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RESOLUTION NO. 7758

A RESOLUTION introduced by City Manager Neil Dobler amending the City of Topeka Personnel Code.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

ARTICLE I. ADMINISTRATION

Section 1. Statement of Purpose.

The provisions of this chapter effectuate the mandate of City of Topeka Charter Ordinance, Section A2-3, calling for the adoption of a comprehensive personnel system.

This personnel code shall provide, among other things, general employment policies; an employee development program; health and safety provisions; a classification and pay plan; the manner of completing appointments and promotions; compensation policies; employee benefits, including a flexible compensation plan and leaves of absence; separation policies and procedures; disciplinary actions; and a grievance procedure.

Provided, however, that the terms and conditions contained in an agreement negotiated between the City and a recognized collective bargaining unit shall control in the event of a conflict with specific terms or conditions contained herein.

Section 2. Definitions.

The following words, when used in this article, shall have the meaning as prescribed to them in this section unless the context shall clearly indicate otherwise:

~~4A.~~ Base Pay - Base pay (or base salary) is the hourly or bi-weekly rate of pay received by an employee excluding any additional, authorized compensation such as overtime, allowance, reimbursement or benefit.

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47 week except for twenty-four- (24) hour shift employees). Continuous
48 employment hours may be broken by absences in a non-pay status, resulting
49 in extension of eligibility for various benefits or other considerations, with the
50 length of any extension being governed by the circumstances causing the
51 non-pay status, at the discretion of the department head following a report
52 and recommendation by the ~~Personnel~~ Human Resources Director.

53 ~~6~~F. Demotion - The movement of an employee from a position in one class to a
54 position in another class having a lower maximum salary rate because of
55 disciplinary reasons, incapacity to perform work, inefficiency or unsatisfactory
56 work performance, by request of the employee, or lack of work at higher
57 class.

58 ~~7~~G. Department - The term "department" means a major operating functional unit
59 of the executive branch of the City government established in or pursuant to
60 the charter.

61 ~~8~~H. Department Head - The term "department head" means the officially
62 appointed head of any department, or an employee appointed as "acting"
63 head of any department.

64 ~~9~~I. Disciplinary Action - An action taken against an employee and which may
65 range from a verbal reprimand up to and including termination.

66 ~~10~~J. Division - A specific activity or program within the department.

67 ~~11~~K. Eligible - A person who is a qualified candidate for a position.

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68 ~~42L.~~ Eligibility List - A list of individuals who have qualified to fill a position in a
69 class in accordance with provisions outlined in the Civil Service Chapter of
70 this ~~manual~~ Personnel Code.

71 ~~13M.~~ Employee - Generally, a person employed and paid by the City to work on a
72 regular and continuing basis.

73 ~~44~~N. Exempt - Employees who work in a bona fide executive, administrative or
74 professional capacity are exempt from the overtime provisions under the
75 ~~FLSA (Fair Labor Standard Act)~~ (FLSA), Section 13(a).

76 ~~45~~Q. Immediate Family - That group of individuals defined to include one's
77 spouse, child, son-in-law, daughter-in-law, step-child, parent, step-parent,
78 spouse's parent, sibling, grandparent, or a family member of the immediate
79 household permanently residing under the same roof.

80 ~~16P.~~ Non-exempt - Those positions designated by the ~~Personel~~ Human
81 Resources Director which do not meet the exemptions offered under the
82 FLSA requiring overtime payment.

83 ~~47Q.~~ Outside Employment - Employment of any kind engaged in by a City
84 employee for which compensation is received from a source other than the
85 City.

48R. Overtime Hours - Are defined as the total hours worked including any paid
leave or paid holiday which exceed the regularly scheduled hours
established by the department head for a work week or work period for a
classification. When the regularly scheduled hours exceed the FLSA limit,

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- 90 then overtime hours shall include those regular scheduled hours in excess of
91 the FLSA limit.
- 92 ~~19S.~~ Overtime Pay - Is defined as additional pay earned at a pay rate of one-half
93 ($\frac{1}{2}$) times the overtime hours worked.
- 94 ~~20T.~~ Pay Adjustment - Change of an employee's salary without change in duties
95 or responsibilities.
- 96 ~~21U.~~ Pay Plan - A schedule of pay ranges in hourly, bi-weekly, and annual rates
97 for each class within the City service.
- 98 ~~22V.~~ Pay (or Salary) Range - The minimum and maximum rates of pay
99 established for each class.
- 100 ~~23W.~~ Pay Status - Pay status denotes an employee who is receiving compensation
101 from the City either for services rendered or on an approved leave with pay.
102 Eligibility for benefits generally is contingent on being in a pay status.
- 103 ~~24X.~~ Position - A group of current duties and responsibilities assigned or
104 delegated by competent authority, requiring the full-time or temporary
105 employment of one person.
- 106 1. Regular: A position included in the adopted annual budget that is
107 neither specified as temporary, nor limited for a period of less than the
108 budget year; also any such position established during a given budget
109 year unless the appointing authority certifies that such position will not
110 be continued in the succeeding year's budget. The term "regular"

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111 does not confer upon any employee the right to retain a position for
112 an indefinite period of time.

113 i. Full-Time Employment: Employment in a position which
114 normally requires at least forty (40) hours work per week.

115 ii. Part-Time Employment: Employment in a position which
116 normally requires less than forty (40) hours work per week, but
117 continues on a year-round basis.

118 2. Temporary Employment: A full- or part-time position whose term of
119 employment is limited to one thousand forty (1,040) work hours in a
120 calendar year.

121 3. Seasonal Employment: The term "seasonal employment" designates
122 temporary work which may be full- or part-time, usually associated
123 with a specific program or purpose and for a finite period of time (such
124 as holidays, vacations, seasonal activities, etc.).

125 ~~25Y.~~ Promotion - The advancement of an employee from their current position in
126 one class to a vacated position in another class with increased duties and
127 responsibilities and a higher pay range.

128 ~~26Z.~~ Reclassification - The movement of an employee or position to a different
129 class because of a change in duties and responsibilities.

130 ~~27AA.~~ Recruiting Process - The process of advertising a vacant position and review
131 of all applicants according to experience, education, training, and if
132 applicable, test score, prior to interviewing and final selection.

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133 ~~28~~BB. Re-Employment List - The term "re-employment list" means a list of persons
134 who have been but are no longer regular employees in a particular class and
135 who are entitled to have their names certified for appointment to a position in
136 that class without examination.

137 ~~29~~CC. Reinstatement - The action by which a former City employee is reinstated
138 into ~~the~~ City service.

139 ~~30~~DD. Supervisor - An employee below the department head level in charge of a
140 work unit or other employees. Where no such level exists between an
141 employee and the department head, the department head acts also as the
142 supervisor.

143 ~~31~~EE. Suspension - The temporary removal with or without pay of an employee
144 from his/her designated position.

145 ~~32~~FF. Termination - A complete separation from City employment resulting from
146 discharge, resignation, retirement or death.

147 ~~33~~GG. Transfer

148 1. lateral - The movement of an employee from one position to another
149 position within the same classification.

150 2. classification - The movement of an employee from one classification
151 to another classification within the same pay range.

152 Section 3. Administrative Personnel Rules and Regulations.

153 A. The ~~Personnel~~ Human Resources Director shall promulgate and issue
154 administrative rules and regulations implementing and interpreting the

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- 155 policies, functions, and programs established by these ~~personnel~~
156 administrative rules and regulations and any personnel related ordinances.
- 157 B. Administrative ~~personnel~~ rules and regulations will be developed, reviewed
158 and implemented in accordance with the following:
- 159 1. Proposed administrative rules and regulations shall reference the
160 specific code section or ordinance subject to interpretation or
161 implementation.
- 162 2. The ~~Personnel~~ Human Resources Director shall conduct an open
163 hearing for the purpose of review and receiving input from all affected
164 employees prior to the time when such proposed administrative rules
165 and regulations are submitted to the ~~Mayor and/or Chief~~
166 ~~Administrative Officer~~ City Manager for approval. Notice of the hearing
167 shall be posted in each ~~D~~department of the City. Employees may also
168 submit written comments regarding the proposed administrative rules
169 and regulations. The ~~Personnel~~ Human Resources Director shall
170 establish a deadline for the submission of all written comments. This
171 date shall be posted in each department.
- 172 3. Proposed administrative rules and regulations shall be reviewed and
173 approved for legal content and form by the City Attorney or ~~an~~
174 ~~assistant~~ his/her designee.

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4. Proposed administrative rules and regulations shall be reviewed and approved by the ~~Chief Administrative Officer and/or Mayor~~ City Manager prior to implementation.

5. Proposed administrative rules and regulations shall not take effect until all employees affected by the proposed administrative rules and regulations receive notice in one of the following forms: individual handouts, wall postings, publication in employee newsletters, and/or in any manner reasonably determined by the ~~Personnel~~ Human Resources Director to notify the employee of the administrative rules and regulations. Employees shall be deemed to be notified if any of the above forms of notice are used. Actual notice is not required.

C. The ~~Personnel~~ Human Resources Director and ~~Chief Administrative Officer~~ City Manager may permit deviations from the ~~personnel~~ administrative rules and regulations. Any approved deviation must be in writing from the ~~Personnel~~ Human Resources Director and ~~Chief Administrative Officer~~ City Manager.

Section 4. Independent Departmental Regulations.

In addition to the provisions stipulated herein, a department head shall have the authority to issue in writing reasonable rules and regulations concerning personnel matters which are not governed by the administrative rules and regulations promulgated by the ~~Personnel~~ Human Resources Director or are issued in order to govern matters which are unique to the department, provided that the department has granted an opportunity for

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employee input as described in Article I, Section 3, Paragraph ~~AB~~, Sub-paragraph 2, and such rules and regulations have been approved by the ~~Personnel~~ Human Resources Director and the ~~Chief Administrative Officer~~ City Manager and are consistent with the City's personnel rules and regulations. For disciplinary and termination purposes a violation of a departmental regulation shall be considered the same as a violation of the personnel rules and regulations.

Section 5. Records.

- A. Statement of Personnel to be Filed Annually by Department Heads. On or before December first of each year, each department head shall file with the ~~Personnel Division~~ Human Resources Director a statement of personnel and classification showing the total number of personnel to be employed during the ensuing year and the total wages estimated to be paid. This statement shall be in a format determined by the ~~Personnel~~ Human Resources Director.
- B. Departments/Divisions to Keep Payroll Records. Each City department/division shall be required to keep adequate records of all persons employed, their pay scale, time worked, accrued vacation and sick leave, accrued overtime or compensatory time and all absences for compensatory time. Such records shall be available at all times for inspection by the City Controller, City Treasurer, and the ~~Chief Administrative Officer~~ City Manager, or his/her designee.
- C. Number of Employees. The number of employees in a department shall be generally limited to the number listed on the detailed statement of

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219 personnel, with variances to be determined by the ~~Personnel~~ Human
220 Resources Director, ~~D~~department ~~H~~head and ~~Chief Administrative Officer~~
221 City Manager as discussed in the ~~personnel~~ administrative rules and
222 regulations.

223 **ARTICLE II. EMPLOYMENT POLICIES**

224 Section 1. Scope.

225 All persons employed by the City shall be subject to the ~~personnel~~ administrative
226 rules and regulations and the provisions of this article except elected officials (unless
227 specifically included by this Personnel ~~e~~Code), persons serving the City as consultants,
228 independent contractors or contract employees, part-time employees of part-time boards
229 and commissions, volunteers, those employees specifically excluded by specific provisions
230 of this personnel code and such other offices or positions that are regulated by the state
231 law. However, if the terms of any labor contract between the City and employees of the
232 City governed by this article are inconsistent with the provisions of this article, such terms
233 shall be applicable in lieu of the conflicting provisions of this article. Furthermore, no salary
234 increases granted by the City pay plan shall be or become effective for any employees
235 covered by such an existing labor contract or for any employees subject to or involved in
236 labor contract negotiations during the term of such contract or negotiations, unless
237 specifically provided in a labor agreement.

