or during a major surgery. Sick leave may be used for the following described family member(s) - spouse, domestic partner, children, grandchildren, parents, and others bearing this same relationship to the employee's spouse, or any other legal dependent who resides with the employee. The use of more than 3 consecutive days of sick leave for this purpose shall require verification from the attending physician that the employee's personal care or attention is needed. In addition, the Department Head or appropriate authority may, with approval of the City Administrator, require a certificate from an attending physician, for sick leave used for this purpose that is less than 3 days, if it is deemed to be in the best interest of both the employee and the City. (Updated 11-15-16)
 - (c) An enforced quarantine of the employee in accordance with community health regulations.

C. Workers' Compensation

See "Workers' Compensation" under definitions.

D. Sick Leave Without Pay

An employee who needs sick leave for purposes enumerated under "2" above and who does not have any accrued sick leave credits, may request leave without pay. Such a request shall have a Department Head's approval before it is granted, and the City Administrator, appropriate authority or Chief of Police may grant such a leave if it is in the best interest of the City to do so.

E. Notification of Departments

All employees shall notify their Department Head of an illness which will prevent them from reporting for work before, or by the time their work shift begins. Failure to make such a report will be considered absence without leave and without pay.

F. Personal or Family Member Appointments

- i) Personal Appointments: Employees are encouraged to schedule personal and/or family member doctor and dental appointments on non-city time. Leave may be granted by the Department Head or appropriate authority if a personal

Employee Initials _____

appointment must be scheduled during work hours. This leave will be charged to the employee's accrued leave (sick leave, vacation or compensatory time) or the time off can be made up as long as it is done during the same week.

- ii) Family Member Appointments: If it is necessary for the employee to take any of the following described family member(s) - spouse, domestic partner, children, parents, and others bearing this same relationship to the employee's spouse, or any other legal dependent who resides with the employee, to a doctor or dental appointment, this leave will be charged to the employee's accrued leave (sick leave, vacation or compensatory time) or the time off can be made up as long as it is done during the same week. The Department Head or appropriate authority may, with approval of the City Administrator, require a certificate from an attending physician explaining the necessity for the employee to use leave for this purpose.

G. Accident-Injury Leave

Accident leave shall be provided to allow a period of recovery from on-the-job injuries or accidents. See "Workmen's Compensation".

2) Military Leave

All employees who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, shall be entitled to a military leave of absence from their respective duties, without loss of pay, when employed with or without pay under the orders or authorization of competent authority in the active service of the state or of the United States. Members who normally work or are normally scheduled to work one hundred twenty hours or more in three consecutive weeks shall receive a military leave of absence of one hundred twenty hours each calendar year. Members who normally work or are normally scheduled to work less than one hundred twenty hours in three consecutive weeks shall receive a military leave of absence each calendar year equal to the number of hours they normally work or would normally be scheduled to work, whichever is greater, in three consecutive weeks. Such military leave of absence may be taken in hourly increments and shall be in addition to the regular annual leave of the persons named in this section. When the Governor of this state declares that a state of emergency exists and any of the persons named in this section are ordered to active service of the state, a state of emergency leave of absence will be granted until such member is released from active service of the state by competent authority. A military leave of absence shall not be used during a state of emergency declared by the Governor. Other forms of leave may be granted. During a state of emergency leave of absence because of the call of the Governor, any official or employee subject to this section shall receive his or her normal salary or compensation minus the state active duty base pay he or she receives in active service of the state.

A. Active Service and Induction Examinations

Returning service members will be reemployed in the job that they would have attained had they not been absent for military service (the long-standing "escalator" principle), with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Reasonable efforts (such as training or retraining) will be made to enable returning service members to refresh or upgrade their skills to help them qualify for reemployment. Alternative reemployment positions will be offered if the service member cannot qualify for the "escalator" position. While an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other individuals on non-military leaves of absence.

Employee Initials _____

In general, if the employee has been absent by reason of service in the uniformed services, he or she will be eligible for reemployment under USERRA by meeting the following criteria:

- i) The City had advance notice of the employee's service;
- ii) The employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with the City;
- iii) The employee timely returns to work or applies for reemployment; and
- iv) The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

Upon completing service in the uniformed services, the employee must notify the City of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:

- (a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the employee must report back to the City later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence. For example, if the employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the City until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the employee to report within such time period through no fault of his or her own, he or she must report to the City as soon as possible after the expiration of the eight-hour period.
- (b) Period of service more than 30 days but less than 181 days. If the employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or verbal) with the City not later than 14 days after completing service. If it is impossible or unreasonable for the employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.
- (c) Period service more than 180 days. If the employee's period of service in the uniformed services was for more than 180 days, he or she must submit an application for reemployment (written or verbal) not later than 90 days after completing service.

If the employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause-

- (a) For 180 days after the employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,

Employee Initials _____

(b) For one year after the date of reemployment if the employee's most recent period of uniformed service was more than 180 days.

3) Vacation Leave for Regular Full-Time Employees. (Updated 11-15-16)

A. Upon completion of six months of continuous employment and completion of the initial position evaluation period, an employee will be granted forty (40) hours of vacation leave. All employees who quit or are relieved of their duties after six months of employment will be entitled to a vacation leave pay prorated to the time worked.

Each employee shall be entitled to a vacation leave per basis of one (1) year successive periods of continuous employment. The year, for this purpose, shall begin the day of employment and shall constitute 365 days.

