City of Bismarck Policy Manual

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RECEIPT OF EMPLOYEE HANDBOOK

I have this day accessed a copy of the City of Bismarck Employee Handbook and I understand that I am responsible for reading the personnel policies and practices described within it.

I agree to abide by the policies and procedures contained therein. I understand that the policies and benefits contained in this employee handbook may be changed, modified or deleted at any time. I understand that neither this manual nor any other communications by a management representative is intended to, in any way, create a contract of employment.

If I have questions regarding the content or interpretation of this handbook, I will bring them to the attention of my supervisor.

NAME: ________________________________     DATE: __________

EMPLOYEE SIGNATURE: ________________________________

Approval Date: 03/06/98
Revision Date:
WELCOME

Welcome to the City of Bismarck. On behalf of all the staff of the City of Bismarck, I want to express a very warm welcome to you for joining our progressive organization. We are pleased that you have chosen to work with us and are looking forward to a mutually rewarding and pleasant relationship.

City Government is dedicated to the service of its citizens. It is the intention of Management to maintain an atmosphere of friendliness, mutual respect, and understanding, where individual initiative is encouraged.

This employee manual is for your use as a reference and is to assist you in becoming acquainted with general information about the City of Bismarck and the policies and practices which affect our employees. I encourage you to become familiar with its contents. If you have any questions, feel free to discuss them either with your supervisor or with Human Resources personnel.

We again welcome you to the City of Bismarck, I hope you will find your position satisfying and rewarding. I know that I speak for the entire City commission in thanking you in advance for your service to our citizens.

Sincerely,

Michael C. Seminary, Mayor
City of Bismarck
INTRODUCTION

Government
Bismarck is the state capital and the center of state government in North Dakota. The City of Bismarck’s form of government is a five-member city commission, elected at-large, of which the president is also the Mayor of the city. The City Commission meets every second and fourth Tuesday of each month.

Statistics
Located mid-continent at 1670 feet above sea level, Bismarck is a growing city with an estimated population of 60,389 in 2008 and an Metropolitan Statistical Area (MSA) of approximately 106,286 persons. Its mean annual temperature is 53.1 degrees Fahrenheit and the average rainfall is 15.48 inches. From 1980 to 2000, the population of the city grew from 44,485 to 55,532 – an increase of approximately 25%.

The National Oceanic and Atmospheric Administration’s weather compilation for Bismarck reports dispel some of the perceived ideas about North Dakota’s climate. Annually, Bismarck averages 16 inches of moisture. This includes both rain and snow. With regard to snow, North Dakota in reality has less annual average snowfall than cities like Minneapolis, Chicago, Detroit and Buffalo, New York. Our summers are warm with temperatures sometimes reaching as high as 100 degrees but with humidity that is extremely low. Our winters can, on occasion, become quite cold, however the simple solution to that is to dress a little warmer and use a little common sense on the road. There are very few workday losses due to bad weather. North Dakota, in fact, has the lowest rate or work stoppages for all causes, including weather, in the nation.

The number of households in Bismarck rose from 16,424 in 1980 to 27,038 in 2008; of this, 36.7% is rented quarters. The median value of owner-occupied housing units was $136,900 in 2008.

The median age in Bismarck in 2008 was 36.5 years compared to 27.4 years in 1980. As of 2008, Bismarck has a workforce of 35,688. Employment statistics compiled by Job Service of North Dakota show 57,553 jobs available as of 2009 in the MSA. Of those jobs, 10,944 are in government, 9,460 are in health care and social assistance and 7,830 are in retail trade.

Bismarck’s major economic strengths include agriculture, agri-business, energy, development, and health services. Bismarck’s medical community is one of the premier medical communities in a multi-state area. This medical community currently employs over 4,000 persons providing state of the art health care services to residents of western North Dakota, northern South Dakota and eastern Montana. Two hospitals with 526 patient beds and 27 satellite clinics supplying services to residents in the four-state area with the finest patient care.

Bismarck has a modern water system, obtained from the Missouri River, consists of filtering and sterilizing before delivery. City has approximately 321 miles of watermain and around 2500 fire hydrants. Vast supplies of electricity are available from giant generating plants and the Garrison Dam on the Missouri River, deposits of lignite coal; availability of natural gas and ample supply of water from the Missouri River.
Bismarck also has 3 airlines, which have daily airmail, passenger freight and express mail to several points in the U.S. Several truck lines to provide local, intrastate service. One bus terminal, 2 US highways such as Highway 83 and Interstate 94 going from east to west, north to south. The city also has several parking ramps accommodating around 600 vehicles.

Our city consists of agriculture, printing, trucking, farm machinery manufacturing, machine shops, electric power, woodworking, concrete products, railroad, insurance, bakeries, bottlers, livestock auction markets, etc. We have several shopping malls with 280 stores; 19+ banks, loan and savings associations, nine libraries with 638,037 volumes, approximately 100 churches representing Catholics, Protestants and Jewish. We have one daily newspaper, one weekly newspaper and one monthly newspaper; two movie theater complexes with 20 screens, fourteen radio and four television stations.

Farming and ranching in North Dakota varies from the Red River Valley’s sugar beet and potato production to the western end of the state being primarily small grains which principally include hard red spring, amber durum and livestock production. North Dakota is the nation’s top producer of amber durum (which is used for pasta production), honey production, flax production, and is one of the top two or three producers of hard red spring wheat in the nation.

Western North Dakota’s energy production is a major economic generator for the state. Bismarck is the corporate headquarters for a majority of the major energy companies working in North Dakota. Bismarck is within 85 miles of twelve coal-fired electrical generating facilities producing over 4000 megawatts of electricity. In addition, Bismarck is the corporate headquarters for Dakota Gasification, the owners and operators of North America’s only commercial lignite coal to synthetic natural gas production facility.

This plant, known as the Great Plains Coal Gasification facility is a $2.1 billion facility that was completed in 1984. The plant currently employs about 900 persons producing pipeline quality synthetic natural gas. The Great Plains Coal Gasification facility is beginning to develop the various byproducts that come out of the conversion process. To name just a few, these byproducts include rare gases, coal tars, sulfur, nitrogen, anhydrous ammonia, and CO2 which is used to enhance oil recovery in the nearby Williston Basin oil fields. Another major byproduct of the conversion process is the waste warm water used in the cooling towers of the gasification system. Currently, there are products that include the possibility of raising hot house roses, various vegetables such as tomatoes and lettuce and also for the use of raising fish and shrimp.
DISCLAIMER STATEMENT

This policy manual is designed to inform you about the history, the policies, the activities, and the services of the City of Bismarck and its departments.

Unless otherwise stated, all policies and procedures are in effect for both full-time and part-time employees.

This employee manual is provided only for informational purposes. The policies, practices, and procedures described in the manual are not conditions of employment and are not intended to create, nor are they to be interpreted to create, a contract between the City of Bismarck and any of its employees. The City of Bismarck reserves the right at any time without notice to suspend, discontinue, or change any or all such policies, practices, or procedures. If it appears that a policy contained in this manual is in conflict with City ordinance, City ordinance shall control.

The City of Bismarck and its employees have an employment relationship which is based on the principles of Civil Service. This means that employment activities are for a public agency and that this system of public employment is based on the “merit principle.” It is the City of Bismarck’s goal that each employee is treated fairly, equally, and respectfully. Each employee is considered an important part of the City. As such, any employee is encouraged to discuss the contents of this manual with their Supervisor, Department head, or the Director of Human Resources.

Approval Date: 01/28/97
Revision Date: 01/11/99
CITY OF BISMARCK ORGANIZATION

The City of Bismarck operates under the commission form of government with four (4) Commissioners and a President (Mayor). Each Commissioner is elected at-large to four-year terms. The Commission meets in regular session in the Tom Baker Meeting Room of the City/County Office Building the second and fourth Tuesday of each month.

Current Commission members, their terms, portfolios, and other responsibilities are:

Mike Seminary – President

Josh Askvig – Vice President

Steve Marquardt – Commissioner

Nancy Guy – Commissioner

Shawn Oban – Commissioner
The City departments and department Directors are:

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<td>Jeffery Heintz</td>
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<td>Michelle Klose</td>
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<td>Charlie Whitman</td>
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The City of Bismarck provides complete municipal services including:

**Fire and Inspections**

Have responsibilities in Fire and Rescue, Building Inspections, Environmental Health and Emergency Management. Fire and Rescue is comprised of sixty-two (62) employees. Building Inspections is located on the second floor of the City/County Building and is comprised of eight (8) employees. Environmental Health is located at the Headquarters Fire Station and is comprised of five (5) employees. The Emergency Manager is located at the Emergency Operations Center/Combined Communications Center.

**Water Service**

There are approximately 17,000 customers, with an average daily consumption of 11,000,000 gallons. The plant capacity is 30 million gallons per day.

**Sewer Systems**

Sanitary system has 270 miles of lines and nineteen (19) pumping stations. The Storm Water drainage system utilizes approximately 130 miles of pipe and open channel. Wastewater treatment plant has a capacity of 7,500,000 gallons per day and on average flow of 6,000,000 gallons per day.

**Police Protection**

89 Officers, with 28 civilian employees.

**9-1-1 Services**

Combined Communications Center has twenty-one (21) employees providing rapid public access to public safety and other emergency services. The Center is operated under a Joint Powers Agreement between the City of Bismarck and Burleigh County.

**Airport**

Daily passenger, freight, airmail and express service to domestic destinations in the US and connections internationally through three hubs (DIS, LAS & MSP) with three (3) airlines: Delta, United Express, and Allegiant Airlines. The airport has on-demand air taxi/charter, maintenance and avionics service available on its general aviation ramp. The airport covers 2,400 acres, maintains two (2) air carrier runways and accommodated 360,844 total passengers in 2006.

**Waste Collection/Disposal**

Serving 15,604 customers on five (5) service routes. Landfill area is 635 acres.
Streets, Sidewalks, and Lights

Approximately 345 miles of roads and streets. The majority of these are of asphalt construction and are lighted with street lights and contain either 4-½’ wide sidewalks (residential) or 6’ wide sidewalks (commercial).

Forestry

Manages and maintains for beauty, health and safety in excess of 17,831 street trees lining approximately 345 miles of streets, trees around City buildings, and 6,280 acres of park trees including three (3) public golf courses. Also, provides technical assistance to property owners for trees and shrubs growing on private property.

Public Buildings

The Bismarck Civic Center, which runs the City owned Arena, Exhibit Hall, and Belle Mehus City Auditorium, typically holds more than 400 events each year with more than 400,000 guests. Events held in the buildings range from large concerts, trade shows, meetings, to local performances.

Veterans Memorial Public Library has 185,782 volumes, 4,277 audio (tapes & CD’s) 4,110 video and DVD’s, and 665 magazine and journal subscriptions.

Law Enforcement Center, Public Works Facility, Water Plant, Wastewater Treatment Plant, City Landfill, Airport Terminal, General Aviation, Emergency Management/Combined Communications, Fire Stations – 4, City/County Administration Building.

Public Health

Provides public health and home health services to City and County residents of all ages and incomes including:

- Primary Medical Provider for City employees
- Employee physical assessments
- Nurse on duty daily from 8-5 for assessments, screenings, and questions
- Child and adult immunizations
- Car seats available with education
- Home visits for all ages
- Services for pregnant women, newborn babies and young children
- Tobacco prevention and cessation programs
- Breast and cervical screening program
- Sexually transmitted disease and HIV counseling and testing
- Provides Bio-Terrorism Response coordination for the region

Planning

Provides planning services for Bismarck and Burleigh County, Metropolitan Planning Organization (MPO) transportation planning, and HOME Program Administration.
Other Community Assets include:

- 30+ miles of recreation trails
- over 30 parks (approximately 2,300 acres)
- 3 skate parks
- a dog park
- 23 softball and baseball diamonds
- 4 soccer fields
- 8 tennis court complexes
- indoor racquetball courts
- 7 outdoor ice rinks
- 1 community football track and soccer stadium
- several horseshoe pits
- a horse club
- 3 public golf courses
- 2 disc golf courses
- indoor fitness facility with indoor tennis and racquetball courts
- a gymnastics facility
- a public recreation facility with multi-use courts, racquetball courts and indoor archery
- arts and science center
- indoor driving range/soccer complex/batting cage
- indoor and outdoor archery ranges
- 2 indoor ice arenas
- four hockey rinks
CITY MISSION STATEMENT AND GOALS

The mission of the City of Bismarck is to deliver government services in an efficient, timely, cost effective and professional manner, while sustaining responsible growth and promoting Bismarck’s quality of life and pride in our community.

GOALS

1. Complete and implement a realistic reorganization plan.
2. Develop a plan for increasing citizen participation in planning and implementing community programs.
3. Effectively use technology to deliver services.
4. Provide for the health, safety and welfare of our citizens and enhance the community’s quality of life.
5. Maintain the City’s excellent financial condition and bond rating.
6. Enhance employee performance through staff development, empowerment and team building.
7. Continue the timely planning, construction and rehabilitation of the City’s infrastructure, land use and services.
8. Encourage and promote economic development.
9. Cooperate with other entities to accomplish community goals and objectives.

Approval Date: 01/28/97
Revision Date: 01/11/99
TESTING AND SELECTION

Employee testing and selection procedures are one aspect of the EEO picture that can have great impact on the City’s day-to-day operations. The City has an obligation by law to make employee selection decisions in a non-discriminatory manner and in conformity with the Uniform Guidelines on Employee Selection Procedures, issued jointly in 1978 by five (5) federal enforcement agencies. The basic principle of the Uniform Guidelines is that any selection process that has an adverse impact on members of a race, sex or ethnic group and thus disproportionately screens out such individuals is unlawfully discriminatory unless the process has been shown to be job-related. The Guidelines apply not only to written tests but to all selection procedures used to make employment decisions, including interviews, review of experience or education from application forms, work samples, physical requirements and evaluations of performance in training programs or probationary periods. They apply not only to hiring decisions but to demotion, promotion, transfer, dismissal or any other employment actions.