238 Section 2. Equal Opportunity.

239 It is the policy of the City to provide all employees an equal opportunity without
240 discrimination based on age, religion, sex, race, creed, color, disability, national origin or

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241 ~~handicapped status~~ ancestry. This policy applies to all protected groups as required by law.

242 Section 3. Affirmative Action.

243 A. General. Affirmative action shall be taken to employ and/or promote the
244 "underemployed" to all occupations for which they possess necessary skills,
245 education, experience, and interest. The ~~Personnel~~ Human Resources
246 Director shall administer an affirmative action program in furtherance of the
247 purposes established by this section.

248 B. Trainee capacity. The ~~Personnel~~ Human Resources Director, and a City
249 department or agency, with the approval of the ~~Chief Administrative Officer~~
250 City Manager, may establish work specifically for the purpose of assisting an
251 employee (or employees) with strong interest and aptitude (including but not
252 limited to socially, physically and/or economically disadvantaged persons) in
253 preparing to compete for other or higher level appointments. Such position(s)
254 shall generally not exceed twelve (12) months duration per individual, may be
255 established, as practicable, to facilitate EEO affirmative action goals, shall
256 not exceed departmental budgets, with salaries and conditions of
257 employment administered by the ~~personnel~~ Human Resources ~~Director~~ and
258 department head on a case-by-case basis.

259 Section 4. Compliance With Provisions.

260 Any person who knowingly violates or conspires to violate the provisions of this
261 article or other related personnel regulations may be prosecuted pursuant to legal
262 procedures consistent with the nature and extent of the infraction. In addition, an employee

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263 may be removed from employment for wanton disregard of ~~personnel~~ administrative rules
264 and regulations. Any prohibited contracts or official actions which constitute a conflict of
265 interest shall be null and void.

266 Section 5. Residency Requirement.

267 A. Specifications. Employees employed after December 31, 1981, by the City
268 must be bona fide residents of Shawnee County, except at the time of
269 appointment or employment when they need not be residents of Shawnee
270 County, but shall establish residency in Shawnee County within six (6)
271 months after completion of the initial employment probation. Employees
272 employed in a public safety position, as defined by the Human Resources
273 Director, shall, within six (6) months after completion of the initial
274 employment probation, reside within the boundaries of Shawnee County at a
275 location which is no more than thirty (30) minutes travel time from the
276 assigned reporting station or office. Said residency shall be maintained
277 within the boundaries of Shawnee County for the duration of the employee's
278 employment. The ~~Chief Administrative Officer~~ City Manager may grant one
279 (1) extension not to exceed six (6) months for establishment of residency
280 upon the request of an individual employee for good cause shown. ~~All~~
281 ~~employees of the County Planning Agency shall reside within the boundaries~~
282 ~~of Shawnee County.~~

283 B. Department Head Residency. Unless specifically approved by the City
284 Council, all department heads hired after ~~the effective date of this Resolution~~

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285 ~~{September 3, 2002}~~ shall reside within the boundaries of the City of Topeka.
286 All department heads hired prior to ~~the effective date of this Resolution~~
287 ~~{September 3, 2002}~~ shall reside within the boundaries of Shawnee County.
288 The salaries of those department heads who reside within the boundaries of
289 Shawnee County but are not bona fide residents of the City or whose
290 residences are not subject to a consent to annex, shall be frozen at the rate
291 of pay in effect on ~~the date this resolution is approved by the Topeka City~~
292 ~~Council (July 16, 2002)~~ September 9, 2002. The salaries of those
293 department heads who are or become bona fide residents of the City or
294 whose residence are subject to a consent to annex shall not be frozen and
295 those department heads will receive pay increases as allowed by the City of
296 Topeka ~~Personnel~~ administrative Rules and Regulations.

297 Section 6. Personal Business.

298 Conducting personal business while on duty shall be prohibited.

299 Section 7. Conflict of Interest.

300 Except as may be specifically approved by the ~~Chief Administrative Officer~~ City
301 Manager, a City employee shall not engage in any business, activity or transaction and
302 shall not have a substantial financial or personal interest which would impair proper
303 discharge of official duties, independence of judgment, or any action in the public interest.
304 This standard shall apply to an employee's personal and outside activities including outside
305 employment, investments, property holdings, financial interest and source of income.
306 Furthermore, this standard shall apply to an employee's actions related to the performance

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307 of official duties including acceptance of gifts; favors; action or inaction in inspection or
308 regulation functions, disclosure of confidential information; or granting improper favors,
309 services, promises or things of value. Employees shall notify their supervisor(s) of
310 non-~~e~~City business or personal activities which may constitute a conflict of interest with
311 their position with the City. The department head shall notify the employee if such activity is
312 acceptable and/or whether or not the activity shall be discontinued or otherwise corrected
313 so as not to constitute a conflict of interest.

314 Section 8. Consideration Given to Achieve Promotion.

315 No person seeking employment or promotion within the City shall either directly or
316 indirectly give, render or pay any money, service or valuable property to any person for, on
317 account of, or in connection with any selection process, employment, proposed
318 employment, promotion, proposed promotion, or any other placement or transfer.

319 Section 9. Political Activity.

320 A. Employees choosing to seek election to the office of Mayor or City
321 Councilmember shall request vacation leave or request a formal leave of
322 absence from their position with the City for a period of time consistent with
323 any campaign; and if elected, shall relinquish any position with the City.

324 B. While on duty, employees shall refrain from active political campaigning of
325 any type including wearing political buttons, distributing campaign materials
326 or similar activities.

327 C. Nothing herein shall be construed as preventing or prohibiting City
328 employees from exercising their rights as citizens to express publicly or

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329 privately their opinions or to cast their votes.

330 Section 10. Employment of Relatives.

331 A. It shall be the general policy of the City to avoid hiring relatives of present
332 employees into positions in the same work units and departments. No person
333 shall be hired, promoted or transferred to a department when, as a result,
334 employees would be supervising a member of their immediate family, and/or
335 working in the same unit with a member of their immediate family.

336 B. Exceptions and variations may be granted by the ~~Mayer or Chief~~
337 ~~Administrative Officer~~ City Manager upon consideration of a report on the
338 matter by the ~~Personnel~~ Human Resources Director which evidences
339 substantive, mitigating circumstances.

340 Section 11. Multiple City Positions by One Employee.

341 It shall be the policy to employ individuals in not more than one (1) benefit-eligible
342 position at one time. Exceptions to this provision may be made by the ~~Chief Administrative~~
343 ~~Officer~~ City Manager following a review and report by the ~~Personnel~~ Human Resources
344 Director, provided, however, that should a benefit eligible employee be permitted to hold an
345 additional temporary position at an appropriate salary, such extra position shall be only on
346 a sporadic or occasional part-time basis.

347 Section 12. Solicitation.

348 No peddling, soliciting or selling for charitable or other purposes is allowed on City
349 property during working hours without the express approval of a department head.

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350 Section 13. Work Breaks.

351 Two (2) fifteen ~~(15)~~ minute periods, one during each half day or half-shift, may be
352 given to non-exempt employees for each working day of at least eight ~~(8)~~ hours. These are
353 intended to allow employees a brief break from work activities for rest and relaxation. Work
354 breaks are provided on employer-paid time and scheduled by each employee's supervisor.
355 These breaks may not be combined or accumulated to extend an employee's lunch period
356 or to reduce the number of hours an employee is required to work each day. If abused,
357 work breaks can be revoked by the employee's supervisor. The availability of work breaks
358 is dependent on the type of work required of an employee and is subject to departmental
359 rules and regulations.

360 Section 14. Alcohol and Drug Use in the Work Place.

361 A. General Policy. No City employee is to be under the influence of, using,
362 possessing, concealing, transporting, promoting or selling illegal drugs,
363 controlled substances or unauthorized alcoholic beverages on the job, while
364 performing City business, while operating City vehicles or equipment, or
365 while on City premises.

366 The use or being under the influence of a legally obtained, prescription drug
367 or medication is also prohibited on the job where use of such medication may
368 affect the safety of the employee, co-worker or members of the public. An
369 employee who is under a physician's care and taking a prescribed
370 medication that could affect performance must notify the employee's
371 supervisor in order to address safety concerns.

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372 Employees suspected of alcohol or drug usage on the job may at any time
373 be required to undergo a medical examination pursuant to the provisions of
374 Article III, Section 2 of this eCode.

375 B. Program Authorized. The ~~Personnel~~ Human Resources Director shall
376 establish a drug screening program for employees and prospective
377 employees of the City of Topeka. This program shall provide for drug
378 screening procedures and related training and education for ~~e~~City employees
379 suspected of substance abuse and applicants for positions, as designated by
380 the ~~Personnel~~ Human Resources Director. Any program established
381 pursuant to this section shall be subject to the approval of the ~~Chief~~
382 ~~Administrative Officer~~ City Manager prior to its implementation.

383 C. Failure to Comply. Failure to comply with any provision of this ~~ordinance~~
384 Personnel Code or the drug screening program shall be considered failure by
385 the employee to fulfill a condition of employment resulting in disciplinary
386 action as provided for in the drug screening program and other relevant
387 ordinances.

388 Section 15. Attitude, Smoking, Attire.

389 A reasonably friendly and courteous attitude toward the public and co-workers shall
390 be required of City employees. Similarly, employees are expected to deliver prompt,
391 thorough and efficient service to the public to the best of their ability.

392 Regulations concerning refreshments, snacks, foods, etc., during working hours at
393 work stations shall be issued at the discretion of each department head, pursuant to the

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394 needs of the operation. The ~~Chief Administrative Officer~~ City Manager may establish rules
395 regulating smoking as provided by Section ~~20-216~~ 78-226 *et seq.* of the Code of the City of
396 Topeka.

397 All City employees are required to maintain a neat and clean personal appearance.
398 Each employee shall be subject to specific departmental rules and regulations concerning
399 acceptable attire, personal hygiene and grooming.

400 Section 16. Patents and Copyrights.

401 The City reserves the right to patent and exploit any new product, process or
402 procedure of any kind which may be conceived or discovered by a City employee or
403 employees if such concept or discovery was made using City resources, or during a time
404 the employee was performing duties for the City, or through any activity sponsored by the
405 City. In the event a patent is obtained or the discovery is commercialized, the City will pay
406 to the inventor a total of Twenty-Five (25%) Percent of net profits from exploitation of the
407 patent. Net profits shall be defined for this purpose as the proceeds from any or all
408 marketing of the patented product, process or procedure, less all sums of any kind
409 expended by the City to obtain, defend or exploit the patent. If two (2) or more employees
410 work together in making a patentable discovery, the total share of net profits to be paid to
411 the joint inventors shall be Twenty-Five (25%) Percent.

412 Section 17. Outside Employment.

413 Outside employment constitutes a ~~e~~City employee holding a second job with another
414 employer. Outside employment by a full-time employee is permitted only when such
415 outside employment:

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- 416 A. is considered secondary to service with the eCity;
417 B. does not interfere with the performance of duties for the eCity; and
418 C. no legal, financial or ethical conflict of interest results from such dual
419 employment.

420 **ARTICLE III. EMPLOYEE DEVELOPMENT, HEALTH AND SAFETY**

421 Section 1. Employee Development.

- 422 A. General. The purpose of the City's employee development program is to
423 promote improved productivity in City services by reimbursing eligible
424 employees for academic courses pursued through recognized educational
425 institutions. The ~~Personnel~~ Human Resources Director shall establish the
426 guidelines and procedures for implementation and administration of this
427 program.
- 428 B. Eligibility and Curriculum. The ~~Personnel~~ Human Resources Director shall
429 issue regulations determining who is eligible to participate in the Educational
430 Development Program, as well as outline the restrictions on the curriculum
431 for which an employee may be reimbursed.
- 432 C. Funding. Department heads shall make every effort to budget for and
433 approve reimbursement for academic courses for employees in their
434 departments. Department heads shall approve courses based on
435 departmental need and eligibility criteria established by the ~~Personnel~~
436 Human Resources Director.
- 437 D. Reimbursement. Procedures and requirements for obtaining

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438 reimbursement for employee development programs, in addition to the
439 limitations on such reimbursement, shall be determined by the ~~Personnel~~
440 Human Resources Director and delineated in the ~~Personnel~~ administrative
441 rules and regulations.