REGULAR FULL-TIME –

The following vacation schedule for regular full-time employees, effective October 1, 2007 is hereby adopted:

Forty (40) hours upon completion of six months and completion of position evaluation period and an additional forty (40) hours upon completion of the first full-year period for a total of eighty (80) hours. (11-15-16)

Eighty (80) hours upon completion of two through five years of employment.

Ninety-six (96) hours upon completion of six years of employment.

One hundred twenty-eight (128) hours upon completion of eleven years of employment.

One hundred forty-four (144) hours upon completion of fifteen years of employment.

One hundred fifty-two (152) hours upon completion of eighteen years of employment.

One hundred sixty (160) hours upon completion of twenty years of employment.

One hundred eighty four (184) hours upon completion of twenty five years of employment.

REGULAR PART-TIME -

The following vacation schedule for permanent part-time employees who work 20 or more hours per week is hereby adopted.

Forty hours upon completion of the first full-year period.

Forty-eight hours upon completion of six (6) years of employment.

Sixty-four hours upon completion of eleven (11) years of employment.

Seventy-two hours upon completion of fifteen (15) years of employment.

Seventy-six hours upon completion of eighteen (18) years of employment

Eighty hours upon completion of twenty (20) years of employment.

Employee Initials _____

Ninety two hours upon completion of twenty five (25) years of employment.

All vacations shall be taken in a minimum of four (4) hour increments. Vacation leave by the hour will not be allowed.

Vacation leave is earned based on an employee's anniversary date (see schedule above). Employees are encouraged to use all of their earned vacation days each year.

Any vacation remaining at the end of the anniversary year will be carried over. (In accordance with the exception of the Vacation Leave Cap - See No. 3)

For those employees who have earned twenty (20) leave days or one hundred sixty (160) hours, no more than ten (10) days or eighty (80) hours, shall be taken at one time, unless special permission is granted by the Department Head and City Administrator or Mayor; or by the Department Head and Board or Commission representative.

No exempt employee's salary will be subject to reduction when the exempt employee is absent for less than a day and has exhausted his leave benefit.

B. Scheduling of Vacations (Updated 11-15-16)

Vacations shall be scheduled with the approval of the Department Head, City Administrator, or appropriate authority. Employees shall submit vacation requests for approval at least one work week in advance of the vacation leave date. The Department Head, City Administrator or appropriate authority shall have the discretion to waive this requirement. A report of absence shall be filed in the office of the City Clerk no later than the next payday for each employee approved for vacation.

Holidays occurring during scheduled vacation leave shall not be charged against vacation leave, but against holiday leave.

C. Vacation Leave Cap

On their anniversary date, employees are not eligible to earn any additional vacation once they have reached one and one-half times their annual vacation accrual limit, until they use all or a portion of their earned vacation. One and one-half times the annual vacation accrual limit is equivalent to one and one-half times the maximum number of vacation hours an employee is entitled to earn during a given vacation accrual year, based on the employee's length of service. For example, an employee with eleven (11) years of service may earn up to one hundred twenty-eight (128) hours of vacation during the vacation accrual year (the employee's annual vacation accrual limit). If the employee fails to take all his or her vacation time in the year earned, those hours will be carried over to the next year, and the employee will be allowed to earn an additional one-half the annual accrual limit. Thus, this employee will not accrue any additional vacation time until the earned vacation time is used and the number of hours in the employee's "vacation bank" is reduced to below one hundred ninety two (192) hours.

D. Vacation Rights at Termination of Employment/Regular Full-Time Employees

- i) Employees who have unused earned vacation leave at time of termination of employment with the City shall be paid for such unused earned vacation leave in their final paycheck.
- ii) Earned Vacation for Deceased Employees. An employee's earned and unused

Employee Initials _____

vacation accumulated since his last anniversary date for each full month's employment to the date of an in-service death, shall be paid to the deceased's personal representative, if such is determined, or to the next of kin upon the execution by such next of kin of a surety bond protecting the City from further claims by the estate.

4) Maternity Leave - See Sick Leave and Family and Medical Leave - same rules apply.

5) Special Leave

i) To Serve as a Juror or Witness:

(a) Special leave with pay shall be granted to an employee to serve when called for jury duty or as a witness in an official capacity.

(b) Pay received from the court for such duty shall be given to the City Treasurer. Expense reimbursement shall be kept by the employee.

(c) An employee involved in court as an expert witness (not because of his official capacity) or in a personal case, either as a plaintiff or as a defendant shall be granted leave. However, the time off shall be charged to either vacation leave or leave of absence without pay.

ii) Family Member Death: An employee may be allowed special leave of up to twenty-four (24) hours for the Death of any of the following described members of their family - Spouse, domestic partner, children, parent, sister, brother, grandparent, grandchild, others bearing this same relationship to the employee's spouse, or any other legal dependent who resides with the employee. If more than twenty-four (24) hours are needed, they will be charged to earned leave. (Updated 11-15-16)

iii) To Attend a Funeral

For the time to travel and attend a funeral in Seward, special leave with pay shall be granted of one (1) to four (4) hours. For a funeral out of Seward, one (1) to eight (8) hours special leave with pay shall be granted. The maximum special leave to be used per year is twenty-four (24) hours for full-time employees and twelve (12) hours for regular part-time employees, unless special permission is given by the Department Head and City Administrator. (Updated 1-29-09)

6) Voluntary Leave of Absence Without Pay (Updated 1/3/96)

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

LENGTH OF SERVICE:

Maximum Annual Leave

| | | |
|-------------------|---|----------|
| Under 5 years | - | 2 Weeks |
| 5 - 10 years | - | 1 Month |
| 10 - 15 years | - | 2 Months |
| 15 years and over | - | 3 Months |

Fringe benefits (such as Insurance, Sick Leave and Vacation), awarded to employees by the City shall be reduced proportionately during the leave of absence. For example, in the case of paid insurance benefits, the employee shall be required to

Employee Initials _____

pay that part of the premium reflecting the amount of leave without pay taken. This leave can only be used when all other leave, i.e. Vacation and/or Sick leave has been exhausted.