According to the Federal agencies that issued the Guidelines, there is no inherent conflict between their requirements and local government merit system law or regulations that require rank ordering of candidates and selection from a limited number of top candidates. The Guidelines permit ranking as long as the selection procedure upon which the ranking is based is valid. If there’s adverse impact, validation would be required prior to ranking.

It is the policy of the City of Bismarck to recruit applicants who are highly qualified for employment, as determined by selection standards. All recruitment decisions are made on the basis of job related criteria without discrimination of any kind. The City may collect, retain and use recruitment information about each applicant as deemed necessary.

The following procedures should be used to implement this policy:

1. Job opening will be posted on designated employee bulletin boards. Employees who desire to apply for a particular job must complete an application form and return it to Job Service North Dakota before the application deadline. Supervisors may recommend employees for consideration by sending a letter of recommendation to Job Service.

2. To aid in the process of selecting the most highly qualified individuals for long-term employment, the City utilizes Job Service North Dakota which may administer a variety of employment tests. The purpose of employment tests is to ensure that selection criteria are objective, job-related, and measure necessary qualifications for successful job performance.

3. The Human Resources Office will refer applicants which meet minimum qualifications for the position and are eligible for employment. It is the Department head’s responsibility to determine if the applicant is technically qualified for the position and can work compatibly within the department. The final hiring decision will be made by the Department head.

Approval Date: 01/28/97
Revision Date: 01/11/99, 05/27/97
An employee or applicant for employment may not be appointed, promoted, demoted, dismissed, or in any way favored or discriminated against on the basis of race, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, gender identity or expression, or status with regard to marriage or public assistance. No individual(s) involved in the selection process will deny any individual employment because of a disability, because of a record of a disability, or because he/she is perceived as having a disability.
AMERICANS WITH DISABILITIES ACT

POLICY STATEMENT

The City of Bismarck is committed to complying with all employment-related provisions of the Americans With Disabilities Act of 1990 ("ADA"), as amended by the Americans With Disabilities Amendments Act of 2008, and the North Dakota Human Rights Act ("NDHRA"). It is the City of Bismarck's policy to prohibit discrimination against any qualified individual on the basis of disability with regard to any terms or conditions of employment because of such individual's disability or perceived disability. Consistent with this policy of nondiscrimination, the City of Bismarck will provide reasonable accommodations to qualified individuals as defined by the ADA\(^1\) who have made the City of Bismarck aware of his or her disability and the need for accommodation, provided that such accommodation does not constitute an undue hardship or pose a direct threat to the safety of the employee or others, that cannot be eliminated or reduced to an acceptable level with reasonable accommodation.

SCOPE OF POLICY

The City of Bismarck's policy of reasonable accommodation extends to all accommodations necessary to allow individuals with disabilities to enjoy equal employment opportunities. This includes the obligation to make reasonable accommodation to allow individuals with disabilities to participate in the application and hiring process and to enjoy equal benefits and privileges of employment as are enjoyed by all employees.

PROCEDURE FOR REQUESTING AN ACCOMMODATION

Employees with disabilities who believe they need a reasonable accommodation to perform the essential functions of their job, participate in the application and hiring process, or to enjoy equal benefits and privileges of employment should inform the City of Bismarck's representative, HR, etc. as soon as the need for accommodation becomes apparent to them. Upon receipt of an accommodation request from an employee, the City of Bismarck (or identified representative) should meet with the employee to discuss the request, possible accommodations and determine if additional information is necessary. Applicants requiring accommodation should inform the City of Bismarck of the need for accommodation as early in the application process as is possible.

The City of Bismarck may ask for additional medical information from an employee requesting reasonable accommodation to assist in responding to the accommodation request. In such instances, the City of Bismarck may seek authorization from the employee or applicant to contact the individual's health care provider(s) directly; may ask the individual to provide the requested information from the health care provider; or suggest a joint discussion involving the employee, his or her medical provider and the City of Bismarck.

The City of Bismarck will determine the feasibility of the requested accommodation considering such information as: a) the nature and cost of the accommodation; b) The City of Bismarck's overall financial resources, c) the effect on expenses and resources and the impact of the

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\(^1\) A “qualified individual” is defined by the ADA Amendments Act of 2008 as “an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires”.
requested accommodation on its operations, among others, and d) not pose a direct threat to the safety of the employee or others.

The City of Bismarck will attempt to provide the accommodation requested in light of its circumstances and abilities. The City of Bismarck is not required to provide the best possible accommodation, to reallocate essential job functions, to provide personal use items (e.g., eyeglasses, hearing aids, wheelchairs etc.), or to provide an accommodation that would be an undue hardship.

An employee or job applicant who has questions regarding this policy or believes that he or she has been discriminated against on the basis of disability should notify the City of Bismarck. All such inquiries or complaints will be treated as confidential to the extent possible and as required by law.

Approval Date: 03/11/09
Revision Date: 
DISCRIMINATION AND HARASSMENT

Purpose

The City of Bismarck believes in respecting the dignity of each employee and expects each employee to show respect and consideration for fellow employees, customers, and vendors. All employees are advised that discrimination and harassment in the workplace is a violation of Title VII of the Civil Rights Act of 1964 and of N.D.C.C. Chapter 14-02.4. Respectful, professional conduct furthers the City’s mission, promotes productivity, minimizes disputes, and enhances the City’s reputation. It is the policy of the City to insure that all of its employees can perform their assigned duties in an environment that is free from discrimination and harassment. This policy forbids unlawful conduct that is based on an individual’s race, color, religion, gender, national origin, age, disability, sexual orientation, gender identity, marital status, or any other protected status recognized under the United States or North Dakota Constitutions.

Coverage

This policy applies to all employees of the City and forbids any employee, or official of the City from committing any act of discrimination or harassment against any other person while engaged to work on behalf of the City.

Prohibited Conduct

The conduct prohibited by this policy includes any discriminatory employment action and any unwelcome harassing conduct because of that individual’s protected status. Among the types of unwelcome conduct prohibited by this policy are verbal, physical or visual epithets, slurs, negative stereotyping, intimidating acts, and the circulation or posting of written or graphic materials that show hostility toward individuals because of their protected status. Where conduct is not sufficiently severe or pervasive to constitute actionable harassment, this policy prohibits any such conduct in the workplace.

Sexual Harassment

Sexual harassment is harassing conduct based on gender which is usually sexual in nature. This policy forbids any discrimination or harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment can occur even if the individual engaged in harassment and the individual being harassed are of the same genders.

According to the U.S. Equal Employment Opportunity Commission (“EEOC”), unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual conduct based on sex constitute unlawful sexual harassment when: 1. submission to such conduct becomes an implicit or explicit term or condition of employment, 2. submission to or rejection of the conduct is used as a basis for any employment decision, or 3. the conduct has the
purpose or effect of unreasonable interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

This policy forbids harassment based on gender regardless of whether it rises to the level of a violation actionable under federal or state law. Examples of gender-based harassment forbidden by this policy include (1) offensive and unwanted sex-oriented verbal kidding, teasing or jokes; (2) repeated unwanted sexual flirtations, advances or propositions; (3) continued or repeated verbal abuse of a sexual nature; (4) graphic or degrading comments about an individual’s appearance or sexual activity; (5) offensive visual conduct, including leering, making sexual gestures, the display of offensive sexually suggestive objects or pictures, cartoons or posters; (6) unwelcome pressure for sexual activity; (7) offensively suggestive or obscene letters, notes or invitations; or (8) offensive physical contact such as patting, grabbing, pinching, or brushing against another’s body.

**Employee Responsibility**

Every employee or official of City can help assure that the workplace is free from discrimination or harassment. Every employee or official is expected to avoid any behavior or conduct that could reasonably be interpreted as discrimination or harassment based upon the victims membership in a protected class. Any employee, official or other person who feels that they are being subjected to discrimination or harassment prohibited by this policy should: ask the perpetrator to stop; report the situation to a supervisor or to the department head if the supervisor takes no action or is the perpetrator; or to the Director of Human Resources or an Ethics Committee member if the department head is the perpetrator or takes no action. Any manager or supervisor who is aware of conduct inconsistent with this policy or who receives a report of conduct inconsistent with this policy is to report immediately to the department head or if the department head is the perpetrator, to the Human Resources Director or an Ethics Committee member. This policy does not require reporting harassment or discrimination to any individual who is creating the harassment or discrimination.

**Reporting Procedures**

If an employee, official or other person experiences or witnesses any conduct in violation of this policy, he/she should immediately notify a supervisor or department head as stated above. The department head should immediately notify the Human Resources Director or a member of the Ethics Committee who are authorized by this policy to receive and act upon complaints of discrimination or harassment for the City.

**City of Bismarck Response**

All reports describing conduct alleged to be discrimination or harassment inconsistent with this policy will be investigated promptly. The City may take reasonable interim measures to protect the parties and the investigation while the investigation proceeds. The City will take further action, if appropriate, after the complaint has been thoroughly investigated and the City has made its findings as to whether or not a violation has occurred. Upon completion of the investigation, the City may enter a finding that a violation occurred, that no violation
occurred, or that there is not sufficient evidence to conclude whether or not a violation occurred.

If an investigation reveals a violation of this policy or of another City policy, then the City will take corrective action against the perpetrator including discipline up to and including dismissal, as is appropriate under the circumstances. The City may discipline an employee for conduct inconsistent with this or any other policy of the City discovered in investigating reports made under this policy regardless of whether the conduct is a violation of Federal or State law or even a violation of City policy. If the person who engaged in discrimination or harassment is not employed by the City, the City will take whatever corrective action is reasonable and appropriate under the circumstances.

Policy Against Retaliation

The City will not tolerate any form of retaliation by an employee or official against any person for reporting discrimination or harassment, for assisting another employee or applicant in making a report, for cooperating in a discrimination or harassment investigation, or for filing any administrative claim with the EEOC or a state governmental agency. Any employees who experiences or witnesses any conduct they believe to be retaliatory should immediately follow the reporting procedures stated above.

Confidentiality

Subject to the North Dakota open records law, the City will attempt to preserve confidentiality to the extent that the situation permits.

Acceptance of Policy

Each City employee and official has a responsibility to conduct in a respectful and considerate manner and in compliance with this policy and to report any conduct inconsistent with this policy. If there are any questions concerning this policy, please contact the Human Resources Director.

Approval Date: 01/28/97
Revision Date: 12/13/16, 11/15/06
DISCRIMINATION AND HARASSMENT

Policy is attached

RECEIPT OF POLICY BY EMPLOYEE:

I acknowledge that I have received a copy of the City of Bismarck’s Discrimination and Harassment Policy. I agree to read the policy thoroughly, including the purpose and definitions. I agree that if there is any item in the policy that I do not understand, I will seek clarification from my supervisor. I agree to comply with the policy and seek further clarification if I have questions about compliance. I understand that nothing contained in the policy may be construed as creating a promise of future benefits or a binding contract with the City of Bismarck for benefits or for any other purpose. I also understand that this policy and procedure is continually evaluated and may be amended, modified, or terminated at any time.

Please sign and date this receipt and return it to the Human Resources Department.

__________________________________________
Signature

__________________________________________
Print Name

__________________________________________
Date
NEW EMPLOYEE ORIENTATION PROGRAM

It is the policy of the City of Bismarck for each department to conduct a new employee orientation program, to enable the new employee to learn his/her assigned position, and to develop job skills required for productive and effective job performance. The Department head is responsible for department orientation and on-the-job training. This training is usually conducted during normal work hours. All City of Bismarck orientation programs will be evaluated by City Administration and the Department head for effectiveness. Modifications will be made when appropriate.

The following procedures will be used to implement this policy:

1. An Orientation Program is to be conducted for all new employees. The primary purpose of the Orientation Program is to acquaint new employees with pertinent City ordinances, personnel policies and department procedures.

2. Supervisors will use an orientation checklist to ensure that pertinent subjects are covered. If used, the employee must sign the orientation checklist indicating that the subjects appearing on the list have been discussed. A completed checklist prior to the three-month evaluation will be forwarded to the Human Resources Department and become part of the employee’s personnel record.

3. All new employees will have access to an Employee Handbook during the General Orientation Program. It is the responsibility of all employees to read this handbook and become familiar with its contents. The new employee will sign and agree to abide by the policies and procedures contained in the handbook.

Approval Date: 01/28/97
Revision Date: 01/20/99
ORIENTATION CHECKLIST (SAMPLE)

(EACH DEPARTMENT MAY WISH TO UTILIZE ITS OWN ORIENTATION CHECKLIST)

NAME: __________________________

DEPARTMENT: ______________________

POSITION: _________________________

PRIOR TO THE DAY

_____ 1. The starting date is ____________.

_____ 2. Work will begin at __________ and end at __________.

_____ 3. Employee should report to: __________________________

Their office __________________________

Supervisor’s office __________________________

Other __________________________

_____ 4. Parking is available at __________________________.

_____ 5. Lunch will be from ____________ to ____________.

The break room is located __________________________ and

is available from ____________ to ____________.

_____ 6. Benefits will be reviewed at Orientation on the first day of work.

_____ 7. Explain the Employment Eligibility Verification (I-9) form. The employee will

have to bring documentation to establish both identity and employment eligibility

the first working day. Provide the employee with information on which

documents are acceptable.

_____ 8. Notify department personnel of the name, date, and time to expect the new

employee.

_____ 9. Complete a Personnel Action form and forward to Human Resources for

processing.

_____ 10. Assign a co-worker to meet the new employee on the first day and to be their

contact person to assist with assimilating the employee to the new job.

_____ 11. Prepare the work area that the employee will be using.
THE FIRST DAY

1. __________________________________ will greet __________________________________ at ____________________________________________.

2. Introduction to staff and tour of office/building, work area, etc.

3. Introduction to assigned co-worker to assist the new employee in becoming acquainted with the new surroundings and duties.