442 E. Time Away From Work. Employees attending a course pursuant to these
443 policy guidelines during regular working hours may arrange with their
444 supervisor to utilize compensatory time, vacation or leave time without pay
445 for the time utilized to attend the course(s). Supervisors shall be responsible
446 for making sure that employees attending courses are not to be paid by the
447 City during the time the employee is away from work for such purposes,
448 except as provided above. These requirements shall not apply if an
449 employee is absent from work to attend a training seminar or conference
450 approved in writing by the department head.

451 Section 2. Employee Health.

452 A. General. The ~~Personnel~~ Human Resources Director shall establish
453 procedures, rules and regulations concerning physical examinations and
454 medical inquiries for all employees. These procedures, and administrative
455 rules and regulations shall comply with the provisions of the Americans with
456 Disabilities Act and all other relevant laws and statutes, and shall be subject
457 to the notice, review and approval process required by Article I, Section 3 of
458 ~~these rules and regulations~~ this Personnel Code.

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B. Physical Fitness Incentive.

1. General. The City encourages policies and practices which enable employees to achieve optimal physical and mental health. Consequently, the City shall offer incentives to all non-bargaining unit, benefit-eligible employees and those employees specified by union contract to attain an optimal level of fitness.
2. Reimbursement for Authorized Classes. The City shall be authorized to reimburse employees for a portion of the cost of authorized fitness classes at a rate and within the limits set forth in the ~~Personnel~~ administrative rules and Regulations. Furthermore, the ~~Personnel~~ Human Resources Director shall establish a screening committee to evaluate and establish lists of qualified fitness classes and programs.
3. Imposition of Standards. To attain a desirable level of fitness, the ~~Mayer or the Chief Administrative Officer~~ City Manager may at his/her discretion establish minimum qualifying standards, establish smoking prohibitions or limitations, provide for periodic checks of physical ability, provide for mandatory participation in conditioning programs, and may provide for incentives (additional pay and/or other benefits) for achieving any desirable levels of fitness. Payment to employees shall be contingent upon budgetary allocations for this purpose, and if budgetary allocations are not available or become exhausted, lack of funds shall not preclude the continuing requirement of maintaining

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481 acceptable physical fitness levels.
482 Employees in public safety or other hazardous capacities may be
483 required by the ~~Mayor or the Chief Administrative Officer~~ City
484 Manager, as a condition of employment, to maintain an endurance,
485 overall fitness, physical mobility/agility, and strength level consistent
486 with the work of the classification.

487 C. Occupational Health Program.

488 1. The ~~Personnel~~ Human Resources Director shall develop procedures,
489 and administrative rules and regulations establishing an occupational
490 health program for City employees which include provisions for
491 providing the following services:

492 ~~a.i.~~ Mental and other health services referrals;

493 ~~b.ii.~~ Management and supervisor health education;

494 ~~c.~~ ~~Medical treatment of injuries and disease related to work;~~

495 ~~d.iii.~~ Health history reviews; and,

496 ~~e.iv.~~ Periodic health screening.

497 2. All procedures, and administrative rules and regulations established
498 pursuant to this section shall comply with the provisions of the
499 Americans with Disabilities Act and all other relevant laws and
500 statutes, and shall be subject to the notice, review and approval
501 process required by Article I, Section 3 of ~~these rules and regulations~~
502 this Personnel Code.

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- 503 3. The ~~Personnel~~ Human Resources Director shall issue regulations
504 concerning the keeping of medical records for each employee.
- 505 4. Procedures for securing a medical release from an employee shall be
506 determined by the ~~Personnel~~ Human Resources Director.
- 507 5. The ~~Personnel~~ Human Resources Director with the cooperation of the
508 ~~Health Officer and Risk Manager~~ City Attorney or his/her designee,
509 where appropriate, shall issue regulations regarding physical
510 examinations generally, providing for such things as the location of,
511 fee for, timing of and any special requirements for reporting of
512 physical examinations.
- 513 6. Scheduling Health Services. The ~~City Personnel Division~~ Human
514 Resources Director or his/her designee shall schedule personnel for
515 initial employment physical examinations and health history reviews.
516 Department/division heads shall submit information relating to an
517 employee's physical status to the ~~health officer as requested by the~~
518 ~~health officer~~ Human Resources Director.
- 519 7. Reporting Format and Form to be Established. The ~~health officer~~
520 Human Resources Director shall establish a standard reporting format
521 for all history health reviews, physical examinations and health
522 screenings required by this article. The ~~health officer~~ Human
523 Resources Director shall develop a standard form which shall be
524 approved as to form by the City Attorney or his/her designee ~~and~~

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- 525 ~~approved for use by the Risk Manager.~~
- 526 8. Removal for Cause. Among those things considered removal for
527 cause shall be any employee who:
- 528 a. Fails to report for or submit to a physical examination within
529 thirty (30) days of receipt of notification to do so from his~~er~~/her
530 department head; or
- 531 b. Makes a false, inaccurate or misleading statement or fails to
532 make a material statement which relates to any health
533 problems which may affect work performance; or
- 534 c. Is not found to be in such physical condition as would enable
535 the employee to perform all requirements of his or her job
536 without the possibility of injury to themselves or other persons
537 or property.
- 538 9. The ~~Health Officer~~ Human Resources Director shall make available to
539 City employees, free of charge the services of an ~~appropriately~~
540 ~~trained social worker or other mental health professional~~ employee
541 assistance program for the purpose of arranging referrals or otherwise
542 assisting employees with problems related to but not limited to family,
543 job, alcohol/drug abuse and stressful life events. Such services shall
544 be available by appointment and limited to short-term assessment
545 and referral.
- 546 ~~10. The Health Officer shall establish a clinic for the purpose of providing~~

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~~medical treatment for minor job related injuries incurred by City employees. The clinic will be operated at the health department, 1615 W. 8th Street, during all regular working days, treatment shall be available to City employees, free of charge for all such injuries that are not life threatening or apparently requiring the immediate attention of a medical specialist.~~

Section 3. Employee Safety.

- A. General. It shall be the policy of the City to provide employees with a working environment free of recognized hazards that could potentially cause occupational injury or illness. Similarly, all City employees shall be responsible for implementation of job assignments in the safest manner possible.
- B. Regulations. The ~~Personnel~~ Human Resources Director upon consultation with the ~~Risk Manager~~ City Attorney or his/her designee shall issue regulations to establish minimal guidelines for employee safety.
- C. Protective Safety Gear. An employee may be required to wear protective clothing or any type of protective device as a condition of employment. The need and specification of any type of protective clothing or device required shall be determined by the ~~City's designated Risk Manager~~ City Attorney or his/her designee. The ~~Personnel~~ Human Resources Director shall issue regulations concerning the City's reimbursement of employees for personal protective safety gear.

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569 Section 4. Group Insurance.

570 A. Eligibility. All benefit eligible employees including elected officials and
571 bargaining unit members, if their contract so specifies, shall be eligible to
572 participate in the insurance coverage as provided by the City.

573 B. Health insurance. The City may provide or contract for insurance benefits
574 providing health, medical and/or disability coverage for eligible employees,
575 their dependents and eligible retirees.

576 C. Life insurance. The City may provide or contract for life insurance coverage
577 for eligible employees and their dependents.

578 D. Administration. The ~~Personnel Division~~ Human Resources Director shall
579 develop administrative rules and regulations to administer health and life
580 insurance programs as they are approved by the ~~Chief Administrative Officer~~
581 City Manager. Modifications or adjustments in the said programs shall
582 receive the approval of the ~~Chief Administrative Officer~~ City Manager prior to
583 implementation.

584 E. Pay status and eligibility. An eligible employee shall be in a pay status for at
585 least one (1) pay period in a calendar month, or the equivalent thereof, in
586 order to be eligible to receive City contributions for insurance coverage.

587 **ARTICLE IV. INITIAL EMPLOYMENT AND COMPENSATION**

588 Section 1. Classification and Pay Plan.

589 A. Required. The ~~Personnel~~ Human Resources Director shall maintain a
590 classification and pay plan which provides an inventory by number of all

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positions in the service of the City. Such positions shall be grouped into classifications sufficiently alike in duties and responsibilities to be called by the same descriptive title, to be accorded the same pay scale and to require substantially and relatively similar knowledge, skills and abilities.

The department head shall prepare and maintain position descriptions for each position authorized within the department budget. Copies of the position descriptions shall be filed with the ~~Personnel department~~ Human Resources Director and his/her designee. The position description shall state the major duties and responsibilities for the position and provide an estimation of the percentage of time the position spends in performing each major duty. The position description shall be numbered and shall be completed on a form provided by the ~~Personnel Department~~ Human Resources Director. Any change in a position description of a permanent nature shall be submitted to the ~~Personnel~~ Human Resources Director for a determination as to whether the proposed change will impact or require an adjustment in the classification of the position.

B. Administration of Plan. The classification and pay plan shall be updated and revised in accordance with regulations set forth by the ~~Personnel~~ Human Resources Director and subject to the approval of the ~~Mayor and/or and Chief Administrative Officer~~ City Manager.

Section 2. Compensation.

A. Salary. All City employees shall be paid at the appropriate rate for the

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appropriate classification as provided in the City pay plan plus any authorized premium pay.

B. Compensation System. The ~~Personnel~~ Human Resources Director shall, by rule and regulation, establish a compensation system for employees providing for matters such as, but not limited to, initial salary in a classification, pay rate adjustments, pay for part-time employees, limited service compensation, recruitment and relocation allowances, productivity incentives, and compensation received from other sources.

C. Miscellaneous Reimbursements:

1. Professional Dues Payment. Upon the approval of an employee's department head, an employee may have professional organization dues paid by the City provided that the membership benefits the employee in completing assigned duties and responsibilities.

2. Use of Private Vehicle. Use of private vehicles for City business shall be approved by the department head. The reimbursement rate for use of a private vehicle shall be determined administratively. ~~Employees, normally department and division heads, who are required to maintain their personal cars for City business may, upon specific approval by the Mayor or Chief Administrative Officer, be paid a car allowance.~~

3. Clothing and Cleaning Allowance. Any employee who is required as a condition of employment to wear and maintain a uniform or other special clothing may, subject to budgetary limitations, be eligible to

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635 receive an allocation of clothing, an allowance and/or a
636 reimbursement for care and/or replacement of proper attire at the
637 option of and pursuant to departmental policies. A lack of budgeted
638 funds for the purpose of this provision shall not supersede a
639 departmental policy which may require specific attire and/or uniforms
640 for a given job, classification or type of work. Employees in
641 occupations or capacities requiring non-uniform business clothing,
642 including civil service employees, shall not be eligible for allowances
643 or reimbursements under this section.

644 4. Tools and Equipment. Department heads may, at their discretion,
645 establish departmental policies providing for and/or replacing
646 professional tools and equipment to be used specifically for City
647 business. These policies may provide for the replacement of tools and
648 equipment purchased and used by an employee specifically for City
649 business.

650 5. Meals. An employee who may be required to attend a dinner, lunch or
651 similar function wherein the employee would otherwise be required to
652 pay for a meal may be reimbursed for such costs at the discretion of
653 the department head or his/her designee. A department head may
654 authorize payment of meals for an individual or group of individuals
655 who have been invited to participate in a meeting or an activity which
656 is to the benefit of the City.

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Section 3. Probationary Period.

A. General. The probationary period shall be regarded as an integral part of the selection and screening process and shall be utilized for closely observing the work of the employee and for replacing or reassigning an employee whose work does not meet the required work standards (as determined by the employee's supervisor(s) and/or department head).

1. Probation. All employees shall serve a probationary period of not less than one thousand forty (1,040) hours as described in sub-paragraph ~~(a)~~ and ~~(b)~~ of this paragraph.

a. Initial probationary period shall mean the probationary period served by an employee on their first employment with the City without regard to the department in which the employee is employed unless the employee experiences a break in continuous employment with the City of more than one hundred twenty (120) days. An employee terminated prior to the successful completion of the initial probationary period shall be considered a termination for just cause.

b. Promotion/classification/transfer/demotion probationary period shall mean the probationary period served by an employee when such employee is promoted, transferred, or demoted within a department or from one department to another in the City.