- B. Requests for leave of absence without pay shall be in writing to include a complete justification for the leave. Such requests must be approved by both the Department Head and City Administrator or appropriate authority for other than Police Department Personnel. The Chief of Police shall make the necessary approval for his personnel, and advise the Civil Service Commission accordingly.

7) Termination Leave

See "Vacation Leave - Vacation Rights at Termination of Employment"

8) Family and Medical Leave (FMLA)

The Family and Medical Leave Act (FMLA) became effective on August 5, 1993 and entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. Amendments to the FMLA by the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, expanded the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12 month period for any "qualifying exigency" arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered servicemember with a serious injury or illness.

- A. To be eligible for FMLA benefits, an employee must:

- have worked for the City for a total of 12 months; and
- have worked at least 1,250 hours over the previous 12 months.

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA), or a written agreement, including a collective bargaining agreement, exists concerning the City's intention to rehire the employee after the break in service.

- B. The City will grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons.

- for the birth and care of a newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; or
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation. See FMLA

Employee Initials _____

(Military Family Leave) policy.

The City will also grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the servicemember.

Spouses employed by the City are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illnesses is also used). Leave for birth and care, or placement for adoption or foster care, must conclude with 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the City's approval.

Under certain conditions, employee or the City may choose to "substitute" (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employer's ability to substitute accrued paid leave is determined by the terms and conditions of the City's normal leave policy.

"Serious health conditions" means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider, which includes:
 - i) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
 - treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - one treatment by a health care provided (i.e. an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
 - ii) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
 - iii) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for

Employee Initials _____

each absence; or

- iv) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- v) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

C. The City will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. Arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the City may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

D. Upon return from FMLA leave, an employee must be restored to the employee's original job, or an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a payment is based on the achievement of a specified goal such as hours worked or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

E. Employees seeking to use FMLA leave are required to provide 30-days advance notice to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable - generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the City as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the City's usual and customary notice and procedural requirements for requesting leave. Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When the employee seeks leave for an FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to an FMLA-qualifying reason for which the City has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

When an employee requests FMLA leave or the City acquires knowledge that leave may be for an FMLA purpose, the City will notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under the FMLA. When the City has enough information to determine that leave is being

Employee Initials _____

taken for an FMLA-qualifying reason, the City must notify the employee that the leave is designated and will be counted as FMLA leave.

- F. The City may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. The City may require second or third medical opinions (at the City's expense) and periodic recertification of a serious health condition. The City may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. The City requires employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, the City may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

8(1) FMLA (military Family Leave).

The National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, amended the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered servicemember with a serious injury or illness. These two new types of FMLA leave are known as the military family leave entitlements.

- A. To be eligible for Military Family Leave benefits, an employee **must**:
- have worked for the City for a total of 12 months; and
 - have worked at least 1,250 hours over the previous 12 months
- B. Military Caregiver Leave. The City will grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the servicemember. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by the employee for other types of FMLA leave. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period" (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember.)
- C. Qualifying Exigency Leave. The City will grant an eligible employee up to a total of 12 workweeks of unpaid leave during the normal 12-month period established by the City for FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation.

Employee Initials _____

Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves,; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e., deployment of seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and information briefings sponsored or promoted by the military, military service organization, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to a certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and
- Any other event that the employee and the City agree is a qualifying exigency.

Spouses employed by the City are limited to a combined total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FMLA leave may be taken intermittently whenever **medically necessary** to care for a covered servicemember with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule

Employee Initials _____

treatment so as not to unduly disrupt the employer's operation.

Under certain conditions, employees or the City may choose to "substitute" (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the City's normal leave policy.

- D. Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered servicemember. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practical be – generally, either the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the City as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the City's usual and customary notice requirements.

An employee does not need to specifically assert his or her rights under FMLA , or even mention FMLA, when providing notice. The employee must provide "sufficient information" to make the City aware of the need for FMLA leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include as applicable:

- that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- that the leave is for a qualifying family member who is a covered servicemember with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a FMLA-qualifying reason for which the City has previously provided the employee FMLA-protected leave, the employee **must** specifically reference either the qualifying reason for leave or the need for FMLA leave.

- E. When an employee requests FMLA leave or the City acquires knowledge that leave may be for an FMLA purpose, the City will notify the employee of his or her eligibility to take leave, including a reason for non-eligibility if the employee is determined not to be eligible. Such eligibility notice may be oral or written and should, generally, be given within five business days of the request for FMLA leave. Subsequent eligibility notice in the same 12-month leave period may be required when an employee's eligibility status changes. The City will inform employees of their right and responsibilities under FMLA, including giving specific written information on what is required of the employee.