4. To Human Resources to complete paperwork and discuss City policies:

   - Annual Leave/Sick Leave Policy
   - Holidays
   - Pay periods – The City of Bismarck distributes checks bi-weekly on Fridays. If that Friday is on a Holiday, payday will be the day prior.
   - Direct Deposit of paychecks
   - Federal and State tax withholding forms
   - Have employees sign Employment Eligibility Verification form (I-9) and verify their proof of employment eligibility documents.
   - Complete forms for life insurance, health insurance, etc.
   - Review sexual harassment policy and reporting process
   - Review drug free workplace policy.
   - Review Notification of Changes in Beneficiary and Dependents for Life and Health Insurances within seven (7) days of event.
   - Provide a short history of the City of Bismarck.
   - Provide information regarding safety issues, injuries, Workforce Safety & Insurance (Claims Management Program).
   - Designated Medical Provider
   - Provide a short informational session about the departments within the City of Bismarck and their purpose.
   - COBRA Rights and Notification
______ Provide information regarding the Pay for Performance system of evaluation and pay.

______ Christmas Club, 457 Deferred Comp, Emergency Contacts, EAP, Hepatitis B, Savings Bonds, etc.

______ 5. Return to Department for paperwork and policies:

______ Provide a copy of the job description for the job the employee will perform.

______ Review vacation scheduling policies.

______ Review timekeeping policies and process.

______ Review overtime/compensatory time policy.

______ Review when, where, and time allowed for breaks.

______ Location of rest rooms, supply room, etc.

______ Personal items allowed in the office, where to store coats during the day, and where personal items may be kept

______ Contact ___________________ or _____________________

______ if you are going to be late or are unable to come to work.

______ General Safety rules

______ Safe operating procedures

______ Ergonomics

______ Claims Management

______ Office identification

______ Building/office key

______ Radio call number

______ Location of copy of City Policy Manual
THE FIRST WEEK

1. Check daily for questions or concerns.
2. Check with Human Resources that all paperwork is complete.
3. Policy Manual will be reviewed ______ on __________ at __________.

THE FIRST MONTH

1. Hold weekly private meetings to review experiences, performance, and to answer any questions.
2. A tour of the entire organization will be given by ______________________ to be scheduled as appropriate.

THE FIRST THREE MONTHS

1. Hold bi-weekly meetings to review experiences, performance, and to answer any questions.
2. Prepare and review the 3-month evaluation of the employee.

DEPARTMENT HEAD SIGNATURE ______________________________
DATE ________________

EMPLOYEE SIGNATURE ________________________________
DATE ________________

Please return the completed Orientation Checklist to Human Resources.

Approval Date: 01/28/97
Revision Date: 11/06/06, 12/21/04, 10/30/01, 05/04/00, 04/06/00, 01/15/99, 07/03/97
PROBATION

All appointments must be made for a probationary period of one (1) year. The probationary period does not include any time served by an employee under a provisional appointment (any appointment except that of a regular full-time appointment). At the end of every three (3) months (during the probationary period) the appointing authority shall submit a rating of the probationary employee’s performance on the employee evaluation report form.

During the probationary period, an employee may be dismissed by the appointing authority at will (in other words, employment can be ended at any time by either employer or employee, with or without cause or notice, in the absence of a limiting statute or agreement between the parties). Notice of such release with the reasons must be immediately submitted to the Director of Human Resources who may, upon request of the employee, cause the name of the employee to be reinstated to its former position on the employment list, or, in the case of an employee serving a probationary period after promotion, to the employment list for the former position.

The appointing authority shall certify on a prescribed form to the Director of Human Resources five (5) days preceding the end of the probationary period that the employee be continued in the service. The Director of Human Resources shall notify the appointing authority at least ten (10) days prior to the expiration of the probationary period of the pending expiration.

Approval Date: 01/28/97
Revision Date:
EMPLOYEE STATUS

It is the policy of the City of Bismarck to place employees in one (1) of the following position types: regular, temporary, or call-in. These position types may be filled on a full-time or part-time basis. In addition, full time employees shall be awarded one (1) of the following employee statuses: probationary status, regular full-time status, or promotional probationary status.

Eligibility for employee rights and benefits shall be determined by the position type and employee status in accordance with the following procedure:

1. A regular position is an approved budgeted position authorized for hiring. A regular position can be either full-time or part-time.

2. Employees in a full-time position work forty (40) hours per week. Firefighters in a full-time position work an average of fifty-three (53) hours per week.

3. Employees in a regular part-time position work less than forty (40) hours per week but more than 1200 hours in the calendar year.

4. Temporary positions shall be created to meet special city needs. Temporary positions can either be full-time or part-time.

5. All employees hired for a call-in position work as needed and do not have an established work schedule.

6. Requests for temporary or part-time employees should be justified by the Department head, budgeted and submitted to the Human Resource Department for review.

7. If the request for temporary or part-time employees is approved and if it is necessary to hire additional personnel from outside the City organization, the City’s regular hiring policy shall be used.

8. A Federal Certificate of Age must be obtained in advance of employment for all new employees under age eighteen (18) to verify that the applicant is in fact sixteen (16) years old or older. A Certificate of Age shall be obtained from applicants who appear to be under sixteen (16) even if they claim to be over eighteen (18) years old. Certificates of Age shall be kept in the individual’s personnel file in Human Resources.

9. Regular employment status is awarded to an employee who has successfully completed a probationary period and has earned all rights and benefits.

10. Probationary status is given when a new employee is first hired or when a former employee is rehired.

11. Promotional probation is given to a regular status employee who has been promoted to a higher grade position.
12. Eligibility of temporary and regular part-time employees for paid absences such as vacations, sick leave and holidays or other city benefits is governed by leave policies in the City Code of Ordinances, Chapter 9-05.

13. Employees whose status changes from full-time or regular part-time to temporary or part-time may use any days of paid vacation earned. For purposes of eligibility for paid absences and vacations, an employee whose status changes from temporary or part-time to full-time or regular part-time shall be considered as hired on the date of the change to regular full-time employment.

Approval Date: 01/28/97
Revision Date: 07/22/05, 01/22/99
VARIANCE TO CITY POLICY

During the time the 2005 budget was being prepared, the Board of City Commissioners decided to amend City policy to discontinue the practice of allowing regular/part-time employees to work more than thirty-two (32) hours per week (50 or more weeks per year). No future positions of this type will be allowed. All such present positions will:

1. Be converted to full-time employment using a one-time variance to normal practice to extend the position to the present employee. If a present employee is promoted into the new full-time position, they will be place on probation for one year like any new Civil Service employee; or

2. Discontinue the position. A different position with new requirements may be created; or

3. Amend the position to require less than thirty-two (32) hours per week and re-configure the job responsibilities accordingly.

The Department head will be responsible to choose one (1) of these options for each affected position.

Approval Date: 12/14/04
Revision Date:
MEDICAL EXAMINATION

As part of the City of Bismarck’s employment procedures, an applicant may be required to undergo a post-offer, pre-employment medial examination and an alcohol and drug screening that are conducted by a medical provider designated by the City of Bismarck. Any offer of employment that an applicant receives from the City of Bismarck is contingent upon, among other things, satisfactory completion of this examination, screening and a determination by the City of Bismarck and its examining physician. The applicant must be capable of performing the essential functions of the position that has been offered, with or without reasonable accommodations.

As a condition of continued employment, employees may also be required to undergo periodic medical examinations and/or alcohol and drug screenings, at times specified by the City of Bismarck. In connection with these examinations, employees are required to provide the City of Bismarck with access to their medical records, if requested. Further, it should be understood that the City of Bismarck receive a medical report from its examining physicians regarding the applicant’s or employee’s state of health. All City-required medical examinations and alcohol and drug screenings are fully paid by the City of Bismarck.

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files. This information must be treated as a confidential medical record in the Nursing Department.

Questions about medical examinations or alcohol and drug screenings should be directed to your Supervisor or the Human Resources Department.

Approval Date: 01/28/97
Revision Date: 05/10/99, 01/22/99
PROMOTIONAL OPPORTUNITIES

It is the policy of the City of Bismarck to inform current employees of job vacancies in order to give qualified applicants an opportunity to apply for possible advancement. This information is provided by notices circulated whenever a vacancy occurs.

Employees who wish to apply for a position other than their current position should discuss the vacancy with the Human Resources Department. Human Resources will provide a job description detailing the duties, responsibilities, qualifications and other job related specifications required. Each employee is also encouraged to discuss their interest in promotion with their Supervisor.

Approval Date: 01/28/97
Revision Date:
CHANGE OF PERSONAL STATUS

Any changes in personal status should be reported to the Human Resources Department within thirty (30) days of the occurrence of that needed change. Changes in exemptions, beneficiaries, marital status, etc., may affect your tax withholding and health insurance benefit payments. Up-to-date personnel records are necessary to assure your wishes are followed in case of an emergency.

If you wish to review your personal status on any record, call the Human Resources Department.

Approval Date: 01/28/97
Revision Date: 01/22/99
OUTSIDE EMPLOYMENT

It is the policy of the City of Bismarck to allow its employees to hold second jobs, subject to certain restrictions, as determined by the Department. The second job should not conflict with the employee’s position or status. Due to the requirements of certain positions in the City, certain departments may adopt stricter policies regarding outside employments as are necessary to preserve and safeguard the primary position.

Approval Date: 01/28/97
Revision Date: 01/22/99
EMPLOYMENT OF RELATIVES

- A person related by blood or marriage to the President of the Board of City Commissioners, any member of the Board or the Civil Service Commission, Human Resources Director or the City Administrator, may not be appointed to any position or service in the City. Under no circumstances will persons who are related be employed in the same department, especially if one (1) person has supervisory responsibilities in any respect with regard to the other person.

- For purposes of this section, “related” means spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouses of any of them. All relationships include those arising from adoption.

- If two (2) city employees, one (1) having supervisory responsibilities with regard to the other, employed within the same department, marry, it is required that one (1) or the other of them resign from his or her position with the City government or seek a transfer to another position. The person resigning will be eligible to have his or her name placed on the re-employment list for employment with one (1) of the other City departments.

- Provisions of these rules do not affect or bar continued employment or promotion of those relatives, as herein enumerated, employed by the City prior to the election or appointment of the City officials or employees specified in paragraph 1 of this section.

Approval Date: 01/28/97
Revision Date: 01/22/99
PRINCIPLES OF ETHICAL CONDUCT

For City Officers And Employees

To ensure that every citizen can have complete confidence in the integrity of the City of Bismarck Government, each City of Bismarck employee shall respect and adhere to the fundamental principles of ethical service as implemented in the regulations promulgated under this policy.

- Public service is a public trust, requiring employees to uphold the Constitution, the laws of the United States and the State of North Dakota, the ordinances and policies of the City of Bismarck and to place ethical principles above private gain.

- Employees shall not hold financial interests that conflict with the conscientious performance of duty.

- Employees shall not engage in financial transactions using non-public government information gained as a result of their duties or allow the improper use of such information to further any private interest.

- An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee’s department, or whose interests may be substantially affected by the performance or non-performance of the employee’s duties.

- Employees shall put forth honest effort in the performance of their duties.

- Employees shall make no unauthorized commitments or promises of any kind purporting to bind the City.

- Employees shall not use public office for private gain.

- Employees shall act impartially and not give preferential treatment to any private organization or individual.

- Employees shall protect and conserve City property and shall not use it for other than authorized activities.

- Employees shall not engage in outside employment or activities, including seeking or negotiating for employment. That outside employment performed must comply with relevant department standards of conduct, including any requirements for approval of outside employment.

- Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
Employees shall satisfy, in good faith, their obligations as citizens, including all just financial obligations, especially those that are imposed by law (such as Federal, State or local taxes).

Employees shall adhere to all laws and regulations that provide equal opportunity for all persons regardless of race, color, religion, sex, national origin, age or disability.

Employees shall strive to avoid any actions creating the appearance that they are violating the law or the ethical standards herein stated.

Business Ethics

This policy is to help ensure that business policies and practices continue to be aligned with the principles of ethical conduct by providing all employees: information and guidance regarding ethical issues which may arise when they are making business decisions; resources to obtain answers to questions about proper business conduct; resources to obtain answers to questions about proper business conduct and confidential resources for employees to alert the City to possible improper conduct or problems.

The purpose of the Business Ethics Committee is to review actual or alleged violation of the following standards of business ethics:

- The City of Bismarck’s facilities, equipment and supplies must only be used when conducting the City’s business.
- An employee may not perform outside work or solicit business while on the City of Bismarck’s time.
- All employees must be as truthful, and as accurate and complete as possible in all records and reports.
- Employees have a responsibility to follow all internal control procedures.
- Employees shall not accept kickbacks or personal benefits from vendors.
- Employees must always be open, honest, accurate and complete in their communications without disclosing confidential information.
- Employees must avoid any actions which are or may be perceived as a conflict between their personal interests and the City’s interest.
- Employees shall not solicit money or gifts for personal benefit. An employee may accept a gift that does not exceed $25.00 in value.
- Employees are expected to follow all City policies and procedures, all Federal, State, and local laws, and regulations.
- Employees are expected to comply with the City’s principles of ethical conduct as well as any and all policies and procedures issued by individual departments of the City.
These standards are described in more detail in the Business Ethics Guidelines. The City of Bismarck will brief every employee on its Business Ethics Guidelines and periodically redistribute the guidelines to all employees. Copies may be obtained from Human Resources. Each employee is responsible for performing his or her job in accordance with the highest ethical standards of business conduct; including, but not limited to, the standards outlined in this policy.

The standards are not intended to answer every question an employee may have about the City’s policies or the relevant laws and regulations. Consequently, the City may provide employees with additional detailed guidelines or informational materials about City procedures and the law.

If employees are ever uncertain about a law, regulation or policy, they should seek prompt guidance from their Supervisor or the City Attorney.