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679 a. Performance evaluation probation shall mean a period
680 of at least five hundred twenty (520) hours during which
681 an employee is given an opportunity to improve his/her
682 performance in order to remain within a specific
683 position. Performance evaluation probation shall
684 commence only after a special evaluation has been
685 called pursuant to Article IX, Section 3, and the
686 employee has received proper notice.

687 B. Duration. The initial probation period shall be at least one thousand forty
688 (1,040) work hours in duration, except that such probationary period may be
689 extended for up to a maximum of five hundred twenty (520) work hours at the
690 request of a department head and with the approval of the ~~Personnel~~ Human
691 Resources Director.

692 A promotion/demotion/classification transfer probationary period shall
693 be at least one thousand forty (1,040) work hours in duration.

694 C. Failure To Complete The Probationary Period. An employee who does not
695 successfully complete a probationary period resulting from a demotion may
696 be terminated from City employment.

697 An employee who does not successfully complete a probationary period
698 resulting from a promotion or transfer shall be returned to his/her former
699 position provided that the position remains vacant at the time the employee
700 is determined not able to complete the probationary period. If the former

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position of the employee has been filled, the employee shall be placed in a comparable position within the department where he/she was formerly employed if such a vacant comparable position exists. In the event no such vacant comparable position exists within the department, the employee shall be placed in the next available comparable position within City employment.

D. Evaluations. Employees shall receive evaluations of their performance at the completion of the probationary period and at least once annually thereafter in accordance with the provisions of Article V of this chapter. The evaluations of performance shall be based on standards negotiated between the employee and his/her supervisor as those standards relate to the major duties and responsibilities as listed on the position description.

E. Removal During the Period. A department head may remove an employee from a position at any time and for any reason during the initial probationary period.

A department head may remove an employee from a position at any time during the probationary period resulting from a transfer/demotion/promotion if the department head determines that the employee is unable or unwilling to perform expected duties satisfactorily, or the employee's attitude, habits or dependability do not merit continuation of service, provided however that the department provides his/her reasons in writing to the employee being removed from the position.

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F. Initial Evaluation Grievance Rights. An employee who does not successfully complete his/her initial probationary period shall have no right to grieve such failure.

Section 4. Hours of Employment.

A. Regular. The normal ~~work-week~~ workweek for the City non-bargaining unit employees, except twenty-four- (24) hour shift employees, shall be forty (40) hours. Normally, the forty (40) hours will consist of five (5) eight-hour days, however, variations to the schedule may be allowed pursuant to departmental operating needs and the best interest of efficient, effective operation. Full-time office personnel will generally work eight (8) hours per day, Monday through Friday approximately between the hours 8:00 a.m. and 5:00 p.m. While the office hours remain standardized, flexible scheduling for particular assignments and staff is encouraged. The basic ~~work-week~~ workweek for the City shall be defined as starting at 5:01 p.m. Friday and ending at 5:00 p.m. on the following Friday.

B. Overtime.

1. General Policy. The authorization and control of all overtime work is the direct responsibility of the department head. Overtime assignments are permitted when required by operational necessity, and without which the normal functioning of the agency concerned would be adversely affected. Department heads must ensure that adequate funds are available for payment of overtime prior to

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744 authorization. Department heads are responsible for the maintenance
745 of accurate records of hours worked by employees, which conform to
746 the requirements of the FLSA. ~~(Fair Labor Standards Act).~~
747 Except for twenty-four (24) hour shift employees, those employees
748 eligible for overtime compensation who are employed in excess of
749 forty (40) hours per week shall be granted either additional pay at a
750 rate of one and one-half (1 ½) times the regular rate of pay, or they
751 may be given compensatory time off at a rate of one and one-half (1
752 ½) times the number of hours worked in excess of forty (40) hours in
753 a week.

754 2. Eligibility. The Human Resources Director ~~of Personnel~~ will determine
755 the method by which employees will be classified as exempt or
756 non-exempt based on their assigned position classifications pursuant
757 to FLSA standards.

758 3. Accrual and Payment. The ~~Personnel~~ Human Resources Director
759 shall establish administrative rules and regulations concerning the
760 accrual and payment of overtime pay and compensatory leave. These
761 administrative rules and regulations shall conform with the FLSA and
762 the policies established by this subsection.

763 4. Reporting and Administration of Overtime. The ~~Personnel~~ Human
764 Resources Director may develop a reporting system which will be
765 used in all City departments to report overtime and compensatory

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time accrual and usage. Department heads will be responsible for the proper administration of the overtime and compensatory time provisions. Records are subject to review by the ~~Chief Administrative Officer~~ City Manager, Personnel Human Resources Director and/or the City Treasurer.

5. Employee Misconduct. Any employee found to be missing from a work site or station and/or manipulating work assignments, schedules and/or time-off provisions in order to enable overtime assignment to himself/herself or to another employee, shall be subject to disciplinary action.

Section 5. Receipt of Pay.

- A. Pay Days and Pay Periods. The ~~Personnel~~ Human Resources Director shall, within the guidelines given under the FLSA, issue regulations regarding the length of the pay period and the date of pay.
- B. Pay Upon Termination. Terminated employees shall receive earned wages in accordance with regulations set forth by the ~~Personnel~~ Human Resources Director.

Section 6. Temporary and Seasonal Employees.

- A. Temporary Employees. Temporary employees shall not be eligible for benefits; they shall be hired within established temporary recruitment and selection procedures (except if a temporary employee is filling a capacity vacated by a regular, benefit-eligible employee); and they shall not be hired

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788 into a regular, benefit-eligible position without standard placement
789 procedures consistent with the EEO affirmative action program or with the
790 written approval of the ~~Personnel~~ Human Resources Director in exceptional
791 and documented circumstances. Temporary employees shall have salaries
792 allocated based on their relative ability and skill in performing necessary work
793 and shall not be eligible for automatic across-the-board adjustments in salary
794 unless such an adjustment is required due to an increase in the pay range
795 minimum. A temporary employee may work in more than one (1) temporary
796 or seasonal capacity at salary rates, commensurate with services rendered.
797 Each capacity is then governed by the term(s) of employment stated herein.
798 The ~~Personnel~~ Human Resources Director, with approval of the ~~Chief~~
799 ~~Administrative Officer~~ City Manager, shall establish rules and regulations
800 regarding the establishment, continuation and usage of temporary positions
801 and/or employees by City departments.

802 B. Seasonal Employees. Seasonal employees shall be defined as employees
803 working in a recreational or amusement facility pursuant to the ~~Fair Labor~~
804 ~~Standards Act (FLSA)~~. The length of a seasonal employee's employment
805 and the employee's pay and other benefits shall be governed by the FLSA
806 and administrative rules and regulations established by the ~~Personnel~~
807 Human Resources Director.

808 **ARTICLE V. PERFORMANCE EVALUATION – SALARY/MERIT REVIEW**

809 Section 1. Performance Evaluation.

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810 A. General. The purpose of the employee performance evaluation shall be to
811 inform employees of how well they are performing their work and how they
812 can improve their work performance. The performance evaluation may also
813 be used in determining salary adjustments, as a factor in determining order
814 of lay-off and for other such purposes as may be deemed advisable.

815 Section 2. Provision.

816 The ~~Personnel~~ Human Resources Director shall, with the approval of the ~~Chief~~
817 ~~Administrative Officer~~ City Manager, establish an employee performance evaluation
818 system providing for and addressing the form of employee evaluations and shall assist and
819 advise department heads in drafting position descriptions and standards of evaluation for
820 each position within the department. The position descriptions and evaluation standards for
821 each position shall be placed on file with the ~~Personnel~~ Human Resources Director by
822 each department head. Any change in the position description or standards of review for all
823 positions shall be filed with the ~~Personnel~~ Human Resources Director.

824 Section 3. Confidentiality.

825 Performance evaluations shall be confidential and shall be made available only to
826 the employee evaluated, his/her supervisor or department head, the Human Resources
827 Director ~~of Personnel~~, the ~~Chief Administrative Officer~~ City Manager, any person
828 designated by the employee; ~~and~~ or any individual who may reasonably need access to the
829 performance evaluations as required for legal actions including the resolution of
830 grievances.

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831 Section 4. Appeals.

832 A. General. Any employee who believes he/she has been unfairly evaluated
833 may appeal that evaluation by filing notice of intent with the department head
834 pursuant to the following procedure:

835 1. The employee filing the appeal shall do so within ten (10) days of the
836 receipt of the performance evaluation on a form to be provided by the
837 ~~Personnel Department~~ Human Resources Director.

838 2. On receipt of notice of an appeal, the department head shall, within
839 five (5) working days select one (1) person representative of the
840 department to serve on the appeal committee and shall notify the
841 employee filing the appeal of the name of the person selected to
842 serve. The person selected to serve on the appeals committee shall
843 be a full-time permanent employee of the City.

844 3. The employee filing the appeal shall, within five (5) working days of
845 the filing, select one (1) person to serve as his/her representative to
846 serve on the appeals committee and shall notify the department of the
847 name of the person selected to serve. The person selected to serve
848 shall be a full-time permanent employee of the City.

849 4. The persons selected pursuant to # 2 and # 3 above shall meet within
850 five (5) working days of notification of their appointment to select a
851 chairperson to serve on the appeals committee. The person selected
852 as chairperson shall be a full-time permanent employee of the City. In

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853 the event the two (2) persons selected by the department head and
854 the employee filing the appeal cannot agree on a neutral chairperson,
855 they shall notify the ~~Personnel Department~~ Human Resources
856 Director of their inability to agree and the ~~Personnel~~ Human
857 Resources Director shall provide a listing of five (5) City employees
858 who have been trained to serve as chairpersons of appeals
859 committees. The persons selected to serve by the department head
860 and the employee filing the appeal shall then meet to alternately strike
861 names until only one (1) name remains. The name of the individual
862 remaining after the striking process shall serve as the chairperson of
863 the appeals committee.

864 5. The appeals committee shall schedule a hearing within five (5)
865 working days of the appointment of the chairperson.

866 6. The person filing the appeal shall have the right to call as a witness
867 any individual having knowledge of the ability of the employee to
868 perform the job providing that the witness shall have the right to
869 refuse to testify regarding the ability of the employee to perform the
870 job.

871 7. The supervisor who performed the evaluation shall appear at the
872 hearing and explain the basis for the evaluation as it was written.

873 8. The appeals committee shall, within five (5) working days of the
874 hearing, either sustain the performance evaluation or change the

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875 evaluation to reflect the majority decision of the committee. The
876 majority decision shall be supported by written findings which shall be
877 presented to the department head and the employee filing the appeal.

878 B. Salary/Merit Review. Whenever it is determined that a merit salary increase
879 shall be given to employees of the City, the department head shall review the
880 personnel file of the employee to determine performance evaluation ratings
881 and disciplinary actions of each employee in order to determine whether
882 each employee of the department will be eligible for merit increases. The
883 department head shall utilize the procedure established by the ~~Personnel~~
884 Human Resources Director for making merit determinations.

885 There shall be no appeal of a failure to receive a merit increase, provided
886 however that an employee may grieve an alleged failure to comply with the
887 procedure as determined by the ~~Personnel~~ Human Resources Director.

888 VI. PROMOTIONS

889 Section 1. General.

890 Vacancies in higher positions in the classified service shall be filled when possible
891 by promotion from current City employees in lower classifications. Performance evaluations
892 shall serve as one of the relevant factors to determine favorable candidates for promotion.

893 Section 2. Qualifications.

894 To qualify for promotion to a position with a higher classification, an employee shall
895 be expected to meet the minimum qualifications for the new classification; provided,
896 however, that any employee who has demonstrated an ability to perform the duties and

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responsibilities of the new classification satisfactorily, may be permitted to substitute two (2) years experience in a lesser classification for one (1) year of college and that in such cases the requirement of a college degree maybe waived. Nothing in this section shall be construed as limiting the right of any department head to eliminate any job classification as a result of reorganization within the department.