When the City has enough information to determine that leave is being taken for an FMLA-qualifying reason, the City will notify the employee that the leave is designated and will be counted as FMLA leave. The City will designate leave that qualifies as both leave to care for a covered servicemember with a serious injury or illness and leave to care for a qualifying family member with a serious health condition as leave to care for a covered servicemember in the first instance. The designation notice must be in writing and, generally, must be given within five business days of the determination. The City will notify the employee of the number of hours, days, or

Employee Initials _____

weeks that will be counted against the employee's FMLA entitlement.

- F. The City will require that employee's request for military family leave be supported by appropriate certification. The City will require that:
- leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
 - leave to care for a covered servicemember with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family.

Second and third opinions and recertification are not permitted for certification of a covered servicemember's serious injury or illness or of a qualifying exigency. The City may use a health care provider, a human resource professional, a leave administrator, or a management official -- but not the employee's direct supervisor -- to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, the City may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

4.3 Worker's Compensation Act (Updated 11/01)

All work related accidents are covered by the Nebraska Workers Compensation Act as found in Chapter 48, Article 1, Section 48-101 of the Revised Statutes of Nebraska.

4.4 Hospital and Medical Insurance Programs

- 1) Employees: Subject to the City's fiscal condition, health, dental and life insurance coverage for regular full-time employees shall be provided in accordance with the results of the Comparability study. (Updated 10/01)
- 2) Dependents of regular full-time employees shall be provided health insurance at the employee's request. The percentages that the City pays and the employee pays will be established during the budget process and employees will be notified of any changes on a yearly basis. Payroll deductions will be made for the employee portion of the premium. (Updated 3/2/99)
- 3) Dependent dental coverage may be purchased through payroll deduction by the regular full-time employees.
- 4) Participation in the insurance programs shall be voluntary. The current program will outline any waiting period or pre-existing condition stipulations. (Updated 3/2/99)

4.5 Retirement Systems (Updated 3/2/99)

The City agrees to pay an adopted percentage based upon results of the comparability study of the regular full-time employee's monthly base pay up to the Social Security Taxable Wage Base, plus 6% in excess of the Social Security Taxable Wage Base. Employees will be advised of the percentage and are to pay the same rate of their monthly salary into a retirement fund as per contract with the City's Retirement Plan Company. Overtime will not

Employee Initials _____

apply to the retirement plan for regular full-time employees, but will apply to the Police Officers retirement plan. Employees are allowed to make additional contributions to their own retirement plan, in accordance with the Retirement Plan provisions.

Police Pension will be in accordance with Ordinance Number 913.

4.6 Social Security Benefits

Social Security is administered by the federal government and is supported by joint contributions from the City and the employees. Contributions are based on a percentage of the employee's salary. The employees contributions are made by payroll deduction. Employees shall be eligible for retirement benefits under Social Security as applicable and consistent with law.

4.7 Rest Periods (Updated 3/2/99)

A fifteen-minute rest period will be allowed to employees of the City during each one-half day of work (4 hours shall constitute the minimum for one-half day) for relaxation from the regular routine of duty. All rest periods will be held at the job site, respective City shop facility or location which benefits the work schedule of the Department itself as determined by the Department Head. Department Heads have the ability, on a case by case basis, to amend these requirements from time to time with approval of the City Administrator or appropriate authority.

With the exception of the Police and Library personnel, all full-time employees will be allowed one meal period each workday. The meal period will be one-half to one hour in length and will be scheduled to accommodate operating requirements of the Department. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time. Department Heads have the ability, on a case by case basis, to amend these requirements from time to time with approval of the City Administrator or appropriate authority. Police and Library personnel are not relieved of all active responsibilities and restrictions and consequently may be compensated for meal time.

The City shall provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk; and a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk. If possible, such break time should be taken during the rest breaks already provided to the employee. Any additional breaks taken to express milk will be unpaid.

4.8 Awards program (Revised 10/21/08)

Within the limitations of its financial position, the City of Seward may provide one recognition dinner each year for the elected and appointed officials, employees or volunteers. The maximum cost for such dinner shall be established in the budget process.

The following policy for awards for employees of the City of Seward for years is service is hereby adopted.

- 10 Yrs. of Service - Presentation of Certificate \$ 15.00 Gift
- 15 Yrs. of Service - Presentation of Certificate \$ 30.00 Gift
- 20 Yrs. of Service - Presentation of Certificate \$ 80.00 Gift

Employee Initials _____

| | |
|--------------------------------------------------|---------------|
| 25 Yrs. of Service - Presentation of Certificate | \$110.00 Gift |
| 30 Yrs. of Service - Presentation of Certificate | \$140.00 Gift |
| 35 Yrs. of Service - Presentation of Certificate | \$170.00 Gift |
| 40 Yrs. of Service - Presentation of Certificate | \$200.00 Gift |
| 45 Yrs. Of Service - Presentation of Certificate | \$230.00 Gift |
| 50 Yrs. Of Service - Presentation of Certificate | \$260.00 Gift |

EMPLOYEE DEVELOPMENT

5.1 Orientation

Each Department Head shall be responsible for facilitating the adjustment of an employee to his work situation by:

- 1) Providing him/her a clear statement of their duties and official relationships;
- 2) Introducing him/her properly to those with whom they will be working;
- 3) Instructing and guiding him/her in learning to perform his/her functions;
- 4) Discussing with him/her at frequent intervals the progress in learning and performing the work; and,
- 5) Providing him/her a clear statement of fringe benefits available.