**Business Ethics Committee**

The Business Ethics Committee shall consist of six (6) members. Three (3) of the members shall be Department heads who shall serve for two-year terms. The three (3) other members shall be the City Attorney, Chief Financial Officer and the Human Resources Director who all shall be ex-officio, non-voting members.

Initially, one (1) Department head will be appointed to a one-year term, one (1) Department head will be appointed to a two-year term and one (1) Department head will be appointed to a three-year term. Thereafter, Department head Business Ethics Committee members shall serve two-year terms. The ex-officio members of the Business Ethics Committee shall be permanent.

A Department head who is a member of the Business Ethics Committee and whose department is the subject of the complaint shall be removed from the Committee for that complaint and another Department head shall be substituted for deliberations regarding that complaint.

The business Ethics Committee shall have the authority to hear complaints regarding the ethical business conduct of City employees and to enter findings and decisions regarding the issues properly brought before it and to recommend actions to the appointing authority. The Business Ethics Committee shall have the authority to employ professional or expert services to aid the Committee in resolving any issue brought before it.

**Procedure**

A citizen or an employee of the City who has knowledge of suspected violations of these business ethics standards by any city employee or Department head may file a complaint. Anonymous complaints will be investigated. A complaint must be filed utilizing the following procedures:

1. The citizen or employee shall file a written report setting out in detail the nature of the alleged violation. The complaint must be filed with a member of the Business Ethics Committee or with the Human Resources Director.
2. Upon receipt of a complaint by the Human Resources Director or a Business Ethics Committee member, the Human Resources Director shall immediately provide a copy of the complaint to each member of the Business Ethics Committee and shall schedule a meeting of the Committee within ten (10) business days of the receipt of the complaint. If the allegations involve misconduct or impropriety on the part of a Department head, the Commissioner assigned the portfolio for that department shall also be given a copy of the complaint. The Business Ethics Committee shall promptly review the complaint to determine if further investigation is warranted. If the resources matter, the complaint will be referred to the appropriate Department head. On or before the fifth business day following that meeting, the Business Ethics Committee shall file a written report, noting the status of the complaint and the proposed action. A copy of the report shall be given to the complainant, if known, to the person whose conduct is being questioned, that person's Department head and to the City Commissioner holding the portfolio.

3. A complaint regarding an employee of the Police Department shall be referred to the Police Department for investigation pursuant to Police Department internal affairs procedures. Upon completion of the internal investigation, the Police Department shall file its final report with the Business Ethics Committee.

4. After completing the investigation that the Business Ethics Committee deems appropriate, it shall issue its decision, including any recommendation(s) to the City Commissioner holding the portfolio and to the appointing authority for further action, which shall be final.

**Business Ethics Guidelines**

The intent of these guidelines is to inform all employees regarding ethical issues which may arise when they are making business decisions by providing resources to obtain answers to questions about proper business conduct and confidential resources for employees to alert the City to possible improper conduct or problems.

The City of Bismarck will brief every employee on its Business Ethics Guidelines and periodically re-distribute the guidelines to all employees. Copies of this guideline may be obtained through Human Resources. An electronic version of the Grant Policies and Procedures Manual is available on the City’s Intranet Site.

These guidelines apply to all employees, and each employee is responsible for performing his or her job in accordance with the highest ethical standards of business conduct, including, but not limited to, the standards outlined in this guideline.

This guideline is not intended to answer every question an employee may have about the City’s policies or the relevant laws and regulations. Consequently, the City may provide employees with additional detailed guidelines or informational materials about City procedures and the law.

If employees are ever uncertain about a law, regulation or policy, they should seek prompt guidance from their Supervisor, Department Head, or the City Attorney.
If an employee has information regarding any possible violations of the City’s standards of business conduct, they have three (3) reporting options, report information to:

1. their Supervisor
2. the City Attorney, or
3. directly to a member of the Business Ethics Committee.

Employees are expected to report violations as soon as possible. If employees prefer, they can contact the Business Ethics Committee anonymously, without giving their name. The Business Ethics Committee will make every effort to protect an employee’s confidentiality and to ensure that their questions are promptly answered and their concerns investigated.

**Protecting City Property**

The City of Bismarck’s facilities, equipment and supplies must only be used when conducting the City’s business.

The City of Bismarck has a variety of assets, many of them of great value. They include not only physical things, but also proprietary information, including intellectual property and confidential data. Protecting the City’s assets against loss, theft, and misuse is very important.

Internal information systems, communications facilities, and databases are becoming more accessible and more widely used. They help employees do their job effectively and efficiently. The City of Bismarck facilities, systems, networks, and databases are reserved for conducting City business and their use for personal gain is strictly prohibited. The City of Bismarck conducts routine audits to ensure that City systems, networks, and databases are being used properly. Refer to the Electronics Communications Policy for more details.

Every employee is responsible for protecting The City of Bismarck property entrusted to him or her and for helping to protect the City’s property in general. Attention to security procedures and alertness to situations or incidents that could lead to the loss, misuse, or theft of City property are essential to safeguarding the City’s property. Employees should report any improper conduct to their Supervisor, the City Attorney or a member of the Business Ethics Committee.

**Protecting City Time**

An employee may not perform outside work or solicit business while on The City of Bismarck’s premises or the City of Bismarck’s time. Also, an employee may not use The City of Bismarck’s equipment, materials, resources, or proprietary information for any personal use or outside work. Employees should report any improper conduct to their Supervisor, the City Attorney or a member of the Business Ethics Committee.
Financial Records

All employees must be as truthful, and as accurate and complete as possible in all records and reports. Transactions must be made in accordance with generally accepted accounting principles. The following set forth particular matters covered by the policy, although they do not limit its coverage:

- The use of the City of Bismarck’s assets for any unlawful purpose or personal gain is strictly prohibited.

- Employees must ensure that all records are filled out accurately and completely. Be careful not to make false or misleading statements, especially in external financial reports, grant reports or contracts. Inaccurate records can lead to unnecessary questions about kickbacks, false certifications and false statements, particularly with regard to contracts. Employees should only sign documents which they believe to be accurate and truthful and that they are authorized to sign on behalf of the City of Bismarck.

- Every employee must also respond completely, accurately and honestly to all requests for information. This includes requests from internal audits, legal staff, independent accountants and special counsel. It is equally important that such responses include all relevant information, even if not specifically requested.

- All assets, liabilities, revenues, expenses and financial transactions shall be recorded accurately on the City of Bismarck’s official financial system. No undisclosed, unrecorded, or duplicate financial systems shall be established for any purpose.

- No false or artificial entries shall be made or caused to be made in the City of Bismarck’s official financial system. Compliance with established accounting policies and procedures is mandatory.

- No payment on behalf of the City of Bismarck shall be approved or made for a purpose other than that described by the documents supporting the payment.

- All employees shall deal fairly with customers and vendors of the City of Bismarck. No advantage shall be taken of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair dealing practice.

- Dishonest reporting, both inside and outside of the City, is not only strictly prohibited, but it could also lead to civil or even criminal liability for the employee and the City. This includes reporting information or organizing it in a way that is intended to mislead or misinform those who receive it.

If an employee is uncertain about how to report information or suspects that others are reporting inaccurate or incomplete information, it is their responsibility to contact their Supervisor, the City Attorney, or a member of the Business Ethics Committee to seek assistance or to report suspected, improper conduct.
**Internal Controls**

Employees have a responsibility to follow all internal control procedures.

The City Departments have a responsibility to devise, implement and maintain sufficient internal controls to provide assurance that record keeping objectives are met, and employees have a responsibility to follow these internal control procedures.

Internal controls are developed to detect or prevent fraud. Management must be on the alert for situations that could indicate the presence of fraud. Types of fraud include but are not limited to kiting, lapping, bid rigging, payroll fraud, beneficiary fraud, false claims, double payments, charge-off fraud, disposal fraud, travel-claim fraud, pilfering, misuse of assets and services, and petty cash fraud.

If an employee has any concern or questions regarding internal controls, they should contact the Finance Department. If an employee suspects non-compliance with internal controls or fraud, they should ask their Supervisor, the City Attorney, or a member of the Business Ethics Committee for guidance.

**Kickbacks**

Employees shall not accept kickbacks or personal benefits from vendors.

Employees must always be careful never to cross the line when forming relationships, nor should employees accept any benefits or kickbacks from vendors. Kickbacks are illegal and can result in serious legal consequences for both the City of Bismarck and employees. Something which may appear to be a normal business practice to an employee may actually be considered a kickback under the law. An employee must never manipulate a vendor into falsifying or manipulating an invoice or products.

If an employee has any doubts as to whether something may be a kickback, they should ask their Supervisor, the City Attorney, or a member of the Business Ethics Committee for guidance.

**Communication**

Employees must always be open, honest, accurate and complete in their communications without disclosing confidential information.

The City of Bismarck’s success depends upon our good reputation. Every employee is responsible to help preserve our reputation for integrity and honesty. When dealing with anyone inside or outside of the City, employees must always be open, honest, accurate and complete in their communications without disclosing confidential information. This means not making false or misleading claims or promises with vendors or suppliers. Promising something that cannot be delivered will harm the City in the long run. If an employee believes that someone has misunderstood them, make sure any confusion is corrected promptly and completely.
Honesty is integral to ethical behavior, and trustworthiness is essential for good, lasting relationships. This honesty in communications extends to communication between employees. Sometimes delivering bad or disappointing news can be difficult. However, accurate information is the basis for sound business decisions. Employees must all work to create an environment where information flows freely and openly.

**Conflicts Of Interest**

Employees must avoid any actions which are or may be perceived as a conflict between their personal interests and the City’s interest.

A financial interest is improper if a reasonable person would conclude that the investment could influence your actions as a City of Bismarck employee. Employees also should keep in mind that potential conflicts of interest, however benign, could arouse natural suspicions and might, for example, affect working relationships with their associates. The very possibility of a conflict of interest can create problems, regardless of the behavior of the City of Bismarck employee involved.

Employees may not circumvent these guidelines by acting indirectly through another person.

An example of conflict of interest is as follows:

A conflict of interest exists when an employee engaged in the procurement process, or similar decision-making process, also has outside business interests or relationships which could be advanced or enhanced by the employee’s ability to expend City funds.

Employees will need to consider many factors. Among these are the relationship between the City of Bismarck and the other organization, job responsibilities as well as the job responsibilities of the other person involved.

Employees must avoid any actions that may involve, or that could be reasonably construed to involve, a conflict of interest with the City of Bismarck job responsibilities. If an employee thinks that they or a member of their family may have a conflict, or the appearance of a conflict of interest, they must consult with their Supervisor, the City Attorney or a member of the Business Ethics Committee for guidance.

When a potential conflict of interest arises, the City of Bismarck will review each situation on a case-by-case basis, and a final decision regarding whether a conflict truly exists will be made by the Director of Finance under the direction of the City Attorney.

**Relationships with the City of Bismarck’s Suppliers**

To prevent conflict of interest, the City of Bismarck’s employees may not act as agents for any supplier to the City of Bismarck. Employees may not participate in the management or on the board of directors of any company which is a supplier to the City. Furthermore, although there may be exceptions under special programs established by the City, and employee may not, as a general rule, be a supplier to the City in their own right.
**Gifts and Entertainment**

Employees shall not solicit money or gifts for personal benefit. An employee may accept a gift that does not exceed $25 in value.

The City of Bismarck believes that its products and services should be purchased on the basis of quality, reputation, prices and service. The City does not want to affect the judgment of customers nor have vendors try to influence the City of Bismarck’s judgments. While the City understands that some exchange of business courtesies are normal and appropriate, employees must always be careful and ensure that any giving or receiving is permissible under the policies of both the giver's and the receivers’ organization. As a general rule, if a gift unduly influences the recipient, or makes the person feel obligated to “pay back” the other company by giving it business, then the gift is unacceptable.

**Receiving Gifts**

Neither employees, nor any member of their family, may solicit money or a gift that may reasonably be construed as having any connection with the City of Bismarck’s business relationship. Gifts include not just material goods, but services and discounts on personal purchases of goods and services.

If employees are offered money or a gift, or if one arrives at their home or office, they should promptly tell their Supervisor or the Business Ethics Committee, and appropriate arrangements will be made to return or dispose of the unacceptable gift.

An employee may, with supervisory or management approval, accept a gift from a customer when the gift is less than $25.00 and is customarily offered to others who have a similar relationship with the customer. Also, promotional premiums and discounts offered by transportation companies, hotels, auto rental agencies, and restaurants may be accepted when they are offered to travelers generally. Since the nature of these offers often changes, the City of Bismarck’s standards of business conduct regarding these types of offers are also subject to change. Therefore, employees should consult with their Supervisor if they have any doubts regarding a specific situation.

**Policy and Procedures Compliance**

Employees are expected to follow all City policies and procedures, and all Federal, State and local laws and regulations.

The City of Bismarck expects each employee to follow all City policies and procedures, and all Federal, State and local laws and regulations. The City of Bismarck aims to enforce its policies and procedures fairly and consistently at all levels.

Managers are responsible for ensuring that employees are aware of all relevant laws. If an employee has a question about a law, regulation, City procedure or City policy, they should contact their Supervisor, the City Attorney or the Business Ethics Committee. Employees and Supervisors who know of or condone violations and who do not report them to the City may be subject to disciplinary action for failing to report violations.
Any employee charged with a violation of this code will be given an opportunity to explain his or her conduct before any disciplinary action is taken by the City.

**Departmental Policies & Procedures**

Employees are expected to comply with the City’s principles of ethical conduct as well as any and all policies and procedures issued by individual departments of the City. Department policies and procedures are available from the Department head for each department. If employees have questions regarding whether departmental policies and procedures apply to them, employees should speak with their supervisor, the Department head, the City Attorney or a member of the Business Ethics Committee.
Business Ethics Guidelines

Please sign and return to the Human Resource’s Office. An electronic version of the Grant Policies and Procedures Manual is available on the City’s Intranet Site.