Section 3. Salary.

Promoted employees shall have their salary determined by the provisions of Article IV.

ARTICLE VII. BENEFITS

Section 1. Flexible Compensation Plan.

A. General. This benefit is intended to qualify as a "flexible compensation plan" under Section 125 of the Internal Revenue Code, and it shall be construed and interpreted consistent with the requirements of that section. The plan shall be further construed and administered in accordance with the laws of Kansas. The City shall provide a flexible compensation plan, through which employees may have the City deduct an amount from their salary and pay said amount to meet the dependent care reimbursement amount, the group health premium, and/or the group term premium, as directed by the employee.

B. Establishment. The ~~Personnel~~ Human Resources Director, with the approval of the ~~Chief Administrative Officer~~ City Manager, shall develop and administer the flexible compensation plan. All provisions of the flexible compensation

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plan promulgated by the ~~Personnel~~ Human Resources Director shall conform to the requirements of the Internal Revenue Service for such a plan and shall be subject to the implementation and approval requirements of Article I, Section 3.

C. Administration of Plan.

1. Plan administrator. The Human Resources Director ~~of Personnel~~ shall be the plan administrator.

2. Rights powers, and duties of the plan administrator. The plan administrator shall have such authority as may be necessary to discharge his/her responsibilities under the plan, including the following rights, powers and duties:

a. The plan administrator shall adopt rules governing the procedures not inconsistent herewith and shall keep a permanent record of actions. The plan administrator shall administer the plan uniformly and consistently with respect to persons who are similarly situated.

b. The plan administrator shall prepare and file such reports as may be required by Kansas statute or federal law from time to time.

c. The plan administrator shall not take action with respect to any of the benefits provided hereunder which would be discriminatory in favor of those participants or eligible

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- 941 participants who are officers or highly compensated
942 benefit-eligible employees or benefit-eligible elected officials of
943 the City.
- 944 d. The plan administrator shall have the responsibility for the
945 administration of the plan; and, except as herein expressly
946 provided, the plan administrator shall have the right to interpret
947 the provisions of the plan and to determine any questions
948 arising hereunder or in connection with the administration of
949 the plan, including the remedying of any omission,
950 inconsistency or ambiguity, and the administrator's decision or
951 action in respect thereof shall be conclusive and binding upon
952 any and all participants or former participants.
- 953 e. The plan administrator may employ such counsel and agents
954 in such clerical, accounting and other services as it may
955 require in carrying out the provisions of the plan. Any
956 employee of the City acting as agent of the plan administrator
957 shall serve without compensation for services as such, but all
958 proper expenses incurred by the individual incident to the
959 functioning of the plan shall be paid by the City.
- 960 3. Exercise of the plan administrator's duties. The plan administrator
961 shall discharge the aforementioned duties solely in the interest of
962 participants and former participants:

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963 a. For the exclusive purposes of providing benefits to such
964 participants or former participants and, at the administrator's
965 discretion, defraying reasonable expenses of plan
966 administration; and

967 b. With the care, skill, prudence and diligence under the
968 circumstances then prevailing that a prudent person acting in a
969 like capacity and familiar with such matters would use in the
970 conduct of an enterprise of a like character and with like aims.

971 D. Amendment and termination. This plan shall be subject to amendment or
972 termination at any time by the City; provided, however, that amendment or
973 termination shall not affect any right to claim benefits arising prior to such
974 amendment or termination, and provided further that after termination, no
975 person shall be considered to be a participant for any purpose of the plan.

976 E. No contract of employment. Nothing herein contained shall be construed to
977 constitute a contract of employment between the City and any employee.
978 The records in the possession of the City shall be final and binding upon all
979 employees as to liability and participation.

980 Section 2. Holidays.

981 A. The following schedule shall designate employee holidays for purposes of
982 this article:

983 1. New Year's Day - January first

984 2. Martin Luther King Jr.'s Birthday - Third Monday in January

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- 985 3. Memorial Day - Last Monday in May
- 986 4. Independence Day - July fourth
- 987 5. Labor Day - First Monday in September
- 988 6. Veterans' Day - November eleventh
- 989 7. Thanksgiving - Fourth Thursday in November
- 990 8. Thanksgiving Extra Day - Friday immediately following Thanksgiving
- 991 9. Christmas Eve - December twenty-fourth
- 992 10. Christmas Day - December twenty-fifth
- 993 B. Holidays which fall on a Saturday or Sunday will be observed on either the
- 994 immediately preceding or following regularly scheduled work day, except for
- 995 those employees regularly scheduled to work on the Saturday or Sunday.
- 996 The ~~Personnel~~ Human Resources Director, with the approval of the ~~Chief~~
- 997 ~~Administrative Officer~~ City Manager shall determine upon which day these
- 998 holidays will be observed. Further, the Governing Body may designate
- 999 additional dates as holidays, by resolution, on a temporary schedule, not to
- 1000 exceed one (1) calendar year.
- 1001 C. All employees shall receive compensation for holiday leave under terms
- 1002 stipulated in the ~~personnel~~ administrative rules and regulations.
- 1003 Section 3. Vacations.
- 1004 A. Accumulation. Benefit-eligible employees shall earn vacation by pay periods
- 1005 ~~according to the following chart (prorated in relation to the average number~~
- 1006 ~~of hours worked per week);~~ in accordance with the schedule set forth in the

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1007 administrative rules and regulations.

1008	Length of Service	Hours Earned Per Pay Period		Hours Earned Per Year	
1009		40-hour	24-hour	40-hour	24-hour
1010		employee	employee	employee	employee
1011	First 4 years	3.692	4.929	96	123
1012	5th - 9th years	4.615	6.161	120	160
1013	10th - 14th years	5.539	7.395	144	192
1014	15th - 19th years	6.462	8.627	168	224
1015	20th - 24th years	7.385	7.859	192	256
1016	25th - 29th years	8.308	13.864	216	360
1017	30th and after years	9.231	13.864	240	360

1018 B. Accrual. An employee must be either performing assigned duties or on
1019 authorized accrued paid leave in order to be eligible to accrue vacation time.

1020 An employee in a non-pay status shall not accumulate vacation leave for the
1021 duration of the non-pay status. Temporary employees shall not receive paid
1022 vacation leave.

1023 C. Carry-over. The maximum carry-over from year to year for any forty (40) hour
1024 employee shall be two hundred forty (240) hours; and for a twenty-four- (24)
1025 hour employee, the maximum carry-over shall be three hundred sixty (360)
1026 hours. If an employee transfers to a different payroll fund, the employee
1027 shall be entitled either to retain accrued vacation time or to receive payment
1028 thereof, a decision left to the discretion of the head of the department the
1029 employee is leaving.

1030 D. Scheduling. Scheduling of use of and entitlement to vacation time shall be in
1031 accordance with the ~~Personnel~~ administrative rules and Regulations and/or

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1032 departmental regulations.

1033 Section 4. Leaves of Absence.

1034 A. Sick Leave.

1035 1. Accumulation. ~~Sick leave allowances~~ Benefit-eligible employees shall
1036 accrue ~~at a rate of 3.692 hours per pay period for a forty hour~~
1037 ~~employee and 4.929 hours for twenty four hour employees. The~~
1038 ~~maximum accrual allowance for sick leave shall be one thousand forty~~
1039 ~~(1040) hours for a full time forty hour employee and one thousand~~
1040 ~~three hundred eighty eight (1,388) hours for twenty four hour~~
1041 ~~employees. However, sick leave in accordance with the rates set forth~~
1042 ~~in the administrative rules and regulations.~~ a A civil service employee
1043 may retain sick leave accrued before November 1, 1981, over the
1044 maximum allowed in this provision with no further accrual eligibility
1045 until the surplus is reduced to the maximum provided herein (one
1046 thousand forty (1,040) or prorated for twenty-four (24) hour
1047 employees) through use or retired with an employee. A civil service
1048 employee promoted out of the bargaining unit on or after November 1,
1049 1981, shall have the aforementioned maximum limit on accrual of sick
1050 leave. An employee assigned to a bargaining unit after being in
1051 management may resume additional accrual at the time of such
1052 reassignment but shall not be eligible for any retroactive allocation
1053 based on total service time.

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- 1054 2. Sick Leave Payment. An employee shall receive hour-for-hour
1055 reimbursement for sick leave usage only if the employee is utilizing
1056 sick leave for approved purposes. Employees who wish to receive full
1057 prevailing rate reimbursement for sick leave shall make such a
1058 request to their duly authorized supervisor. The reimbursement
1059 request may be subject to reasonable audit, confirmation and
1060 approval in writing by the duly authorized supervisor prior to
1061 authorization of such payment through normal payroll procedures.
1062 Requests for reimbursement submitted after prescribed deadlines as
1063 established by the department head shall not be honored; and claims
1064 submitted following termination of employment shall not be
1065 reimbursed. Reimbursement for sick leave shall be available as it is
1066 accrued including during the initial probationary period, but it shall not
1067 be allowed in advance of accrual.
- 1068 3. Acceptable Use. Acceptable and non-acceptable uses of sick leave
1069 shall be detailed in the ~~Personnel~~ administrative rules and
1070 ~~Regulations~~. The ~~Personnel~~ Human Resources Director shall also
1071 designate the City policy regarding the effect of ~~Non~~-City
1072 ~~Employment~~ injuries and inter and intra-departmental transfers on
1073 sick leave usage and accrual.
- 1074 4. Accrual Status. An employee must be either performing assigned
1075 duties or on authorized accrued paid leave to be eligible to accrue

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- 1076 sick leave.
- 1077 5. Payment Upon Retirement. An employee retiring under the KPERS
- 1078 KP and F or Social Security system may upon request be paid for
- 1079 thirty-five (35) percent of eligible accrued sick leave up to a maximum
- 1080 payment of four hundred (400) hours for forty- (40) hour employees
- 1081 and five hundred twenty (520) hours for twenty-four- (24) hour
- 1082 employees at their respective prevailing rates of pay. For the
- 1083 purposes of this section the ~~Personnel~~ Human Resources Director
- 1084 shall define "retirement" and establish all regulations required for
- 1085 effective administration.
- 1086 B. Medical Disability Leave.
- 1087 1. General. Physical incapacitations including but not limited to
- 1088 pregnancy, miscarriage, abortion, childbirth or other related medical
- 1089 conditions, and recovery there from shall be considered as temporary
- 1090 medical disabilities when the leave is in excess of five (5) working
- 1091 days.
- 1092 2. Requested Usage. An employee desiring to use medical disability
- 1093 leave shall request its use in accordance with the procedures set forth
- 1094 by the ~~Personnel~~ Human Resources Director.
- 1095 3. Reinstatement. An employee's reinstatement following a medical
- 1096 disability leave shall be in accord with regulations issued by the
- 1097 ~~Personnel~~ Human Resources Director.

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- 1098 C. Military Leaves.
- 1099 1. Temporary Training Period.
- 1100 a. General. Temporary training periods: An employee who is a
- 1101 member of a military reserve organization or ~~a~~National ~~g~~Guard
- 1102 unit shall be entitled to a paid leave as hereinafter provided. If
- 1103 such assignment would substantially interfere with execution of
- 1104 duties in the public interest, the employee may be encouraged
- 1105 to request a rescheduling of any such training/assignment. The
- 1106 employee shall provide appropriate documentation of orders to
- 1107 attend any training, citation of the training and any related
- 1108 information as may be required to fully clarify the absence.
- 1109 b. Reimbursements. The maximum reimbursement for any
- 1110 military leave shall be the difference between the base pay
- 1111 less special allowances which an employee would normally
- 1112 receive in one (1) pay period and the amount received from the
- 1113 military. There shall be no City reimbursement if the military
- 1114 pay is equal to or greater than City pay. For a typical forty (40)
- 1115 hour employee, for the purpose of calculating the maximum
- 1116 allocation, the pay period would be a maximum of fifteen (15)
- 1117 working days of either eight (8) hours per day excluding any
- 1118 overtime consideration; and for twenty-four- (24) hour
- 1119 employees, a maximum of nine (9) shifts of base pay, less the

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military pay; provided, however, these maximum amounts shall be less than the full possible allocation in the event the individual is assigned to less training proportionately. Employees shall be reimbursed only for those days they would normally have been assigned to work during the time of the military assignment.