5.2 Travel, Training, Education and Expense for Meetings. (Updated 12/2012)

Approval: The City encourages the development of job skills by allowing participation in available training programs whenever possible and economically feasible. Prior approval shall be required from the Mayor, City Administrator or appropriate authority for attendance and overnight accommodations by Elected Officials, Appointed Officials and City employees at conferences, training sessions and business meetings.

No reimbursement will be made for any expenses incurred without a valid receipt approved by the Mayor, City Administrator or appropriate authority.

Registrations: The City shall pay the registration costs, tuition costs, or fees for an employee to attend required/approved conferences, training sessions and business meetings. All registrations must be made in a timely manner in order to receive any discounts in the fees. Anyone who registers for a meeting and/or meal will be required to be in attendance at the meeting/meal. If they are not, they will be required to reimburse the City for the expenses, unless there was an unavoidable reason that prohibited them from attending and that reason has been approved by the Mayor or City Administrator.

Travel & Mileage: Travel on official business outside the City by an employee shall be by City-owned vehicle when available. If a City-owned vehicle is not available, or if the City Administrator authorizes the use of a personal vehicle, the employee shall be paid mileage at the prevailing rate established by the state legislature and/or transportation services bureau of the State Department of Administrative Services. This rate includes all travel and storage expenses (parking fees) of the vehicle. Odometer readings will be necessary for mileage reimbursement. (Updated 11-15-16)

Employee Initials _____

Employees using City vehicles are individually responsible for all fines or penalties assessed to the employee as a result of speeding tickets or other traffic offenses for which the employee is cited while using a City vehicle. (Added 12/2012)

Lodging: The City will pay for lodging for approved training, conference or meetings outside the City.

Meals: Meals will be reimbursed for approved training/travel according to the State of Nebraska per diem meal cost allowance guidelines which are as follows:

In-State:

| Departure | Meal | Allowance |
|--------------------------------|-----------|---------------|
| Before 6:30 a.m. | Breakfast | Up to \$ 7.00 |
| After 6:30 a.m. thru 1:00 p.m. | Lunch | Up to \$ 7.00 |
| After 1:00 p.m. thru 8:00 p.m. | Dinner | Up to \$23.00 |

The total per diem meal cost allowance for overnight in-state travel for an employee who leaves before 6:30 a.m. will be \$37.00. The total per diem meal cost allowance for overnight in-state travel for an employee who leaves after 6:30 a.m. will be \$30.00.

Out of State:

| Departure | Meal | Allowance |
|--------------------------------|-----------|---------------|
| Before 6:30 a.m. | Breakfast | Up to \$ 9.00 |
| After 6:30 a.m. thru 1:00 p.m. | Lunch | Up to \$ 8.00 |
| After 1:00 p.m. thru 8:00 p.m. | Dinner | Up to \$31.00 |

The total per diem meal cost allowance for overnight out-of-state travel for an employee who leaves before 6:30 a.m. will be \$48.00. The total per diem meal cost allowance for overnight out-of-state travel for an employee who leaves after 6:30 a.m. will be \$39.00.

Per diem meal allowance guidelines will be reviewed periodically and adjusted as necessary.

Hours of Attendance: Any hours of attendance or travel time at training sessions, conferences or meetings over the regularly scheduled work hours as prescribed for that employee, shall be taken as time-off during the same time period whenever feasible. If the Department Head determines that time-off is not feasible, nonexempt full-time employees will be allowed to count these hours as compensatory time or receive overtime pay. If time-off is not feasible for part-time employees, they will be receive regular pay as they are not eligible for the compensatory time benefit. Lunch and dinner hours and personal business are not to be included in hours of attendance.

The City shall provide financial assistance on a reimbursement basis to a full-time employee or permanent part-time employee working 20 hours or more, for pre-approved job-related college credit courses. An employee must submit a written request to the Department Head which specifically explains how the course directly relates to their position and will enhance their job skills/abilities. The Department Head shall in turn forward the request with their recommendation for approval/denial to the Mayor, City Administrator or appropriate authority for final decision. In order to receive financial assistance, the employee must provide City Hall with proof of successful completion of the course along with documentation (billing statements/receipts) of course tuition, books and laboratory fees. The employee will be reimbursed for fifty percent (50%) of all eligible costs.

Employee Initials _____

DISCIPLINARY ACTION

6.1 Policy

Employees of the City are public servants and as such, are accountable to the residents of the community which employs them. Therefore, the City of Seward expects all of its employees to conduct themselves, both on- and off-duty, in a manner that brings credit to the City.

The discipline policy is intended to make sure that when an employee in any Department violates a City rule or policy, the resulting disciplinary action will be the same as would occur for an employee in any other department for a similar violation. (Police Department employees shall be governed by the procedures established by the Civil Service Rules & Regulations in accordance with State Law).

It shall be the responsibility of all supervisors to reasonably and impartially supervise, and when necessary, discipline the personnel assigned to them. All supervisors shall exercise good judgment and discretion in taking or recommending disciplinary action and shall consult with the City Administrator, or appropriate authority, to insure that any disciplinary action taken is consistent throughout the City employment.

This policy does not remove a Supervisor's power of discretion. Each Supervisor is expected to provide the training and constructive criticism needed for employees to attain a consistently high standard of performance. When a Supervisor determines that an employee has crossed a threshold making disciplinary action, as a corrective step, necessary, the policy provides a uniform framework for that action. (Note: when a serious violation has occurred, the policy protects the Supervisor against the charge of excessive discretion.)