I have received and read this Business Ethics Guidelines published in 2005.

Date ______________

Print Your Name ________________________________

Your Signature ________________________________

Department/Division ________________________________

Approval Date: 01/28/97
Revision Date: 10/25/05, 02/02/99
POLITICAL ACTIVITIES

An employee may not engage in political activities while on duty or in uniform. However, nothing in this section shall prevent any employee from becoming or continuing to be a member or officer of a political club or organization, from attendance at a political meeting, from contributing to or otherwise supporting candidates of his or her choice; or otherwise engaging in political activities while off duty, or from enjoying entire freedom from all interference in casting his or her vote or favoring candidates. This prohibition should not serve to limit the ability of employees to work for the passage of state and federal legislation when the activity is approved by the Board of City Commission.

Approval Date: 01/28/97
Revision Date:
EMPLOYEE ORGANIZATION

The following guidelines pertain to employee group representatives:

- Employee group representatives may use two (2) hours paid work time per month for all meetings. An additional fifteen (15) minutes may be used for travel time back to the job site. All hours, including travel time, in excess of the two (2) hours and fifteen (15) minutes, shall be charged to each employee as annual leave.

- The City of Bismarck will provide a suitable meeting room for such monthly meetings during regular business hours.

- Employee group representatives may use the bulletin boards in various departments for the purpose of posting meeting notices and other related communications.

- Employee group representatives may use the City’s Inter-Departmental Mail Service.

- Employee representatives may make suitable arrangements with the Department Head to reproduce needed material.

- Special meeting time will be allowed when invited to represent the Executive Board of the ERC at any City Administrative meetings that are outside of the regular monthly meetings.

Approval Date: 01/28/97
Revision Date: 7/22/05, 05/10/02
RECORDS POLICY

Purpose

Except as otherwise specifically provided by law or court order, all records of public and governmental bodies, boards, bureaus, commissions or agencies of any political subdivision supported in whole or in part by public funds shall be public records, open and accessible for inspection during reasonable office hours. This policy establishes procedures for the inspection of records and the procedures and fees for the locating of records and for the furnishing of copies of records of the City. Search, prior review and copy services are provided in order to make access to records meaningful. The City should always provide the access to or copies of requested records in the least costly available format acceptable to the requester. The City has the duty to properly safeguard and protect its records and to assure the confidentiality of records which are exempted under state law. The purpose of charging for copies is not to obstruct the furnishing of information, but to impose the cost of these services upon the person who seeks the information, rather than upon the general public.

Definitions

a. “Copy request” – means a request for a specified number of copies of specified records where the records are sufficiently identified so that no search is required.

b. “Record” – means any form, paper, document, brochure, mechanically or electronically recorded material, or other devices where information maintained by the City is subject to notation.

c. “Prior review” – means an administrative review of the requested records to protect their confidentiality or to remove or redact exempt or confidential portions of the record as required or allowed by law. There shall be no charge for prior review.

d. “Search request” – means any request for identification and retrieval of records whose location or existence is not immediately known.

Certain Records Confidential – When Prior Review Required:

Under the provisions of state law, records relating to juveniles, certain "911" records, undercover law enforcement officers, trade secrets, commercial and financial information, economic development, computer software programs, active criminal intelligence information, active criminal investigative information, attorney work product, and medical or psychological information are confidential or exempt and not subject to the open records law. Because any request to review, inspect or copy records of the City may include information which is confidential or exempt under state law, any City employee receiving such a request should refer the request to the Department head responsible for maintaining and protecting such records or to an employee designated by the department to answer such requests. If a prior review of the record is deemed necessary, it shall be conducted by an appropriate City employee or referred to the City Attorney.
**Search Request**

A request for inspection or copying of records that will require a search by a City employee need not be made in writing but the employee receiving the request should fill out a search request form detailing the request.

If it is estimated that the search will take more than one (1) hour, no inspection, search or copy services shall be commenced until the estimated cost is paid in advance. If the actual cost of furnishing the services exceeds the advance payment, no copies shall be furnished until the person requesting services makes payment in full.

**Response Time – Inspections Supervised**

An open records request should be responded to in a matter of hours or days and not weeks. Although the regular and ordinary duties of City employees responsible for search and copy requests are of primary importance and have priority over such requests, search and copy requests are to be attended to as promptly as is reasonably possible without delaying accomplishment of primary duties. Requests to inspect records which may require search or prior review to protect confidential records shall be subject to reasonable rules and regulations as to when, where and how inspection may be made. To safeguard public records and prevent the alteration or loss of records, all inspections must be supervised.

**Documents Need Not Be Created**

The City need not create or supply data or records in a form or manner not routinely kept or maintained by the City.

**Components of Fees – Waiver of Fees**

The full cost to the City of any copy or search services should be calculated and charged to the person requesting those services. The Department head may waive charges for these services in the following circumstances:

- Copy requests totaling less than ten (10) sides or impressions
- Requests made by governmental officials or their agents require the information in order to carry out their official responsibilities and duties.
- Requests made by attorneys on behalf of clients involved in current civil or criminal actions in which the City is a party and is required by court rule or order to disclose public records.
- Requests for which the City determines that a waiver of charges would be in the best interests of the City.
Copy Fees

The fee for copying documents is twenty-five (25) cents per side or impression after ten (10) copies. If the copy request concerns a record which cannot be readily photocopied, copies may be made in any reasonable manner and the copy charge shall be equal to the actual cost of the production. The fee for records or data that must be reproduced in a manner other than photocopying shall be the actual cost of the reproduction.

Search Fees

The fee for search or location services shall be $25.00 per hour after the first hour. The City shall attempt to provide the requested records in the least expensive format that is acceptable to the requester.

Fee for Excising Confidential or Closed Material

The fee for review and excising of confidential material shall be $25.00 per hour after the first hour.

Electronic Mail and Voice Mail

Electronic mail and voice mail records on machinery owned by the City of Bismarck and provided for its employees use should be considered as public record and open for inspection unless otherwise specifically exempted from the open records law. Accordingly, no employee has an expectation of privacy with regard to electronic mail or voice mail and should use them appropriately.

Effective Date

This policy shall be in full force and effect from and after the date of final passage.

Approval Date: 01/28/97
Revision Date: 01/06/06, 02/24/04, 03/09/98
GRANTS POLICY

This policy provides departments with the guidelines in applying for and accepting federal, state, county and private foundation and corporate grants. This policy and procedure does not apply to corporate gifts and/or donations made to the City or apply to individual departments. Refer to the "Solicitation and Acceptance of Donations" policy for more information.

The City may apply for grants that further City Commission goals and objectives and support projects and programs that are consistent with the mission and strategic plans and priorities of the City and its departments. Grant funding may be considered for one-time or time-limited projects such as capital improvements, or program enhancements. Grants providing start-up funding for priority projects already identified in a department’s business plan may also be sought.

Any grant that requires the guaranteed continuation of a grant-funded position or a graduated match resulting in the City assuming more financial responsibility subsequent to termination of the grant, or directly increases the City’s on-going operating costs, must be reviewed by the Budget Committee prior to submission to the Commission.

The City may co-sponsor, serve as fiscal agent or join with multiple sponsored community-based consortia or other jurisdictions when clear public benefit to Bismarck residents is demonstrated. The City shall not act solely as fiscal agent for “for-profit” entities or without specific consent from the Commission.

A letter of intent outlining a grant request must be approved by Commission prior to the submission of the grant application unless it qualifies as a Fast-Tracking Application. When seeking grant funding, The Department head is responsible for ensuring that the Grant Approval Process and Procedures are followed. A copy of the Grant Approval Process and Procedures Manual is available by request through the Grants Office residing in the Finance Department. An electronic version of the Grant Approval Process and Procedures Manual is available on the City’s Intranet Site.

Approval Date: 01/24/06
Revision Date:
SOLICITATION AND ACCEPTANCE OF DONATIONS

This policy establishes the donations that may be solicited and accepted by the departments. A donation is something of value received from an outside source without consideration or an exchange of value given. A donation may be in a form of cash, service, product, food or accommodations.

Exceptions

The policy for employees is addressed in the Business Ethics Policy No. 8. Funds or other items of value awarded as a result of an application process are covered under the Grants Policy. The Library Board has an established policy on gift funds and donations. Promotional events at the Civic Center are addressed in the event contract. Individual donations specified for the City Animal Control Facility may be accepted following the reporting guidelines of this policy. These exceptions are excluded from this policy.

Solicitation

Departments may solicit outside resources only for charitable purposes and corporate sponsored programs when authorized by the City Commission. The authorization shall identify the purpose, methods of solicitation, time frame, permissible entities to be solicited and any other restrictions that may apply. A request for a solicitation for charitable purposes shall be placed on the consent agenda of the City Commission. Examples of solicitations for charitable programs include Wilderness Outing, Partners in Planting, Arbor Day and Car Seat Program. A request for solicitation of donations that directly benefit the department shall be placed on the regular agenda of the City Commission.

Acceptance

Departments may accept donations for charitable programs and corporate sponsored programs with timely notification of the acceptance to the City Commission. Acceptance of a gift shall not imply City endorsement of a business, product or service. Donations that directly benefit the department shall be placed on the regular agenda and only be accepted when authorized by the City Commission.

Reporting

Any donations received by gift or solicitation shall be recorded as revenue in the department’s donation account and disbursed using the same standards and procedures used for other City funds. Donations shall only be expended according to the terms in which it was received. Donations received on behalf of a charitable committee should not be commingled with City funds. Examples of these donations include Jeans Day, Chaplaincy Program and Employee fundraisers.

Each department that receives donations must submit an annual report that lists the cash or other value received the purpose and the source of the donation to the Budget Committee.

Approval Date: 05/09/06
Revision Date: 01/12/10
PROCEDURE FOR SPECIAL MEETINGS

Prepare a meeting notice that includes the date, time and location of the public meeting. The notice must contain an agenda that gives detail of each agenda item that would fairly inform a citizen about the topics to be discussed.

1. Fax or deliver a copy of the notice to Kristi Hass in City Administration. Kristi will keep a copy of the file in City Administration and will post a copy at the City/County Building on the day of the meeting. Kristi should get a copy of the notice at the same time that committee members are given the notice.

2. Fax or deliver a copy of the notice to the official newspaper (Bismarck Tribune). Also, fax, deliver or mail a copy of the notice to any other person who has requested notice. This should also be done at the same time notice is given to committee members. The notification should be meaningful. For example, if a meeting is called for the next day, mailing the notice to people who have requested the notice wouldn’t be meaningful. If a person requests to be notified of the committee’s meetings, try to get alternate means of notification (fax, e-mail, telephone and pickup, etc.)

3. Post a copy of the notice on the day of the meeting (including agenda) at the place where the meeting will be held if other than the City/County Building.

4. Follow the agenda, do not deviate. No business can be conducted unless it specifically appears on the agenda. Items such as “new business” or “other business” can only be used for setting future agendas, not for discussing or disposing of items not specifically on the agenda.

5. Keep minutes of each meeting, including all actions on each.

- The names of committee members in attendance.
- The date, time and place the meeting was started and adjourned.
- A list of the topics discussed.
- A description of each motion and second to the motion.
- The results of each vote taken. Roll call voting must be used for every substantive vote and the results recorded.

Approval Date: 01/30/04
Revision Date:
SUBSTANCE ABUSE SCREENING

Introduction

The safety and performance of all employees is of paramount importance to the City of Bismarck. The City is committed to providing an environment free of drug and alcohol abuse for its employees. Persons under the influence of alcohol and/or drugs pose serious, often life threatening, safety and health risks, not only to themselves but also to others.

The City of Bismarck provides an Employee Assistance Program. Employees with drug and/or alcohol problems are urged to use the benefits available to them. However, any employee who reports to work or performs his/her duties while impaired or under the influence of drugs and/or alcohol, will be subject to disciplinary action, up to and including termination.

The City of Bismarck will provide education for employees and supervisors as to the dangers of substance abuse, and will provide a fair, objective, and verifiable testing procedure for situations where there is probable cause that indicates substance abuse.

In the interest of a safe, productive, and substance free work environment, the City of Bismarck has established the following policies and procedures.

Policy

In accordance with the Federal Drug-Free Workplace Act, the City of Bismarck is notifying all employees of its intent to maintain workplace environment free from mind altering drugs, abuse of legal drugs, illegal drugs and/or alcohol. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on any work site and during all working hours by employees. Employees are hereby notified that compliance with this policy is a condition of employment. Employees who fail to comply with this policy will be subject to disciplinary action as set forth in paragraph 9-06-02 (Causes for Suspension, Demotion or Dismissal) of the Code of City Ordinance.

Employees shall notify their employer of any criminal arrest or charge involving drugs immediately. An arrest or charge of a crime involving drugs shall be deemed “cause” and the employee must submit to a drug test prior to returning to work. An employee shall notify the City of an alcohol related criminal traffic charge or conviction within five days. Appropriate disciplinary action for a criminal drug or alcohol arrest or charge will then be pursued by the employer. A probationary or non-civil service employee may be terminated. A non-probationary full-time employee may be afforded the opportunity to participate in the City’s Employee Assistance Program per Code of City Ordinance paragraph 9-03-22. No employee will be allowed to perform job duties when impaired or under the influence of mind altering drugs, illegal drugs and/or alcohol during working hours. The methods which will implement this policy shall include the following:
• Pre-employment/post offer testing for drugs and alcohol of finalists for all full time positions and finalists for all positions requiring a commercial driver's license (CDL)

• Testing for drugs and alcohol of all current employees for cause when determined by two trained supervisors.

• Post-accident testing for drugs and alcohol conducted after accidents on drivers whose performance could have contributed to the accident and for all fatal accidents even if the driver is not cited for a moving traffic violation.

• Random testing for drugs and alcohol conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions. Random testing will be conducted on all employees required to have a CDL.

• Return-to-duty and follow-up testing for drugs and alcohol when an individual who has violated the prohibited substance conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after an employee return to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

• Treatment and rehabilitation.