2. Active or Extended Involuntary Military Assignment.

a. Reimbursements. The maximum reimbursement allowed for any person involuntarily ordered or called to active military service shall be the difference between the base pay less special allowances which an employee would normally receive in one pay period and the amount received from the military. There shall be no City reimbursement if the military pay is equal to or greater than City pay. Computation of the pay differential shall be in accordance with the provisions for temporary training periods in subsection C.1.b. above.

3. Active or Extended Voluntary Military Assignment.

a. Reimbursement. No City compensation shall be allowed or any persons voluntarily entering active or extended military service.

b. Military Leave as Leave of Absence without Pay. Employees may have entitlement to a position with the City following

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1142 completion of an active or extended military voluntary
1143 assignment, pursuant to applicable state and/or federal laws
1144 governing such leave. The absence is considered a leave of
1145 absence without pay. Benefits do not accrue during this leave
1146 of absence without pay. It should be noted that the intent of
1147 this provision, unless superseded by state or federal law, is not
1148 to encourage a different career opportunity. Employees shall
1149 provide appropriate documentation of orders and complete a
1150 leave agreement prior to commencement of the leave.

1151 D. Court Appearance.

1152 1. Work related. Code enforcement officials, police officers or
1153 employees appearing in their typical employment capacity shall be
1154 paid for court appearances and/or depositions pursuant to
1155 departmental rules and regulations governing such situations.

1156 2. Jury duty, court witness. An employee called to serve on jury duty, or
1157 required by subpoena to serve as a court witness shall be paid in an
1158 amount equal to the difference between the wages which would have
1159 been earned on a given day and compensation received as witness or
1160 juror. Alternatively, an employee may sign witness/juror fees over to
1161 the City in order to receive regular pay. An employee may retain any
1162 travel, lodging and/or meal reimbursements. An employee shall not
1163 have deductions made from accrued leave unless the employee is a

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1164 voluntary plaintiff in a civil matter, a defendant in a non-job related
1165 matter, or appears as a voluntary expert witness in which case the
1166 employee may request the use of vacation time or leave without pay.

1167 E. Voting Time. Employees eligible and registered to vote in a primary, general
1168 or special election held within the State shall, on the day of such election, be
1169 entitled to absent themselves from employment with the City for a limited
1170 period of time for the purpose of voting, in accordance with the administrative
1171 rules and regulations set forth by the ~~Personnel~~ Human Resources Director.
1172 Employees shall not, because of so absenting themselves; be subject to any
1173 penalty, nor shall deductions be made on account of such absence, from
1174 their usual salary or wages.

1175 F. Leave Due to Inclement Weather.

1176 1. Absence. Absence due to an employee's inability to report for
1177 scheduled work because of severe inclement weather or conditions
1178 caused by severe inclement weather shall be charged to the following,
1179 in the order listed: compensatory time, accrued vacation leave, or
1180 leave without pay, provided that an employee may request to use
1181 leave without pay rather than paid leave.

1182 2. Tardiness. Tardiness due to an employee's inability to report for
1183 scheduled work because of severe inclement weather or conditions
1184 caused by severe inclement weather will be allowed up to one (1)
1185 hour at the beginning of the work day. Inclement weather tardiness in

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1186 excess of one (1) hour shall be charged as provided in (1) above,
1187 unless the supervisor elects to have the employee make up lost time
1188 during the ~~work-week~~ workweek. Requests to leave early will be
1189 treated in the same manner.

1190 G. Emergency Leaves.

1191 1. Funeral Leave. Forty (40) hour employees shall receive a maximum of
1192 three (3) working days per occurrence to make arrangements for
1193 and/or to attend the funeral of a member of the immediate family. This
1194 time limit shall be pro-rated for twenty-four (24) hour employees.

1195 2. Family Crisis Leave. Forty (40) hour employees shall receive a
1196 maximum of three (3) working days per occurrence (pro-rated for
1197 twenty-four (24) hour employees) when extreme, extenuating
1198 circumstances arise which may threaten the health or welfare of the
1199 immediate family.

1200 3. Eligibility Regulations concerning eligibility for paid emergency leave
1201 shall be issued by the ~~Personnel~~ Human Resources Director.

1202 H. Personal Leave Days.

1203 1. Personal Leave Day. Benefit-eligible employees upon completion of
1204 the employee's initial evaluation period shall be allowed to choose
1205 one (1) day per year as a discretionary leave day in addition to their
1206 accrued vacation. This discretionary day cannot be carried over from
1207 one year to the next.

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- 1208 2. A ~~P~~ersonal leave days shall be allowed to be taken on any day of
1209 the week subject to manpower needs.
- 1210 I. Leave of Absence Without Pay.
- 1211 1. Defined. A leave of absence without pay is a predetermined amount
1212 of time away from work requested by the employee, recommended by
1213 the department head and approved in conjunction with appropriate
1214 sections. A leave agreement must be completed. A leave of absence
1215 without pay shall not extend beyond twelve (12) calendar months,
1216 generally granted in regular increments with necessary documentation
1217 submitted at that time. A fact that such a leave is possible does not
1218 mean a requested leave is obligatory. Leaves of absence without pay,
1219 except in a case of a disciplinary action, and shall be considered as a
1220 privilege, and the best interest of the City shall be the determining
1221 factor in deciding whether or not such leave shall be granted.
- 1222 2. City obligation. The department head makes a commitment to allow
1223 employees to return to work at the end of their leave to the position
1224 they left. If business necessity requires the City to fill the position
1225 during the leave with a regular employee, the City agrees to return the
1226 employees to positions for which they are fully qualified, if vacancies
1227 exist. If no vacancy exists at that time, the employee shall be
1228 considered for future vacancies. If a position is officially eliminated or
1229 reclassified while employees are on such leave, they shall relinquish

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- 1230 any claim or entitlement to their previous position, but may be
1231 considered for vacancies for which they qualify.
- 1232 3. Employee obligation. The employee makes a commitment to return to
1233 work at the end of the leave. Failure to contact the department head
1234 at the end of the leave shall be considered a resignation. An
1235 employee who is granted a leave of absence without pay and who
1236 does not subsequently report back to work on or before the
1237 predetermined date, or who does not receive an approved extension,
1238 or who accepts other employment while on leave from the City, or
1239 who receives unemployment compensation, if not physically
1240 incapacitated, shall be considered to have resigned from employment
1241 with the City.
- 1242 4. Conditions. During the leave of absence without pay the employee:
1243 a. Shall not receive pay from the City.
1244 b. Shall not accrue any leave.
1245 c. Shall utilize all accumulated vacation leave if the leave
1246 exceeds thirty (30) calendar days, except for military leave.
1247 d. Shall not pay retirement contribution nor be accredited time
1248 toward retirement for any time the employee is not in pay
1249 status.
1250 e. Shall pay total health or other insurance falling due, except on
1251 worker's compensation leave.

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1252 f. Shall, upon return to work, carry over sick leave accrued prior
1253 to commencement of the leave without pay.

1254 g. Shall not receive any other benefits during the absence,
1255 including service credit for longevity pay and retirement
1256 purposes.

1257 J. Leave Agreements. Employees shall enter into a written leave agreement
1258 between themselves and their department head if the leave, except for
1259 vacation, exceeds two (2) calendar weeks excluding accrued vacation. The
1260 agreement shall specify the conditions of the leave, whether the leave is with
1261 or without pay, and shall include, but not be limited to, consideration and
1262 treatment of employment status, salary, and other benefits available. The
1263 employee shall be responsible for requesting and completing the written
1264 leave agreement. The agreement shall be approved by the ~~Personnel~~
1265 Human Resources Director and the ~~Mayor or Chief Administrative Officer~~
1266 City Manager prior to commencement of the leave.

1267 K. Unauthorized Absence. An unauthorized absence shall be treated as an
1268 absence without pay and may be grounds for disciplinary action up to and
1269 including termination. Upon return the employee shall give a written
1270 statement to the authorized supervisor explaining the reason for the
1271 absence. Prior to instituting disciplinary action a supervisor or department
1272 head shall consider an employee's prior job record or performance.

1273 Section 5. Extended Sick Leave Benefits.

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- 1274 A. General. All employees who have satisfied their initial probationary period
1275 and are benefit eligible shall receive extended sick leave benefits. Extended
1276 sick leave benefits may only be used by employees who will not be returning
1277 to work due to a diagnosed terminal illness.
- 1278 B. Amount. Extended sick leave benefits shall consist of five hundred twenty
1279 (520) hours of sick leave for full-time employees and three hundred ninety
1280 (390) hours of sick leave for employees who are not full-time. An employee
1281 who returns to work after using all or part of these benefits shall not receive
1282 additional extended sick leave benefits.
- 1283 C. Eligibility and Payment. A terminally ill employee may use extended sick
1284 leave benefits based on the normal scheduled hours for that employee's
1285 position. The extended sick leave benefits shall be paid at the employee's
1286 last regular rate of pay. No terminally ill employee shall be paid extended sick
1287 leave benefits unless that employee no longer has accrued sick leave or
1288 vacation leave available for use. A terminally ill employee who is using
1289 extended sick leave benefits shall not be considered an employee in "pay
1290 status" as defined by Article 1, Section 62, 'Definitions,' of ~~the Code of the~~
1291 ~~City of Topeka, Kansas~~ this Personnel Code.
- 1292 D. Termination. An employee's receipt and/or usage of extended sick leave
1293 benefits shall terminate or be proportionally reduced when the employee
1294 receives other disability benefit payments, including, but not limited to,
1295 KPERS and/or Social Security. An employee receiving extended sick leave

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1296 benefits shall be obligated to inform the ~~Personnel Division~~ Human
1297 Resources Director when such disability benefit payments are received.

1298 E. Death. The death of an employee receiving extended sick leave benefits
1299 shall cause the benefits to cease. The deceased employee's heirs and/or
1300 estate shall not be entitled to either any unused extended sick leave benefits
1301 or the continuation of benefit payments.

1302 F. Rules and Regulations. The ~~Personnel~~ Human Resources Director shall, with
1303 the approval of the ~~Chief Administrative Officer~~ City Manager, establish
1304 eligibility and usage criteria as well as any other rules and regulations which
1305 are necessary to administer this extended sick leave benefit.

1306 Section 6. Retirement systems.

1307 A. Mandatory participation. All employees, except sworn police officers and
1308 firefighters, shall participate in the federal social security system and all
1309 benefit-eligible employees shall participate in the applicable state retirement
1310 program following completion of one (1) calendar year of service or as
1311 prescribed by the retirement program. Retirement system participation and
1312 eligibility shall be monitored and managed by the City Treasurer who shall
1313 also periodically conduct cost-benefit analysis on any such systems to
1314 determine if other more viable options may be practical and report to the
1315 ~~Chief Administrative Officer~~ City Manager as needed.

1316 B. Optional deferred Compensation Any benefit-eligible employee, elected
1317 official or bargaining unit member may, at his/her option, participate in a

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1318 deferred compensation program approved by the ~~Mayer~~ City Manager.
1319 Interested employees shall participate in such a plan through direct payroll
1320 deduction of individual arranged contributions.

1321 **ARTICLE VIII. NON-DISCIPLINARY REDUCTIONS IN FORCE**

1322 Section 1. Short Term Reduction in Force: Lay Offs.

1323 A. General. A lay off is a temporary reduction in the work force due to a
1324 shortage of funds, lack of work, abolishment of a position or other material
1325 change in duties or organization. It differs from other forms of separation in
1326 that there is an anticipated reinstatement of the employee as soon as the
1327 conditions which necessitated the lay off are ameliorated. A lay off is
1328 intended to protect a regular, full-time employee's tenure, related benefits
1329 and privileges.

1330 B. Order of Separation.

1331 1. Temporary and part-time employees shall be the first affected by a lay
1332 off.