6.2 Disciplinary Procedures

Definitions of Types of Discipline:

- 1) Oral Reprimand: An infraction that is 1) minor in nature or 2) does not involve a serious degree of negligence. A record of this action will be kept in the employee's personnel file.
- 2) Written Reprimand: An infraction that is 1) serious in nature or 2) involves a serious degree of negligence, where the supervisor is convinced that a written reprimand is necessary to correct the behavior. A record of this action will be kept in the employee's personnel file.
- 3) Suspension/Demotion: An infraction that is 1) severe in nature, 2) involves gross neglect, or 3) where the past conduct of the employee demonstrates the infraction is repetitive in nature and the supervisor is convinced a suspension or demotion is the only remedy to correct the behavior. Department Heads, with the approval of the City Administrator or appropriate authority, may summarily suspend an employee with pay in cases of a serious infraction, criminal offense or similar incident until an investigation is completed and a determination is made as to whether disciplinary action will be initiated. Upon completion of investigation, the Department Head shall submit a recommendation to the City Administrator, or appropriate authority as soon as possible. After review, the City Administrator, or appropriate authority shall determine what if any, disciplinary action shall be initiated and notice of such determination shall be given to the affected employee and the Human Resource Director for inclusion in the employee's personnel file.

Employee Initials _____

- 4) **Formal Notice of Unsatisfactory Job Performance:** A formal notice of unsatisfactory job performance shall be a written statement, citing the disciplinary offense(s) that have resulted in the notice and stating that any additional infraction may result in either dismissal, demotion, suspension or reduction in pay. Any employee who receives a notice of unsatisfactory job performance will be placed on a six-month evaluation period.
- 5) **Dismissal:** An infraction, or series of infractions, so grave in nature that continued employment would affect the operational effectiveness of the department, and the Department Head is convinced that corrective action is not possible. The Department Head shall submit a letter to the City Administrator, or appropriate authority, describing the infraction and the employee's case history, and shall include the recommendation for dismissal. The recommendation shall be reviewed by the City Administrator, or appropriate authority, after consultation with the Human Resource Department. If it is determined that dismissal should occur, notice of such determination shall be given to the affected employee and the Human Resource Department for inclusion in the employee's personnel file.

6.3 Grounds

While it is not possible to list each and every action of an employee for which disciplinary action is necessary, there is established for purposes of this Chapter, Class A, B, C and D offenses as set forth in this section.

Listed below are some examples of infractions of the City's rules and regulations. The lists that follow should not be viewed as being all inclusive. Other types of behavior and conduct that the City considers inappropriate could lead to disciplinary action up to and including termination of employment with prior warning, at the sole and complete discretion of the City. Further, if performance, work habits, overall attitude, conduct or demeanor become unsatisfactory in the judgment of the City, based on violations of Class A, B and/or C offenses or any other policies, rules or regulations, the employee will be subject to disciplinary action, up to and including dismissal.

A. Class A Offense

An infraction which is fatal to the working relationship between the employee and the City and has the potential to cause a major disruption in normal operations. A Class A offense shall result in dismissal.

A "Class A" Offense shall include the following actions or conduct:

- 1) Engaging in a strike, work stoppage or slow down.
- 2) Use or possession of illegal drugs or alcohol while on duty.
- 3) Theft of City property.
- 4) Third notice of unsatisfactory job performance.
- 5) Insubordination, including the willful refusal to comply with proper order of higher authority.
- 6) When required by job description and duties to possess a driver's license, loss of driver's license for over 60 days.
- 7) When required by job description and duties to possess a Commercial Driver's

Employee Initials _____

License, inability to acquire or maintain a CDL for a period in excess of 60 days.

- 8) Actions or conduct similar in nature to those listed above but that are not specifically described above.

B. Class B Offense

An infraction which is critical in nature, involves gross negligence or has the potential to create serious disruption to normal operations. A Class B offense shall result in a formal notice of unsatisfactory job performance, suspension without pay of five (5) to fifteen (15) days, demotion or dismissal.

A "Class B" Offense shall include the following actions or conduct:

- 1) Fighting while on duty.
- 2) Unauthorized or improper use of official authority.
- 3) Failure to retain required certification for the position.
- 4) Conviction of a Felony or a Class I Misdemeanor.
- 5) A safety violation which entails reckless disregard of safety precautions or operating procedures that may result in injury, serious damage or death.
- 6) Solicitation or acceptance of any bribe for performance or non-performance of duties.
- 7) Falsification of any City document or record.
- 8) Intentionally or recklessly making false statement(s) in connection with any official duties.
- 9) Absent without leave for three (3) consecutive days.
- 10) Following notification, failure to report for duty promptly in the case of a community disaster.
- 11) Unauthorized obtaining, use or communicating of confidential information.
- 12) Sexual harassment and other forms of harassment as per Sections 1.18 & 1.19
- 13) Inability to obtain automobile liability coverage when required by job duties to operate a motor vehicle.
- 14) Failure of an employee on-call to maintain physical and mental readiness for the request to return to duty.
- 15) Failure to report to Department Head anticipated treatment or surgery of work-related injury.
- 16) Obtaining, attempting to obtain and/or disseminate any information from Department files, reports or sources other than what is statutorily

Employee Initials _____

classified as public information.