An employee’s refusal to be tested may be considered cause for dismissal.

**Prohibition**

The unauthorized use of alcohol, the abuse of legal drugs, and the use, purchase, transfer or possession of illegal drugs on any City of Bismarck property, worksite, and/or scheduled work time is strictly prohibited. Abuse of legal, illegal drugs or alcohol are prohibited while using City of Bismarck vehicles, as well as in private vehicles used for City of Bismarck business.

Any employee reporting to work or being at work while impaired by mind-altering drugs, abuse of legal drugs, illegal drugs and/or alcohol is in violation of City of Bismarck policy and is subject to immediate disciplinary action up to and including termination.

**Definitions**

“**Alcohol**”
Includes all forms of beer, wine or distilled liquor containing alcohol or any substance containing alcohol.

“**Drug**”
This is any substance that has known mind or function altering effects on humans.

“**Under the Influence or Impaired**”
This means that an individual is affected by alcohol or a drug or a combination of both, such that the person is limited in the performance of his/her work in a safe and productive manner,
Program Components

Pre-employment/Post Offer Screening

Finalists for all full-time positions and finalists for all positions requiring a commercial driver’s license (CDL) will be required to submit to pre-employment screening tests designed to detect the presence of drugs or alcohol. All employment applicants applying for a position that is subject to pre-employment will be informed of the drug/alcohol screening tests prior to actual testing. Any applicant who refuses to consent to pre-employment drug/alcohol testing, or who produces positive tests, will not be considered for employment with the City of Bismarck. All pre-employment testing will be coordinated by the Human Resources Department.

In the event that a position requires a CDL, the City of Bismarck will also obtain testing records and records of violations of DOT testing rules from previous employers for which the candidate performed safety sensitive functions during the past two years.

Current Employees – testing for impaired performance

Drug/alcohol testing will be required when a supervisor (trained to detect drug and/or alcohol influence), with the concurrence of another supervisor or manager, determines that cause exists.

"Cause" is defined as facts and circumstances that would give a person reasonable grounds to believe a violation has occurred. This should be determined by an individual who has completed the training required by the City of Bismarck in the implementation of the Substance Abuse Screening Program.

Post Accident Testing

Post accident testing is required for cause or when the accident involves a fatality or when the driver (the employee) is cited for a moving violation of any kind and any involved vehicle requires towing from the scene or any person involved requires medical treatment away from the scene of the accident. For example:

Did the accident involve a fatality?

If yes: Proceed to testing

If no: Was the driver cited for a moving violation (or is such a citation likely?)

If no: No testing required

If yes: Did any involved vehicle require towing?

If yes: Proceed to testing

If no: Did any person involved require medical care away from the scene?

If no: No testing

If yes: Alcohol within 8 hours and drugs within 32 hours; testing required.
Current Employees – annual random unannounced testing for those required to have a commercial driver's license (CDL)

The Federal Highway Administration (FHWA) has issued a rule requiring alcohol and drug testing of drivers who are required to have a CDL. The DOT rules include procedures for urine drug testing and breath-alcohol testing. The urine drug testing procedures rule was issued in December 1989 and governs drug-testing programs. The 1994 amendments to Part 40 add breath alcohol testing procedures and additional urine specimen collection procedures that provide for split urine specimens. This rule covers safety sensitive employees in transportation who drive commercial motor vehicles requiring a CDL to operate and those employees required by the City of Bismarck to have a CDL.

Testing Standards

An employee will be considered to have a positive test whenever the level of drugs exceeds the limits established by the Federal Guidelines, as determined by a physician trained as a Medical Review Officer in accordance with Department of Transportation (DOT) regulations. An alcohol test is not reviewed by a physician.

Testing Procedures

- Following determination that cause exists, the employee will either be transported to the testing site for appropriate screenings or an on-site test will be requested. Transportation will be provided by management personnel to the testing site and return transportation provided to worksite or home. Under no circumstances will the employee provide his/her own transportation.

- For City employees represented by a Union, certified by a NLRB case, a Union representative may, whenever practical, be present for establishing the immediate facts surrounding cause and may accompany the employee and supervisor to the test site.

- **Drugs:** Prior to testing, the employee will be asked to sign a consent form, authorizing the testing of urine for drugs. The sample is then drawn and tested. Should the test be positive for drugs, a confirmation test will be conducted. For drugs, the employee must request and pay for the testing of bottle 2 of the split specimen. In the event that the employee receives a positive test, the employee may not return to work until directed by the City.

- **Alcohol:** Prior to testing, the employee will be asked to sign a consent form, authorizing the testing for alcohol by breath. Should the test be positive for alcohol, a confirmation test will be conducted. In the event that an employee receives a positive test greater than .04, the employee may not return to work until directed by the City.

Time off the job will be charged appropriately, at the discretion of management. Should the drug test be positive, or alcohol in excess of .04, the City will institute appropriate discipline.
Testing procedure for random testing is to be developed by the company providing the service in accordance with DOT guidelines.

**Employee Assistance**

When a full-time, non-probationary employee receives a positive test, the employee will immediately be suspended. Following this suspension, the City will review the employee’s past record of performance. Employees with satisfactory performance records will be referred to the City’s Employee Assistance Program. Employees with unsatisfactory past performance records may be referred to the Employee Assistance Program or terminated at the discretion of the City. If the employee is admitted to or referred to inpatient or outpatient treatment for addiction, the employee must successfully complete the program as a condition of continued employment. Unsatisfactory past performance shall include previous positive drug and/or alcohol testing or documented performance of deficient behavior.

When a part-time or probationary employee receives a positive test, the employee will be terminated. When a finalist for a position with the City receives a positive test, post-offer pre-employment, then the offer of employment will be rescinded.

**Confidentiality**

All test results will be held in the strictest confidence by the designated representative of the Human Resources Department.

**Exceptions**

- The City will fully comply with Federal or State regulations and its employees will actively participate in all parts of the program.

- Any exceptions to these procedures must be approved by the Board of City Commissioners.

Approval Date: 01/28/97
Revision Date: 12/13/06, 07/10/03
SUBSTANCE ABUSE SCREENING

Policy is attached

RECEIPT OF POLICY BY EMPLOYEE:

I acknowledge that I have received a copy of the City of Bismarck’s Substance Abuse Screening Policy. I agree to read the policy thoroughly. I agree that if there is any item in the policy that I do not understand, I will seek clarification from my supervisor. I agree to comply with the policy and seek further clarification if I have questions about compliance. I understand that nothing contained in the policy may be construed as creating a promise of future benefits or binding contract with the City of Bismarck for benefits or for any other purpose. I also understand that this policy and procedure is continually evaluated and may be amended, modified, or terminated at any time.

Please sign and date this receipt and return it to the Human Resources Department.

_____________________________________
Signature

_____________________________________
Print Name

___________________________
Date
SMOKING POLICY

Purpose
The U.S. Surgeon General has determined that exposure to “side-stream”, “second-hand”, or “passive smoke” increases the risk of developing cancer and other diseases related to smoking for non-smokers. As required by NDCC-23-12-10, the purpose of this policy is to prohibit smoking in the public buildings of the City of Bismarck to provide a clean and healthy environment for all employees and visitors and to promote a positive impression of City operations with the general public. The City does encourage its employees to stop smoking.

Applicability
This smoking policy shall apply to all employees and visitors while inside or adjacent to any City controlled building. This policy also applies to City vehicles. This policy does not apply to open-air facilities unless prohibited under other policies or ordinances. Individual departments may further restrict the use of tobacco beyond the scope of this policy if specific work conditions warrant such restrictions from a safety or operational standpoint.

Definition
“Smoking” is defined as carrying or possessing any lighted tobacco product including cigars, cigarettes and pipes.

Procedure
1. No smoking may occur within any City-controlled building or vehicle or near public entrances to all City-owned buildings.

2. “No Smoking” signs shall be posted at the primary entrances to all City-owned buildings or other areas owned by the City where smoking is prohibited.

3. Complaints of non-compliance shall be made to the appropriate department Director, City Administrator or elected officials.

4. Outdoor ash receptacles shall be placed near entrances to all public buildings. All smoking material must be properly extinguished and disposed of prior to entering a City-owned building. Tobacco products, cigarette butts, etc., are not permitted to be extinguished on sidewalks or surrounding grounds.

5. The use of non-lit tobacco products are permitted as long as disposal is in a sanitary manner.
**Enforcement**

All employees share the responsibility of adhering to and enforcing the policy. Employees found in violation of this policy will be subject to discipline in the same manner and magnitude as violation of other City policies and work rules and may be subject to prosecution. Visitors or others who violate this policy shall be advised by employees of this public policy and requested to extinguish smoking materials and may be subject to prosecution.

Approval Date: 01/01/00
Revision Date: 04/21/06
WORKING HOURS AND WORK SHIFTS

It is the policy of the City of Bismarck that all City offices which directly serve the public will be open from 8:00 a.m. until 5:00 p.m., including the noon hour, each working day. All Department heads should make the necessary staffing adjustments to insure that those offices that directly serve the public remain open during the noon hour. At times, special arrangements may have to be made with adjacent departments to insure that all offices which directly serve the public remain open during the noon hour.
PERFORMANCE MANAGEMENT

It is the policy of the City of Bismarck to evaluate, on a fair and equitable basis, the performance of its employees. Appraisals must be done in accordance with policies and procedures promulgated by the Board of City Commissioners and without regard to race, sex, age, national origin, religion, political affiliation or other non-merit factors. Each employee’s regular annual evaluation will be completed by their Supervisor, with input from their peers and themselves.

The City of Bismarck will establish and carry out this policy by utilizing an appraisal system consistent with this section:

1. General Purposes of the Appraisal System:

   - Provide Supervisors and employees with an opportunity to discuss work and related matters.
   - Inform employees as to how well they are performing their present duties and responsibilities and to offer suggestions, assistance and support in helping employees perform their job more effectively.
   - Encourage employees to provide input on their own performance in terms of specific or general problems, work unit and individual objectives, and career goals and interests.
   - Encourage employees to provide input on their peer’s performance in terms of specific or general work unit problems, relationships and responsibilities.
   - Provide meaningful data to administrators in making key personnel management decisions such as salary increases, transfers, promotions, layoffs and disciplinary actions.
   - Assist Supervisors in recognizing employee capabilities, potential, interests and goals.
   - Provide Supervisors with an opportunity to determine causes of and problems in job satisfaction and morale among employees individually or as a group.

Through proper use of a performance appraisal system, an increased and meaningful exchange of thoughts and ideas can occur between employees and supervisors.

2. The Appraiser: Each employee covered by this system will be appraised by that person in the best position to do so. Normally, the Appraiser will be the employee’s immediate Supervisor who has the responsibility for assigning, directing and reviewing the work of the employee. If, because of rotational assignments or other reasons, it is not clear to whom an employee reports, a decision will be made as to who is best able to appraise the employee based on actual observation.
3. **Who Is Appraised?** All regular full-time and regular part-time employees will be appraised.

4. **Probationary Appraisal:** An appraisal of performance will be made every three (3) months prior to the conclusion of the probationary period. The appraisal will be geared to helping the new employee, and will allow sufficient time before the end of probationary periods for the appraiser to note improvements in performance. A final appraisal at the end of the probationary period will be made to provide the basis for retention or termination of the employee.

5. **Frequency of Appraisal:** Appraisals will be completed once a year for all regular full-time and regular part-time employees who have completed the probationary period. An appointing authority may order additional appraisals at appropriate intervals to address sub-standard performance or as a part of progressive discipline or any disciplinary action. At least one (1) appraisal for every employee is due on October 1 of each year.

6. **Appraisal Follow-up:** A periodic informal discussion between the Supervisor and the employee will be part of the formal appraisal system. This discussion will focus on progress the employee has made in improving performance in weak areas, where job assignments can be changed to better meet employee goals, progress made in meeting work objectives, and other areas of interest or concern.

7. **The Appraisal Form:** A separate appraisal form will be completed for each employee. Every Supervisor or Appraiser should be thoroughly familiar with the form, how to use it and what its purposes are. A “Performance Appraisal Guide” shall be prepared and available for this purpose. It is important to the validity of the system that Supervisors be as objective as possible in completing appraisal forms, and realistic in determining performance levels for individual performance.

8. **Signatures:** The employee and the Appraiser will sign and date the form after they together have discussed the appraisal form and make written comments.

9. **Higher Level Review:** After completion of the performance appraisal discussion between the Appraiser and employee, there will be at least one (1) further review of the completed performance appraisal form at a higher level of supervision or management, unless the Appraiser is a Department head or City Commissioner.

10. **Distribution of the Employee Appraisal Form:** After all levels of review have taken place, the employee may receive a copy of his or her appraisal. A copy will be retained internally within the department and the original will be placed in the employee’s personnel file in the Human Resources Department.

Approval Date: 01/28/97
Revision Date: 10/09/01, 03/09/99
CRIMINAL AND TRAFFIC RECORDS

Purpose

This policy requires that the appointing authority conduct a criminal and traffic records check of persons considered for employment with the City where appropriate. It also provides that employees must report the formal charging of a crime classified as a felony or a misdemeanor, including dishonesty; to their immediate supervisor and that all employees who operate vehicles or heavy equipment must report certain traffic violations to their supervisors. The purpose of the policy is to ensure that all persons hired by the City are law-abiding and that all persons who operate City vehicles are safe and cautious operators. The policy also guards against damage to City vehicles and other City property and protects against damage to other property and/or injury to people.

Policy

 The prior non-traffic criminal record (previous ten years) of any person considered for appointment to any full-time or regular part-time position must be reviewed and considered in determining the eligibility and suitability of an applicant for employment.

 The prior non-traffic criminal record (previous ten years) of any person considered for appointment to any full-time or regular part-time position should be reviewed and considered, whenever practicable, in determining the eligibility and suitability of an applicant for employment.