1333 2. The order of dismissal for regular, full-time employees shall be
1334 determined by a combination of performance and seniority.

1335 a. Performance. Employees with the highest consistent
1336 performance as compared to other employees over a
1337 comparable period of time shall be retained, provided they can
1338 perform the remaining available work. Performance shall be
1339 determined through the following criteria:

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- 1340 ~~(4)~~i. The employee's last four (4) written performance
1341 evaluations, if in existence. However, this shall not
1342 include any evaluations given after any notice of lay off
1343 or within ninety (90) calendar days of such notice.
- 1344 ~~(2)~~ii. The history of an employee's written disciplinary actions
1345 during the past three (3) years.
- 1346 ~~(3)~~iii. The employee's written record of attendance for the
1347 past three (3) years.
- 1348 b. Seniority. If two (2) candidates are equal with regard to
1349 performance, seniority shall be used to determine the order of
1350 separation. Seniority is measured as the length of continuous
1351 unbroken service as a regular full-time employee of the City.
- 1352 c. The ~~Personnel Division~~ Human Resources Director shall
1353 attempt to effectuate the reassignment, transfer or demotion of
1354 an employee who is faced with a lay off, provided that there
1355 are existing, vacant positions for which the employee is
1356 qualified.
- 1357 d. The ~~Personnel~~ Human Resources Director shall establish by
1358 rule and regulation a procedure for bumping.
- 1359 C. Reemployment.
- 1360 1. An employee who has been laid off shall have his or her name
1361 entered on a reemployment eligibility list and shall be given first

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1362 consideration when a vacancy occurs in the same or similar position
1363 the employee last held.

1364 2. An employee's name may be removed from the reemployment
1365 eligibility list for any one (1) of the following reasons:

1366 a. Expiration. If the time limit for recall, as detailed in the
1367 following schedule, expires.

1368 Time Limit For Recall As Determined By Length Of Service

1369	Year(s) Of Continuous	Maximum Time Allowed On	
1370	Service (Employment)	Lay Off For Recall	
1371	0 - 1 Year	-0-	Must be separated effective
1372			date of lay off
1373	1 - 2 Years	4 Weeks	
1374	2 - 3 Years	8 Weeks	Employees with 2 or more
1375	3 - 4 Years	12 Weeks	years of service from last
1376	4 - 5 Years	16 Weeks	date of employment, on lay
1377	5 - 6 Years	20 Weeks	off status 8 consecutive
1378	6 - 7 Years	24 Weeks	weeks or more, have the
1379	7 - 8 Years	28 Weeks	option of requesting to be
1380	8 - 9 Years	32 Weeks	separated and may receive
1381	9 - 10 Years	36 Weeks	separation pay according to
1382	10 - 11 Years	40 Weeks	the Separation Pay
1383			Schedule
1384	11 - 12 Years	44 Weeks	contained in this Article.
1385	12 Years and Over	48 Weeks	

1387 b. Waiver. After a period of eight (8) weeks, an employee may
1388 elect to waive the right to recall by signing a waiver form
1389 provided by the City. Employees who waive their right to recall
1390 shall immediately become eligible to receive severance pay.

1391 c. Forfeiture. Employees forfeit the right to recall if they:

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- 1392 ~~(4)~~i. Refuse a job in a position that is not more than two (2)
1393 pay ranges below their position at the time of lay off.
1394 ~~(2)~~ii. Refuse recall within five (5) days of notice.
1395 ~~(3)~~iii. Fail to answer written inquiries from the City's ~~Personnel~~
1396 ~~Division~~ Human Resources Director.
1397 ~~(4)~~iv. Fail to advise the City of a change of address and/or
1398 telephone number.

1399 D. Reinstatement.

- 1400 1. Wages. If employees are recalled to their former position within six
1401 (6) months, they shall be paid at their previous rate of pay plus any
1402 across-the-board adjustments to which they would have been entitled
1403 had the lay off not occurred. If recalled to a lower position, employees
1404 shall receive compensation at a rate of pay consistent with the duties
1405 and responsibilities of that position.

1406 2. Benefits.

- 1407 a. Vacation. When employees on lay off are recalled within the
1408 time limits provided in this policy, they will then recommence to
1409 accrue and be entitled to vacation pay.
1410 b. Sick leave. Any sick leave accumulated and not utilized at the
1411 time of lay off will be reinstated at the time of recall.
1412 c. Seniority. Employees retain seniority for the sole purpose that
1413 they be able to resume earning leave time immediately upon

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1414 recall.

1415 E. Notice.

1416 1. Regular, full-time employees.

1417 a. A department head shall give written notice to the employee
1418 and the ~~Mayor or Chief Administrative Officer~~ City Manager of
1419 any proposed lay off and the reasons therefore at least five (5)
1420 working days prior to the separation, provided the employee is
1421 being laid off through no fault of his or her own.

1422 b. This five (5) working day notification may be waived in lieu of
1423 five (5) days pay at the employee's straight time, base rate.

1424 2. Non full-time employees.

1425 a. A department head may notify temporary and/or part-time
1426 employees of the date of termination of employment in writing
1427 at the time of appointment.

1428 b. Temporary or part-time employees may be notified of lay offs
1429 any time prior to the effective date of the lay off.

1430 F. Employee Benefits During Lay Off.

1431 1. Vacation time. An employee on lay off may elect to take any vacation
1432 and/or compensatory time which the employee has accrued prior to
1433 the lay off. Vacation time, however, does not accrue during the
1434 separation. Payment for vacation time taken during the lay off may be
1435 made by the City in equal increments on a pay period basis.

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- 1436 2. Group Insurance. An employee may elect to continue group
1437 insurance for eighteen (18) months. Timely payment of premiums will
1438 be the responsibility of the employee.
- 1439 3. Other benefits. Additional benefits (holiday, health coverage,
1440 retirement contribution or other insurance) will neither accrue nor be
1441 paid during an employee's lay off.
- 1442 G. Grievance. Lay offs and demotions necessitated by the conditions given in
1443 Section 1A of this article shall not be subject to grievance except to contest
1444 the order of reduction in force among affected employees.
- 1445 Section 2. Permanent Reduction In Force: Severance Pay.
- 1446 A. General. The purpose of the severance pay policy is to provide temporary
1447 relief to employees who have lost their job through no fault of their own. Such
1448 separation occurs for reasons such as but not limited to the following:
- 1449 1. An employee is not recalled from lay off within the time limit set forth
1450 in (C)(2a);
- 1451 2. An employee voluntarily waives the right to recall, as described in
1452 (C)(2b);
- 1453 3. Work is eliminated and is not anticipated to be necessary in the
1454 foreseeable future;
- 1455 4. Work is reassigned to other employees; or
- 1456 5. The qualifications for a position change.
- 1457 Employees who are eligible for recall shall not be eligible to receive

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1458 severance pay.

1459 B. Severance Pay.

1460 1. Amount. Employees eligible to receive severance pay shall be
1461 compensated according to the following schedule:

1462	<u>Length of Service</u>	<u>Separation Pay</u>
1463	-0- Less than 1 Year	-0-
1464	1 Year - Less than 10 Years	One (1) week's salary for
1465		each complete year of
1466		service, as of the date of
1467		separation
1468	Over 10 Years	Two (2) weeks' salary for
1469		each complete year of
1470		service, as of the date of
1471		separation

1472 However, in no case shall severance pay exceed one (1) year's
1473 salary. Severance pay shall be calculated using the employee's
1474 regular base hourly wage and shall not include any premium
1475 payments for overtime, longevity and so on.

1476 2. Disbursement Schedule. The City may elect to make severance
1477 payments in equal increments on a pay period basis until the
1478 employee receives all severance pay due. In such a case, the
1479 payment will amount at least to the base pay of a regular bi-weekly
1480 pay period.

1481 C. Other Benefits.

1482 1. Vacation time. Following a non-disciplinary, permanent

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1485 separation, employees with six (6) months of service or more will be
1486 paid the unused portion of vacation time accrued.

1487 2. Unemployment Compensation. Whether employees can draw both
1488 severance pay and unemployment compensation benefits will depend
1489 on state laws.

1490 D. Forfeiture of Severance Pay.

1491 1. Ineligibility. Employees who resign, retire or are fired for cause are
1492 not eligible to receive severance pay. Employees eligible for an
1493 immediate retirement annuity, even on a reduced basis, are also not
1494 eligible for severance pay.

1495 2. Relinquishment. The City may, at its discretion, provide outplacement
1496 counseling and assistance to employees who lose their job through
1497 no fault of their own. If such outplacement assistance results in an
1498 offer of employment or employment for separated employees,
1499 severance pay shall be waived.

1500 Section 3. Administrative Leave.

1501 A department head and/or ~~Chief Administrative Officer~~ City Manager may require an
1502 employee to take an administrative leave with pay. An administrative leave is not
1503 considered a corrective or disciplinary action and is therefore not subject to the grievance
1504 process. An administrative leave shall only be authorized for a period not exceeding ten
1505 (10) consecutive work days. A department head must receive approval from the ~~Mayor or~~
1506 ~~Chief Administrative Officer~~ City Manager prior to requiring an employee to take an

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administrative leave. Approval shall only be given if the department head provides evidence satisfactory to the ~~Chief Administrative Officer~~ City Manager justifying the action.

ARTICLE IX. CORRECTIVE AND DISCIPLINARY ACTIONS

Section 1. General.

Department heads serve at the pleasure of the ~~Mayer~~ City Manager and may be terminated without cause. Therefore, the provisions for corrective and disciplinary actions set forth in this article shall not be applied against department heads. Likewise, department heads are not entitled to the grievance or appeal rights granted by the article. For the purposes of the section, "department head" shall mean those positions designated by the ~~g~~G~~o~~v~~e~~r~~n~~i~~ng ~~b~~B~~o~~dy as the administrative heads of the departments of Public Works, ~~Community and Economic Development~~ Housing and Neighborhood Development, Legal, Judicial, Human Resources, Information Technology, Parks and Recreation, Planning, Police, Fire, Zoological Park, and ~~Audit and Fiscal Control~~ Administrative and Financial Services as well as the Executive Director of the Human Relations Commission. This section shall not apply to the positions of ~~Chief Administrative Officer~~ City Manager, ~~City Attorney, Municipal Court Judge,~~ or any other position where other ordinances or agreements address corrective and disciplinary action for the position.~~

Section 2. Disciplinary Actions.

A. Policy. The City reserves the right to discharge, suspend or otherwise discipline employees for violations of City and/or department rules and regulations. The disciplinary process involves four (4) steps of progressive discipline for infractions of a similar nature and which are of a nature not

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1529 serious enough to constitute just cause for immediate suspension or
1530 termination. Determinations of the seriousness of the offense shall be at the
1531 discretion of the ~~Personnel~~ Human Resources Director. The progressive
1532 steps are:

1533 first offense documented verbal warning

1534 second offense written warning

1535 third offense suspension

1536 fourth offense termination

1537 B. Procedure. The progressive disciplinary system listed above is intended to
1538 serve as warning to the employee that he/she needs to improve in the listed
1539 area and that repeated incidents will result in suspension or termination. The
1540 City reserves the right to determine that repeated violations of any of the
1541 work rules shall constitute grounds for immediate termination.

1542 1. Disciplinary actions not considered serious enough for immediate
1543 termination shall be removed from an employee's personnel file on
1544 completion of two (2) years of continuous service free from additional
1545 disciplinary actions for violations of a similar nature.

1546 2. Department heads shall have the right to discipline employees up to
1547 and including termination; provided however that all actions to
1548 terminate employees shall require the approval of the ~~Personnel~~
1549 Human Resources Director of the City.