- 17) Failure to successfully complete two consecutive work performance evaluation periods.
- 18) Suspension or revocation of motor vehicle licenses or other loss of the privilege to operate a motor vehicle for a period of time less than 60 days if the employee is required by their job duties to possess a valid motor vehicle operator's license.
- 19) Actions or conduct similar in nature to those listed above but are not specifically described above.

C. Class C Offense

An infraction which is serious in nature or has the potential to create noticeable disruption to normal operations. A Class C offense shall result in the suspension without pay of one (1) to five (5) days and a formal notice of unsatisfactory job performance for a second violation with a five (5) year period.

A "Class C" Offense shall include the following actions or conduct:

- 1) A supervisor who knowingly issues an order requiring a subordinate to commit an illegal act.
- 2) An employee who knowingly obeys an order requiring him or her to commit an illegal act.
- 3) An employee who slanders, defames or engages in backbiting or subversion of other employees, supervisors, managers or elected officials.
- 4) Abusive language, intimidation or mistreatment of a member of the public or another City employee.
- 5) Discriminatory treatment of any person because of political or religious opinions or affiliations or because of race, color, national origin, marital status, veteran status, age, sex or physical disability.
- 6) No Department Head or employee shall circumvent the Chain of Command, except where necessary in periods of emergency, serious breach of discipline, etc.
- 7) Failure of an employee to comply with any lawful order from his/her supervisor. The term "lawful order" shall mean a directive authorized by law, rule or regulation.
- 8) Absence without leave in excess of more than one hour.
- 9) Conduct unbecoming of a City employee, tending to be prejudicial to the reputation on the City government, or otherwise contravening the public interest.
- 10) Abuse of sick leave or other benefits.
- 11) A safety violation which entails disregard of safety precautions or operating procedures that may result in injury, serious damage or death.

Employee Initials _____

- 12) Use or attempted use of political influence or bribery to obtain a favorable personnel action.
- 13) Failure by a supervisor or employee to assume responsibility or exercise diligence, intelligence and interest in the pursuit of assigned duties, or whose performance is below acceptable standards.
- 14) Actions or conduct similar in nature to those listed above but that are not specifically described above.

D. Class D Offense

An infraction which is minor in nature and does not unduly disrupt normal operations. A Class D offense shall result in a written reprimand and may result in suspension without pay not exceeding one day.

- 1) Discourteous or unprofessional behavior to a member of the public or another City employee.
- 2) Sleeping, dozing or giving the appearance of sleeping or dozing while on duty.
- 3) Conducting personal business on City time.
- 4) Taking unauthorized time for lunch or rest break.
- 5) Failure to complete and submit reports in a timely manner.
- 6) Failure to notify supervisor of impaired capacity as a result of a prescription drug.
- 7) Tardiness up to one hour.
- 8) Unauthorized early departure.
- 9) Leaving an assigned duty station without authorization or proper relief.
- 10) Failure to comply with rules regarding City smoking policy.
- 11) Failure to perform duties in terms of quality and/or quantity.
- 12) For supervisors, failure to plan, organize, direct and evaluate the work of subordinates.
- 13) Unauthorized solicitation.
- 14) Neglect, waste or misuse of City property.
- 15) Failure to observe safety precautions or operating procedures that may or do result in injury or property damage.
- 16) Failure to observe use of cell phone policy.
- 17) Failure to observe seat belt or safety belt policy.
- 18) Failure to observe the Departments tornado watch & warning policy.

Employee Initials _____

- 19) Failure to observe the City's reimbursement of expenses policy.
- 20) Actions or conduct similar in nature to those listed above but that are not specifically described above.

6.4 Department Heads Failing to Report an "A" or "B" Offense

Any Department Head who does not report and document an "A" or "B" offense of an employee, shall be disciplined at that same level of offense.

6.5 Employees Failing to Report an "A" or "B" Offense

An employee who does not report an "A" or "B" offense of a supervisor or fellow employee shall be disciplined at one level below the offense of that supervisor or employee.

6.6 Types of Disciplinary Action

Disciplinary action shall be consistent with the nature of the deficiency or violation involved and the record of the employee. Types of disciplinary action include oral reprimand, written reprimand, denial or delay of a scheduled salary increase, reduction in salary within grade, suspension from work with pay or without pay, demotion and dismissal. A lateral transfer may also be effected for disciplinary reasons. One or more of the foregoing types of action may be taken for a particular deficiency or violation. Disciplinary action shall be imposed in a clear and businesslike manner and, as appropriate, shall be directed at improving the employee's performance and/or conduct and at avoiding recurrence of the deficiency or violation.

6.7 Disciplinary Authority

Unless otherwise provided by supplemental personnel regulations, all Department Heads shall have the authority to issue oral and written reprimands. All other types of discipline, including suspensions with or without pay, lateral transfers, demotions or dismissals require the approval of the City Administrator or appropriate authority. Disciplinary actions other than oral reprimands shall be thoroughly documented for permanent inclusion in the official personnel record of the employee(s) involved.

6.8 Protective Suspension

When an employee is under investigation for a crime or official misconduct or is awaiting hearing or trial in a criminal matter, he or she may be suspended from work without pay for the duration of the investigation or proceeding if necessary to protect the public interest. Such suspension shall require the approval of the City Administrator, or appropriate authority and any return to duty shall be under such terms and conditions as may be specified by the City Administrator, or appropriate authority.