 All employees must report the formal charge of any felony or misdemeanor involving dishonesty to their immediate supervisor. A formal charge occurs when a criminal complaint has been signed in front of a judge.

 The driving record (previous three (3) years, plus additional convictions for driving or being in actual physical control of a motor vehicle while under the influence of an intoxicating liquor or drug within the previous three (3) to seven (7) years) of any persons considered for appointment to any position which may require operation of City-owned vehicles or heavy equipment must be reviewed and considered in determining the eligibility and suitability of an applicant for appointment to such position. Only those persons whose driving records demonstrate that they are good and safe operators may be appointed to these positions.

 All employees who operate City vehicles or heavy equipment must immediately report to their immediate Supervisor any criminal traffic violation or any other traffic offense resulting in the loss of six (6) or more points or any suspension or revocation of their driver’s license.

 An employee, who demonstrates an inability to operate City vehicles or heavy equipment in a safe and lawful manner, may be subject to disciplinary action pursuant to Title 9 of the City Code. An employee who carelessly or negligently operates City vehicles or equipment or who commits a serious traffic violation (any criminal violation or any other offense resulting in the loss of six or more points) or who commits a number of minor traffic offenses indicating that the employee is not a safe and lawful operator may be relieved of
all responsibilities relating to operation of vehicles or heavy equipment and/or may be required to complete a defensive driving or drivers education course.

**Procedure**

Whenever the Human Resources Director certifies to an appointing authority the names of the three (3) highest candidates on the employment list for any position, the Department head shall assure that copies of criminal and traffic records information are attached. The Police Chief may be requested to assist in obtaining required information. The pertinent information shall be forwarded by the appointing authority to the Human Resources Department.

Approval Date: 01/28/97
Revision Date: 07/22/05, 03/10/99
PERSONAL USE OF CITY-OWNED VEHICLES

It is the policy of the City of Bismarck that City-owned vehicles will be used for City business only and not for personal use. All City vehicles, except special assignment vehicles, will be stored on City premises when not being used for City business. Some special assignment vehicles may be stored on employee premises for the purpose of responding on an on-call basis.

If, however, City-owned vehicles (with the exception of marked police and fire vehicles, unmarked detective vehicles and vehicles equipped for repair of utilities) are ever used for commuting, they will be included as income to the employee at the flat rate of $1.50 per one-way commute. This amount will appear on the employee’s W-2 form and will be subject to State Income Tax, Federal Income Tax and FICA Tax.

Approval Date: 01/28/97
Revision Date:
PAY PLAN

It is the policy of the City of Bismarck to maintain a job evaluation plan to measure all jobs and to establish grades. Rates of pay are set for each position on the basis of internal equity, external competitiveness and the City’s ability to pay. The goal of the City’s job evaluation plan is to develop a fair and equitable compensation for all employees.

The following procedure is used to assure implementation of this policy:

- Written job descriptions are prepared for each job title based on individual job responsibilities.

- Pay grades are established by the City and a salary range is assigned to each pay grade. The salary range provides for a minimum to maximum range of rates and permits employees within one (1) pay grade to be compensated at different rates of pay based on merit, length of service, experience or individual productivity.

- Department heads are responsible for assigning pay rates to newly hired employees within the established pay grade of the position occupied by the employee within the following guidelines. Department heads are authorized to extend fair and equitable offers not to exceed 90% of mid-point of the range of the new position. Compensation above 90% will be offered in exception and only with the consent of the City Administrator.

- Individual employees assigned to “acting responsibility” for one (1) weeks or more of continuous hours and with official appointment and review by the City Commission will receive the greater of a 5% increase or the minimum of the acting pay range.

- If a position is reclassified, the individual’s new salary will be the minimum or near the minimum of the new range. The employee will retain his/her anniversary date and be given consideration for salary adjustment on January 1.

- Employees receiving a promotion will be offered an increase in compensation which is fair and equitable. Increases will be at least 5% or up to 90% of mid-point of the range of the new position whichever is greater. Compensation above 90% will be offered in exception and only with the consent of the City Administrator.

- The Director of Human Resources shall administer the job evaluation plan. Responsibilities of the job classification plan include:
  - Periodically reviewing job descriptions to ensure they accurately describe the job;
  - Processing all requests for re-evaluation of positions as well as reviewing new jobs; and
  - Making adjustments in pay grades when justified.

Approval Date: 01/28/97
Revision Date: 12/17/13, 7/16/13, 01/23/98, 03/10/99, 03/07/00
EMERGENCY CALL BACK

Any non-exempt employee called back for duty at the work site on an emergency basis shall be paid for a minimum of two (2) hours salary at his/her overtime rate unless it overlaps the regular work schedule. During a declared disaster/emergency where work at City offices has been suspended, all employees whose work has been suspended (who are called out) shall be considered called out on an emergency basis. All unscheduled hours worked during emergency events are paid at the employee’s overtime rate. Scheduled work time at non-traditional times such as snow removal, crowd control, court appearance, training, meetings, etc., is not considered call back. No employee shall be called back to perform emergency work without the prior authorization of the employee’s Department head or Supervisor.

Approval Date: 01/28/97
Revision Date:
PAGING

Employees who carry a pager, cellular phone, computer or other communication devices after his/her normal work schedule shall not be paid extra for carrying such devices. Designated employees shall carry such devices when it is assigned as part of their job responsibilities. However, actual time spent by a non-exempt employee on the cellular phone, computer, etc., will be paid time at whatever rate is appropriate.

Approval Date: 01/28/97
Revision Date:
OVERTIME/COMPENSATORY TIME POLICY

General

The City of Bismarck is governed by Federal and State statutes, regulations, Executive Orders and judicial decisions which have a definite impact on the employers' pay program. The various laws and their compliances are included in this procedure along with required maintenance and record keeping responsibilities which insure fair and equal employee compensation.

Fair Labor Standards Act

This act is commonly known as the Wage and Hour Law. This Federal legislation regulates the payment of minimum wages, overtime, child labor and pay for equal work. The Fair Labor Standards Act was extended to the City with the Supreme Court Decision in Garcia vs. San Antonio Metropolitan Transit Authority. The provisions included the following:

Minimum Wage

As of July 24, 2009, the Federal Minimum Wage is $7.25 per hour. All employers are required by law to pay at least this amount to non-exempt hourly employees.

Overtime Compensation

Cities are permitted to choose between the following methods for recording and computing overtime.

1. In the first method, employers are required to pay overtime compensation at time and one-half to all non-exempt employees for hours worked in excess of forty (40) hours in a week, except for Public Safety Employees who work on a twenty-seven or twenty-eight (28) day schedule for computing overtime.

2. In the second method, employees may receive, in lieu of overtime compensation, compensatory time at a rate of one and one-half (1-1/2) hours for each hour of employment for which overtime is to be compensated. The provision of compensatory time may be made only if there is an agreement or memorandum of understanding providing for the availability of compensatory time. Employees may accrue not more than eighty (80) hours of compensatory time.

An employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than the average regular rates received by that employee during the past three (3) years of his employment or the final regular rate received by the employee whichever is higher. In addition, an employee who has accrued compensatory time off shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency. The City may require the employee to schedule use of compensatory time.
Child Labor Provisions

The act provides a 16-year minimum age limit in occupations other than those declared hazardous by the Secretary of Labor. An 18-year minimum age limit applies to occupations of hazardous nature such as working with chemicals, etc. Minors fourteen (14) and fifteen (15) years of age may be employed outside school hours in a variety of occupations for limited hours of work and under specific working conditions.

Equal Pay Act

The Equal Pay Act is actually a part of the Fair Labor Standards Act. The act provides that men and women must receive equal pay for equal work. An employer may not discriminate on the basis of sex. Employees of both sexes must be paid equal rates of pay for performing equal work.

Record-keeping Responsibility

The Fair Labor Standards Act is very explicit about records required of each employer. For purposes of timekeeping, the City of Bismarck uses a time sheet or time cards which is kept by the employees’ supervisor and is used to assist with record keeping responsibilities.

It is of utmost importance that the non-exempt employees understand the reason for, and proper use of, the time sheet or time card. The supervisor has record keeping responsibilities. The supervisor’s responsibilities shall include:

1. The proper orientation of each new employee in their new area concerning the employee’s understanding of the correct method of completing the time sheet or time card.

2. Procedure to follow if an employee fails to check in and/or out.

3. Correct validation (signing each time card by both the supervisor and employee) and completion of all actual hours worked each pay period in accordance with present policy and procedures.

4. Approval and control of overtime.
Calculating Overtime

Hours in a workweek may not be averaged over two (2) or more weeks.

Computing overtime for non-exempt employees is made by paying employees 1.5 times their regular rate of pay. Regular rate of pay shall be as defined under the FLSA. Overtime computation will be made only on "actual hours worked." The time worked will be report as follows:

- 6 minutes .................... 0.1
- 12 minutes .................... 0.2
- 18 minutes .................... 0.3
- 24 minutes .................... 0.4
- 30 minutes .................... 0.5
- 36 minutes .................... 0.6
- 42 minutes .................... 0.7
- 48 minutes .................... 0.8
- 54 minutes .................... 0.9
- 60 minutes .................... 1.0

The following areas will not be included when computing overtime:

- Vacation
- Holiday Pay
- Sick Leave
- Compensatory Time
- Educational Leave

All overtime hours must be approved in advance by the Department head or their assigned representative. If overtime hours are worked without approval, the employee working unauthorized overtime can be subject to disciplinary action or dismissal.

Regular full-time employees who are not scheduled to work and are called back to work on a holiday may request being paid the holiday time and the time worked or may receive the time worked added to their vacation balance.

Time spent by employees for preliminary or post-preliminary activities need to be counted as compensable time worked only if payment for activities is required by custom or practice.

Principal Activities

An employer's principal activities are those which are required to be performed and include any work of consequence performed for the employer.

Clothes - Changing Time

Time spent by employees in changing clothes or washing up on the employer's premises is regarded as part of their principal activities. Whenever the changing or washing is required by the nature of the employee’s work, this should be counted as time worked.
**Meal Periods**

In most departments, the lunch period is one (1) hour and the employee is required to check in and out. This period is not counted as time worked. Meal periods of five (5) to twenty (20) minutes duration per shift must be counted as time worked under the Wage and Hour Law. In those departments which have a 30-minute meal break, employees will be required to check in and out. North Dakota law requires a minimum 30-minute meal period must be provided in shifts exceeding five (5) hours when there are two (2) or more employees on duty. Bona fide meal periods, where the employee is completely relieved from duty, are not working time. Bona fide meal periods do not include coffee breaks or snack time.

**Break Time**

Break time is a privilege established for the purpose of giving the employees a break during their work-day. The following points should be observed:

1. All employees may have one (1) fifteen-minute break for each four-hour tour of duty.
2. The Supervisor is responsible for coordinating employees' break periods.
3. Relief time or breaks are counted as hours worked.
4. Work days cannot be shortened by eliminating break time and break times cannot be accumulated.

**Training, Continuing Education, Or Meeting Sessions**

Time spent by a non-exempt employee in attending lectures and meetings for training purposes must be counted as working time unless:

1. Attendance by the employee is voluntary and,
2. The meeting takes place outside regular working hours and is not required by the employer and,
3. The meeting is not directly related to the employee's work and is not required by the employer and,
4. The employee does not perform any productive work during such attendance.
**Exempt Employees**

Employees in the exempt classifications are executive, administrative or professional and are exempt from receiving overtime. For most employees, the minimum salary level required for exemption is $455.00 per week. A requirement for application of the executive, administrative or professional exemptions is the requirement that the employee be paid on a salary basis. Generally, full salary must be paid regardless of the number of days or hours worked in a workweek, except that an employee need not be paid for any workweek in which he/she performs no work or if he/she meets one of the seven (7) exceptions from the “no pay docking” rule. The seven (7) exceptions from the “no pay docking” rules are:

1. Absence from work for one (1) or more full days for personal reasons, other than sickness or disability.

2. Absence from work for one (1) or more full days due to sickness or disability if deductions made under a bona fide plan, policy or practice of providing wage replacement benefits for these types of absences.

3. To offset any amounts received as payment for jury fees, witness fees, or military pay.

4. Penalties imposed in good faith for violating safety rules of “major significance”.

5. Unpaid disciplinary suspension of one (1) or more full days imposed in good faith for violations of workplace conduct rules.

6. Proportionate part of an employee’s full salary may be paid for time actually worked in the first and last weeks of employment.

7. Unpaid leave taken pursuant to the Family and Medical Leave Act.

Approval Date: 01/28/97
Revision Date: 07/24/07, 07/22/05, 08/23/04, 07/07/00, 03/10/99, 09/01/97
NON-EXEMPT COMPENSATORY TIME POLICY

The standard work schedule for the __________________ Department is from ______________ through ______________ each _____________________. Non-exempt employees who work in excess of 40 hours during the standard work schedule shall be compensated at a rate of 1½ times their hourly rate of pay. Non-exempt employees may be granted compensatory time at 1½ times their hourly rate of pay up to eighty (80) hours. Anything beyond eighty (80) hours must be paid at a rate of 1½ times the employee hourly rate.

________ YES, I would like to be paid for my overtime work.

OR

________ YES, I would like my overtime work recorded as Compensatory Time.

I further understand that if my accrual has reached the maximum level of eighty (80) hours, I will receive overtime pay. I also understand that my Supervisor may require me to schedule the use of compensatory hours. I have read the above policy and agree to the terms set forth.

PRINT NAME _______________________________________

EMPLOYEE’S SIGNATURE ___________________________ (Date)

SUPERVISOR’S SIGNATURE _________________________

Previous Balance ___________ Hours added for the month _____

Hours used for the month _____ Balance _____

Approval Date: 01/28/97
Revision Date: 04/1/06, 07/07/00,
LUNCH BREAK POLICY

North Dakota Department of Labor regulations require that a minimum thirty (30) minute meal break be provided employees, if such is desired, in each shift exceeding five (5) hours when there are two (2) or more employees on duty. All employees must check out on the time clock, time sheet, or time record for this break.