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- 1550 3. Offenses not normally considered serious enough to warrant
1551 immediate suspension or termination:
- 1552 a. destruction or loss of City property
 - 1553 b. improperly using or obtaining leave time
 - 1554 c. tardiness
 - 1555 d. absence without permission or proper notice
 - 1556 e. interference with the regular conduct of City business
 - 1557 f. using City vehicles, property or equipment for personal use
 - 1558 g. consistent or continual unavailability for work
 - 1559 h. engaging in habits which interfere with the individual's or any
1560 other employee's performance on the job
 - 1561 i. suspicion of any of the aforementioned infractions
 - 1562 j. violations of any other work rule stated in this personnel code
1563 or expressed verbally to an employee by a supervisor
 - 1564 The above list does not constitute a complete and total listing
1565 of offenses but is listed for illustrative purposes only.
- 1566 4. Examples of offenses which shall constitute sufficient and just cause
1567 for immediate suspension or termination are as follows. This listing
1568 shall not be construed to constitute the entire list of such offenses but
1569 is solely for the purpose of illustration. The City reserves the right to
1570 determine that any violation of rules and/or regulations shall constitute

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- 1571 just cause for immediate suspension or termination depending on the
1572 circumstances relating to the offense.
- 1573 a. dishonesty in any form or degree
1574 b. theft of property belonging to the City
1575 c. knowingly making false statements in matters relative to
1576 employment
1577 d. insubordination
1578 e. unreasonable and abusive treatment of a client, citizen or other
1579 individual in the community or on the City payroll
1580 f. verbal or non-verbal sexual or racial harassment
1581 g. disregard for the City's EEO/Affirmative Action policy
1582 prohibiting discrimination
1583 h. solicitation or acceptance of money or anything of value to
1584 influence decisions in public matters or as a reward for such
1585 decisions
1586 i. possession of any type of firearm, explosive or concealed
1587 weapon without specific authority
1588 j. possession, sale, consumption or being under the influence of
1589 any alcoholic, narcotic or other non-prescription substance
1590 while on the work site
1591 k. other violations of a similar nature

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1592 Section 3. Performance Related Corrective Actions.

1593 Each employee of the City shall be evaluated at least annually as provided in ~~these~~
1594 the administrative rules and regulations. This evaluation and any special evaluations shall
1595 be used as the basis for all performance based corrective actions.

1596 ~~4~~A. Corrective actions - as used in this section, corrective actions shall include:

1597 ~~a~~1. special performance probation

1598 ~~b~~2. demotion

1599 ~~e~~3. termination

1600 ~~2~~B. Special evaluations -

1601 ~~a~~1. A department head may cause a special evaluation to be conducted
1602 for any employee when the department head determines that such
1603 employee's performance is "less than satisfactory" with respect to any
1604 or all of the duties, tasks, and/or responsibilities set forth in the
1605 employee's position description.

1606 ~~b~~2. The special evaluation shall be performed pursuant to the adopted
1607 standards contained within the employee's position description.

1608 ~~e~~3. Special evaluations may be performed in five hundred twenty (520)
1609 continuous work hour intervals which period shall be considered an
1610 opportunity for the employee to improve his/her performance to an
1611 acceptable level. The department head shall identify the areas of
1612 improvement necessary to improve the employee's performance.

1613 ~~d~~4. An employee receiving a ranking of "less than satisfactory" on a

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1614 special evaluation shall be informed of the areas of improvement
1615 needed and shall be given a five hundred twenty (520) continuous
1616 work hour period of time to improve his/her performance to a
1617 satisfactory level. The employee shall be considered to be on a
1618 probationary status during the five hundred twenty (520) continuous
1619 work hour period following a special evaluation in which his/her
1620 performance ranks "less than satisfactory." The employee shall be
1621 given another special evaluation on the completion of the five hundred
1622 twenty (520) continuous work hour probationary period. In the event
1623 that an employee's performance has not improved within the five
1624 hundred twenty (520) continuous work hour probationary period, as
1625 reflected by another special evaluation, the department head, with the
1626 concurrence of the ~~Personnel~~ Human Resources Director, may take
1627 the appropriate action of:
1628 ~~4~~a. demotion to a position of lesser responsibilities within the
1629 expected abilities of the employee,
1630 ~~2~~b. extending the special probationary period for another four (4)
1631 month period, or,
1632 ~~3~~c. terminate the services of the employee.

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ARTICLE X. GRIEVANCES

Section 1. General.

All employees covered by the provisions of Article IX, concerning corrective and disciplinary actions, are entitled to file a grievance in accordance with the regulations established herein, except that employees serving their initial evaluation period shall have no rights under this article. The grievance procedure contained herein shall not be utilized as a procedure for appeals of performance evaluations.

Section 2. Ground Rules.

A. Definitions.

1. Grievance shall mean the appeal of an alleged violation of the personnel rules and regulations of the City, work rules of a division or department or any alleged misapplication of disciplinary action taken by a department head for other than just cause.
2. Days shall mean working days of the involved individual.
3. Working days shall mean, for grievant, normal work days an employee is scheduled to work excluding all previously approved leaves for vacation. In the case of management representatives, working days shall mean regular weekday workdays excluding holidays.

- #### B. Failure to respond.
- In the event the grieving party fails to respond within the prescribed time sequences, the matter shall be considered resolved on the basis of management's last determination. In the event management does

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1655 not respond within prescribed time sequences, the grievance shall have the
1656 right to proceed to the next step of the grievance procedure. The parties
1657 may, at any step of the grievance procedure, agree to extend the time
1658 limitations specified in this article.

1659 C. Employee representation. Employees may represent themselves at any
1660 stage of the grievance procedure or they may choose to be represented by a
1661 person of their own choosing. Any costs incurred by the employee for
1662 representation shall be borne by the employee.

1663 D. Management representation. Management may be represented either by the
1664 ~~Personnel~~ Human Resources Director, ~~the~~ or his/her designee ~~of the~~
1665 ~~Personnel Director~~, a member of the legal staff or a member of the legal
1666 staff and the ~~Personnel~~ Human Resources Director or his/her designee may
1667 act as co-advocates.

1668 E. Grievance Forms. All grievances shall be filed on a form to be provided by
1669 the ~~Personnel~~ Human Resources Department and incomplete forms shall be
1670 returned to the grieving employee for completion. Forms so returned shall be
1671 considered as timely filed if the form would have otherwise been timely and
1672 the form is returned to the proper management representative within
1673 twenty-four (24) hours of rejection.

1674 Section 3. Grievance.

1675 A. Step one. An eligible employee who believes that a violation, as set forth
1676 above, has occurred shall first, within three (3) days of the incident giving rise

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1677 to the "grievance" or within three (3) days of first having knowledge of the
1678 incident, informally discuss the "grievance" with the employee's immediate
1679 supervisor.

1680 B. Step two. In the event the employee believes that the solution offered by
1681 his/her immediate supervisor does not resolve the "grievance," the employee
1682 may, within five (5) working days, reduce the matter to writing for
1683 presentation to the next higher level of supervision. The written grievance
1684 shall be on a form provided by ~~City Personnel~~ the Human Resources
1685 Department and shall be completed as required by instruction of the
1686 grievance form. The supervisor receiving a written grievance shall verify the
1687 completeness of the grievance and either signify acceptance or return the
1688 form to the grievant with instructions regarding the appropriate information
1689 needed to complete the form. The supervisor shall have seven (7) days in
1690 which to investigate the matter, prepare a written response to the grievance,
1691 and provide the response to the grievant by hand-delivering the response,
1692 placing a copy in the work site mail box of the employee or by placing a copy
1693 in the U.S. Postal Service addressed to the grievant.

1694 C. Step three. In the event the employee believes that the written response
1695 provided by the supervisor as specified in Step ~~Two~~, does not resolve the
1696 matter, the employee may, within three (3) days of receipt of the written
1697 response, file his/her grievance with the department head.

1698 The department head receiving a Step ~~Three~~ grievance shall have

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1699 seven (7) days to investigate the matter and provide a written response to
1700 the grievant. Written responses shall be delivered in the manner as
1701 described in Step ~~Four~~Two of this procedure.

1702 D. Step four. In the event the employee believes that the written response of the
1703 department head does not resolve the matter, the employee may, within
1704 three (3) days of receipt of the response, file his/her grievance with the
1705 ~~Personnel Department~~ Human Resources Director.

1706 The ~~Personnel~~ Human Resources Director shall investigate, may
1707 conduct an informal hearing giving all parties an opportunity to express their
1708 positions and shall, within fourteen (14) days deliver a written resolution as
1709 provided in Step ~~Four~~Two of this procedure.

1710 E. Step five. Following receipt of the ~~Personnel~~ Human Resources Director's
1711 recommendation in the matter, the employee shall have up to three (3)
1712 calendar days to either accept the recommendation or issue a notice of
1713 intent to arbitrate. The notice of intent to arbitrate shall be in writing and shall
1714 be filed with the ~~Personnel Division~~ Human Resources Director.

1715 1. The ~~Personnel~~ Human Resources Director shall request a roster of
1716 arbitrators from the Federal Mediation and Conciliation Service, the
1717 American Arbitration Association or the Kansas Public Employees
1718 Relations Board. The parties shall either agree on the arbitrator or
1719 shall engage in the alternate striking procedure to select the arbitrator.

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- 1720 2. The costs associated with fees and expenses of the arbitrator shall be
1721 paid by the City if the grievance involves disciplinary actions. Such
1722 costs shall be shared equally by the parties if the grievance involves
1723 any issue other than discipline as defined by the provisions of this
1724 ~~p~~Personnel ~~e~~Code.
- 1725 3. The arbitrator shall conduct a hearing into the grievance at a time,
1726 place and date mutually agreed on by the grievant and the ~~Personnel~~
1727 Human Resources Director. In the event the grievant and the
1728 ~~Personnel~~ Human Resources Director cannot, within three (3) days of
1729 the notification of the arbitrator, agree on a time, place and date for
1730 the hearing, the arbitrator shall issue a notice of hearing listing the
1731 time, place and date for the hearing.
- 1732 4. All documentary evidence and a list of witnesses shall be presented
1733 to the opposing party prior to the commencement of the hearing.
1734 Acceptance of additional evidence presented to the arbitrator, which
1735 was not submitted in advance to the opposing party, or testimony
1736 from a witness not listed in advance shall be admitted at the sole
1737 discretion of the arbitrator. The arbitrator shall honor any request for a
1738 continuance of the hearing made by a party not provided evidence or
1739 advised of a witness prior to the hearing in the event the arbitrator
1740 determines to admit such evidence or testimony.

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1741 5. The arbitrator, after hearing all evidence and testimony, shall enter an
1742 order resolving the grievance. Such order shall indicate findings,
1743 conclusions and a resolution and shall grant the relief deemed
1744 appropriate by the arbitrator. This order shall be final and binding on
1745 the parties.

1746 Section 4. Scope of Rights.

1747 A. Management rights. Specific areas of responsibility shall be reserved solely
1748 to management unless it can be clearly shown that an action by
1749 management was arbitrary, capricious, without cause, malicious,
1750 discriminatory or in bad faith. Generally, the following management rights
1751 shall not be grievable. Unless specifically modified by an action of the
1752 Governing Body, management reserves the right to:

- 1753 1. Direct the work of its employees;
- 1754 2. Hire, promote, transfer, assign, retain and recall employees in
1755 positions within the public agency;
- 1756 3. Maintain the effectiveness, productivity and efficiency of governmental
1757 operations;
- 1758 4. Discipline, suspend, demote and/or discharge employees for just
1759 cause;
- 1760 5. Take actions as may be necessary to carry out the mission of the
1761 agency in emergencies, as declared by the Governing Body;

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- 1762 6. Determine the methods, means and personnel by which operations
1763 are to be carried on; including the right to contract and subcontract
1764 work; and,
1765 7. Retain all other rights typically vested in management which may not
1766 be specifically, stated.

1767 ADOPTED and APPROVED by the City Council FEB 28 2006.

1768 CITY OF TOPEKA, KANSAS

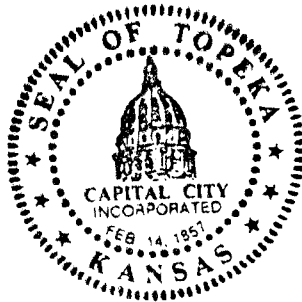
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ATTEST:



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Iris E. Walker
Iris E. Walker, City Clerk

William W. Bunten
William W. Bunten, Mayor

APPROVED AS TO FORM AND LEGALITY
DATE <u>2/10/06</u> BY <u>BB</u>