6.9 Employee Grievance - Appeal Procedure for Disciplinary Action

Step One: If an employee wishes to appeal a disciplinary action, they shall present the appeal in writing, on forms available at City Hall to their Department Head within five (5) working days from the time of occurrence. The Department Head will review the disciplinary action and appeal with the City Administrator, and respond to the employee in writing within five (5) working days after receipt. Meetings may be held with the employee, and any other witnesses, to discuss the grievance

Step Two: If an employee still feels the answer is not satisfactory, they may appeal that decision in writing to the Mayor (Civic Center Commission for Civic Center employees)

Employee Initials _____

within five (5) working days after receiving the response from the Department Head and City Administrator. The Mayor (Civic Center Commission) will investigate the grievance within ten (10) working days. This may include a review of the written summary of your statement, a review of the Department Head and City Administrator findings, discussions with all witnesses or individuals concerned, and a further investigation by the City's Labor Attorney if necessary. Meetings may be held with the employee, and any other witnesses, to discuss the grievance. After the investigation is completed, the Mayor or City Attorney will advise the employee in writing of the results of the investigation and decision based on that investigation. The decision will be final and binding.

For Police Department employees subject to the Civil Service Act, the appeal procedure for disciplinary action established in the Civil Service Commission Rules & Regulations governs.

The City does not tolerate any form of retaliation against employees availing themselves of this procedure. The procedure should not be construed however, as preventing, limiting, or delaying the City from taking disciplinary action against any individual, up to and including termination. (Updated 12/2012)

TERMINATION:

7.1 Reduction in Force

An employee may be laid off because of a reduction in required personnel, reorganization of a department or City Function, a decrease in work load, or a lack of funds. Whenever possible, employees who are to be laid off in one department shall be integrated into another department by transfer. It is the policy of the City in establishing a reduction in force policy, to consider several factors, which include, but are not limited to:

- 1) The multiple job skills recently or currently being performed by the employee;
- 2) The knowledge, skills and abilities of the employee;
- 3) The performance appraisal of the employee, including any recent or pending disciplinary actions involving the employee;
- 4) The employment policies and staffing needs of the department, together with contracts, ordinances and statutes related thereto;
- 5) Required federal, state, or local certificates or licenses; and
- 6) Seniority

This policy applies to all employees who have successfully passed through the City's initial orientation period, except those included in a bargaining unit or covered by State Civil Service Laws. For those employees still under the terms of the City's orientation period, and not included in a bargaining unit or covered by State Civil Service laws, employment may be terminated with or without cause or without notice, at any time, at the option of the City.

For those employees with five years or more of continuous employment with the City and not included in a bargaining unit or covered by State Civil Service laws, the following procedure will be utilized when a layoff is necessary:

- 1) The City Administrator will determine how many employees are to be reduced from the payroll.

Employee Initials _____

- 2) The City Administrator will determine by skill levels, work record and length of service, who are the employees to be reduced.
- 3) The City Administrator will determine those employees who are in critical jobs which are exempted from this procedure. A critical job is defined as one which requires special skills, education, training or specialized knowledge.
- 4) The City Administrator will review any lay-off determination with the Mayor and City Council prior to issuing formal notice to affected employees.

The City will endeavor to give two (2) weeks' notice of a layoff. Formal written notice of the layoff will be issued by the City Administrator and will contain the following information:

- 1) Notice of the last day to be worked.
- 2) Benefit coverage and date of expiration.
- 3) Reason for the layoff and anticipated length of the layoff.

Notices will be personally given to the employees by the City Administrator and their immediate supervisor or will be sent to their last known address by certified mail.

7.3 Resignation (Updated 11-15-16)

All Appointed Officials without a contract, who desire to resign in good standing, shall provide a written resignation to the City Administrator or Appropriate Authority a minimum of forty-five (45) days prior to the effective date of their resignation.

All other employees who desire to resign their position with the City in good standing, shall provide a written resignation to their Department Head, City Administrator or appropriate authority a minimum of two (2) weeks prior to the effective date of their resignation.

Vacation leave will not be allowed during the forty-five (45) day or two (2) week time period, except by agreed upon, written conditions between the employee and the Mayor, City Administrator or appropriate authority. Personal/Safety leave is allowed upon prior approval of the Department Head. Only under extreme conditions will vacation/personal/safety leave be allowed on the last day of active service. Compensation for earned and accrued vacation/personal leave will be awarded to the employee with their final paycheck. (Updated 11-15-16)

Employees terminating before completion of one full year of employment must repay any salary received for sick leave drawn in excess of their total allowed accumulation. This repayment will be adjusted on their final paycheck.

An exit interview will be arranged on the employee's last day of active service at which time the employee will turn in all City uniforms, equipment and materials issued during their tenure. Termination of Employment". Employees who resign in good standing shall also be entitled to re-employment as provided in "Pay Plan - Re-Employment". (Updated 12/2012)

7.4 Retirement

Whenever an employee meets the conditions set forth under the two retirement systems which exist within the City (See "Employee Benefits - Retirement Systems"), he may be retired and shall receive all earned benefits therefrom.

Employee Initials _____

7.5 Dismissal

See "Discipline - Dismissal.

As was noted at the beginning of this policy, this personnel manual does not create any contractual rights of employment. It is intended to give you general guidelines on employee personnel policies for the City of Seward. These personnel policies may be modified by the City Council at any time and you will be given notice of any such modifications. (Updated 3/2/99)

Employee Initials _____