SELECT ONE

__________ I have read the above policy and I will take my meal break as stated with the terms in this policy.

OR

__________ I have read the above policy and waive my right to a lunch break.

PRINT NAME ________________________________

EMPLOYEE SIGNATURE ____________________________

DATE ____________

Approval Date: 02/28/97
Revision Date: 08/07, 05/01/07, 11/20/06, 07/07/00, 08/01/97,
PAYROLL DEDUCTIONS

The City of Bismarck will continue to aggressively manage the payroll deduction process. The following deductions will be allowed:

- Deductions for programs initiated by the City.
- Deductions required by State or Federal law.
- Deductions for dues for recognized employment related organizations.
- United Way deductions.

Additional deductions may be allowed if they are for a community wide, multi-agency program and at least one hundred (100) employees request the donation. If the number of deductions drop below one hundred (100), that deduction will then be further reviewed. No City work time may be used to promote these deductions.

Approval Date: 01/07/97
Revision Date:
UNEMPLOYMENT COMPENSATION

The City is covered by job insurance (Unemployment Compensation). Former employees could be eligible for unemployment compensation in accordance with State Job Insurance regulations.

Approval Date: 01/07/97
Revision Date:
WORKER’S COMPENSATION

All employees are covered by Worker's Compensation against accidental injury or occupational illness incurred while performing their duties for the City. Claim forms can be obtained from your Department head or Administrative Office. The form should be completed according to the instructions and given to the Department head. The Department head will fill in the necessary information and forward a copy to the Human Resources Department.

When an employee has a loss of time claim and receives Worker's Compensation reimbursement, he/she must make a copy of the Worker's Compensation check and forward the copy to the Human Resources Department. The City will make every effort to assure that the employee maintains their salary at an even level during a loss of time claim period. In order to do this, the Human Resources Department will calculate the amount to determine the proper credit toward the employee's sick leave. Human Resources will divide the amount of the Worker's Compensation check by the employee's hourly rate. This amount equals the number of hours to credit to the employee's sick leave. The amount of the Worker's Compensation check will be deducted from the employee's next check.

Approval Date: 01/07/97
Revision Date: 03/12/99
HEALTH INSURANCE (SUMMARY)

The City of Bismarck has established a self-funded employee welfare benefit plan for Eligible Employees and their Eligible Dependents. A Summary Plan Description (available in Human Resources) is provided to you in accordance with the Employee Retirement Income Security Act of 1974. Please review your copy of the Summary Plan Description for all definitions, Schedule of Benefits, Covered Service, Managed Benefits and exclusions. Every attempt has been made to provide concise and accurate information. The Summary Plan Description and the Service Agreement are the official benefit plan documents for the employee welfare benefit plan established by the Plan Administrator. In case of conflict between the Summary Plan Description and the Service Agreement, the Service Agreement will control.

Although it is in intention of the Plan Administrator to continue the self-funded employee welfare benefit plan for an indefinite period of time, the Plan Administrator reserves the right, whether in an individual case or in general, to eliminate the Benefit Plan.

The Claims Administrator shall have full, final and complete discretion to construe and interpret the provisions of the Service Agreement, the Summary Plan Description and related documents, including doubtful or disputed terms and to determine all questions of eligibility, and to conduct any and all review of claims denied in whole or in part. The decision of the Claims Administrator shall be final, conclusive and binding upon all parties.

Plan Name

City of Bismarck Group Plan

Name and Address of Employer (Plan Administrator)

City of Bismarck
221 N 5 St
Bismarck ND 58506-5503

Plan Administrator’s IRS Employer Identification Number

45-6002036

Plan Number Assigned by the Plan Administrator

501

Type of Welfare Plan

Health

Type of Administration

This is a self-funded employee welfare benefit plan with an individual stop-loss of $50,000 and an aggregate stop-loss of 120%. This plan is funded by City of Bismarck. The Claims
Administrator does not underwrite, insure or assume liability for payment of Covered Services available under the Benefit Plan up to the stop-loss points. The Claims Administrator does not assume any obligation to pay claims except from funds contributed up to the stop-loss points.

**Name and Address of Claims Administrator**

Blue Cross Blue Shield of North Dakota (BCBSND)
4510 13th Avenue South
Fargo, North Dakota 58121

**Plan Administrator's Name, Business Address and Business Telephone Number**

City of Bismarck
221 North 5th Street
Bismarck, North Dakota 58506-5503
701-355-1330

**Name and Address of Agent for Service of Legal Process**

<table>
<thead>
<tr>
<th>Plan Administrator</th>
<th>Claims Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charles C. Whitman</td>
<td>Daniel E. Schwandt</td>
</tr>
<tr>
<td>PO Box 5503</td>
<td>Blue Cross Blue Shield of North Dakota</td>
</tr>
<tr>
<td>Bismarck ND 58506-5503</td>
<td>4510 13th Avenue South</td>
</tr>
<tr>
<td></td>
<td>Fargo, North Dakota 58121</td>
</tr>
</tbody>
</table>

Service of legal process may be made upon a Plan Trustee or the Plan Administrator.

**Name, Title, And Address Of The Principal Place Of Business Of Each Trustee Of The Plan**

Robert W. McConnell
PO Box 5503
Bismarck, North Dakota 58506-5503

**Title of Employees Authorized to Receive Protected Health Information**

Director of Human Resources   HR Assistant

This includes every employee, class of employees, or other workforce person under control of the Plan Sponsor who may receive the Member’s Protected Health Information relating to payment under, health care operations of, or other matters pertaining to the Benefit Plan in the ordinary course of business. These identified individuals will have access to the Member’s Protected Health Information only to perform the plan administrative functions the Plan Sponsor provides to the Benefit Plan. Such individuals will be subject to disciplinary action for any use or disclosure of the Member’s Protected Health Information in breach or in violation of, or noncompliance with, the privacy provisions of the Benefit Plan. The Plan Sponsor shall promptly report any such breach, violation, or noncompliance to the Plan Administrator; will cooperate with the Plan Administrator to correct the breach, violation and causing the breach,
violation, or noncompliance; and will mitigate any harmful effect of the breach, violation, or noncompliance on any Member whose privacy may have been compromised.

**Statement of Eligibility to Receive Benefits**

Full-time regular employees (40 hours per week) are eligible 30 days after full-time employment date.

Eligibility to receive benefits under the Benefit Plan is initially determined by the Plan Administrator. When an eligible employee meets the criteria for eligibility, a membership application must be completed. The Claims Administrator may review the initial determination and has full discretion to determine eligibility for benefits. The Claims Administrator’s decision shall be final, conclusive and binding upon all parties.

**Description of Benefits**

See the Schedule of Benefits and the Covered Services Sections. Refer to the Table of Contents for page numbers.

**Sources of Contributions to the Plan and the Method by Which the Amount of Contribution is Calculated.**

City of Bismarck pays 100% of premium.

**End of the Year Date for Purposes of Maintaining the Plan’s Fiscal Records**

December 31

Approval Date: 01/28/97
Revision Date: 03/18/08, 11/15/06, 03/12/99, 03/06/98
LONG TERM DISABILITY (SUMMARY)

Specifications

This section contains many of the features of your long-term disability (LTD) insurance. Other provisions, including exclusions, and Other Income, appear in other sections. Please refer to the text of each section for full details. The Guide to Policy Provisions and Index of Defined Terms help locate sections and definitions.

General Information

Policy Number: L659465
Policy owner: City of Bismarck
Employer: City of Bismarck
Bismarck Library
Policy Effective Date: May 1, 2002
Policy Issued In: NORTH DAKOTA

Section 1. Becoming Insured

To become insured you must:

- Be a Member;
- Complete your Eligibility Waiting Periods For Insurance; and
- Meet the other requirements in Section 1 - "Becoming Insured".

Definition of Member:

- An active employee of the Employer;
- A citizen or resident of the United States or Canada; and
- Regularly working forty (40) or more hours per week for the Employer.

You are not a Member if you are:

- A temporary or seasonal employee; or
- A full time member of the armed forces of any country.

Eligibility Waiting Period for Insurance:

This is the period you must be a Member before you become eligible for insurance.

If you are a Member on the Policy Effective Date, you then meet the Eligibility Waiting Period for Insurance on that date. If you become a Member after the Policy Effective Date, you then meet the Eligibility Waiting Period for Insurance on your first day as a Member.
Evidence of Insurability:

Required for:
- late application for Contributory insurance;
- reinstatements if required; and
- members eligible but not insured under the Prior Plan.

Member Contributions:

Non-contributory: The Policy Owner or Employer pays the entire premium for your insurance.

Section 2. Benefits

2.2 Benefit Terms

Beginning Date:
181st day of Disability in the first 210 days after the date you become disabled.

Maximum Benefit:
60% of your Pre-disability Earnings, not to exceed a monthly amount of $6,000.00.

Minimum Benefit:
$100.00

Maximum Benefit Period:
Determined by your age when Disability begins, as follows:

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Benefit Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 or younger</td>
<td>to age 60</td>
</tr>
<tr>
<td>50 – 54</td>
<td>to age 60</td>
</tr>
<tr>
<td>55 – 56</td>
<td>to age 60</td>
</tr>
<tr>
<td>57</td>
<td>3 years 6 months</td>
</tr>
<tr>
<td>58</td>
<td>3 years</td>
</tr>
<tr>
<td>59</td>
<td>2 years 6 months</td>
</tr>
<tr>
<td>60</td>
<td>2 years</td>
</tr>
<tr>
<td>61</td>
<td>1 year 9 months</td>
</tr>
<tr>
<td>62</td>
<td>1 year 6 months</td>
</tr>
<tr>
<td>63</td>
<td>1 year 3 months</td>
</tr>
<tr>
<td>64 or older</td>
<td>1 year</td>
</tr>
</tbody>
</table>
## Police

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Benefit Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>45 or younger</td>
<td>to age 55</td>
</tr>
<tr>
<td>45 – 49</td>
<td>to age 55</td>
</tr>
<tr>
<td>50 – 51</td>
<td>to age 55</td>
</tr>
<tr>
<td>52</td>
<td>3 years 6 months</td>
</tr>
<tr>
<td>53</td>
<td>3 years</td>
</tr>
<tr>
<td>54</td>
<td>2 years 6 months</td>
</tr>
<tr>
<td>55</td>
<td>2 years</td>
</tr>
<tr>
<td>56</td>
<td>1 year 9 months</td>
</tr>
<tr>
<td>57</td>
<td>1 year 6 months</td>
</tr>
<tr>
<td>58</td>
<td>1 year 3 months</td>
</tr>
<tr>
<td>59 or older</td>
<td>1 year</td>
</tr>
</tbody>
</table>

## All Other Members

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Benefit Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>61 or younger</td>
<td>to age 65, or 3 years 6 months, if longer</td>
</tr>
<tr>
<td>62</td>
<td>3 years 6 months</td>
</tr>
<tr>
<td>63</td>
<td>3 years</td>
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<tr>
<td>64</td>
<td>2 years 6 months</td>
</tr>
<tr>
<td>65</td>
<td>2 years</td>
</tr>
<tr>
<td>66</td>
<td>1 year 9 months</td>
</tr>
<tr>
<td>67</td>
<td>1 year 6 months</td>
</tr>
<tr>
<td>68</td>
<td>1 year 3 months</td>
</tr>
<tr>
<td>69 or older</td>
<td>1 year</td>
</tr>
</tbody>
</table>

**Pre-Disability Earnings:**

Based on your last full day of active work.

### 2.3 Definition of Disability

**Own Occupation Period:**

The first twenty-four (24) months for which benefits are paid.

**Any Occupation Period:**

From the end of the Own Occupation Period to the end of the Maximum Benefit Period.
**Partial Disability:** Covered

**Own Occupation**
**Income Level:**
80% of your Indexed Pre-Disability Earnings.

**Any Occupation**
**Income Level:**
**Firefighters & Police** – 60% of your Indexed Pre-Disability Earnings.
**All other Members** – 80% of your indexed Pre-disability Earnings.

### 2.5 Benefit Amounts

**LTD Benefit:**
- During the twelve (12) months immediately after the date you first return to work while benefits are payable.

Your LTD Benefit minus the amount of your Work Earnings which, when added to your Maximum Benefit, exceeds 100% of your Indexed Pre-Disability Earnings.

- After those first twelve (12) months:

Your LTD Benefit multiplied by your Loss of Earnings, divided by your Indexed Pre-Disability Earnings.

### 2.7 Survivor Benefit

**Amount:**
A lump sum equal to three (3) times your Maximum Benefit.

**Estate Payment:**
Yes

### Section 3. Benefit Provisions

#### 3.1 Other Income

**Social Security Offset:**
Any amount you or your dependents receive or are eligible to receive because of your disability or retirement under the Federal Social Security Act, the Canada Pension Plan, the Quebec Pension Plan, or any similar plan or act is Other Income.

Benefits your spouse or children receive, or are eligible to receive, because of your disability are Other Income regardless of status, custody or place of residence.
Sick Pay or Salary Continuation Offset:

The amount of sick pay or other salary continuation (but not vacation pay) paid to you by your Employer which, when added to your Maximum Benefit, exceeds 100% of Indexed Pre-Disability Earnings is Other Income.

Section 5. Exclusions And Limitations

5.1 Pre-existing Condition Exclusion

Pre-existing Condition Period:

The 90-day period just before the date your insurance becomes effective.

Exclusion Period:

The first twelve (12) months you are insured.

5.2 Other Exclusions

- Intentionally self-inflicted injury; and
- War.

5.3 Limitations

- Mental Disorder and Substance Abuse or Dependency;
- Care of a Physician or Practitioner.

Section 6. Termination

6.1 When Insurance Ends

Leave of Absence Period:

Insurance is continued while on a leave of absence scheduled to last thirty (30) days or less.

Section 9. Premiums

Premium Rate during Initial Rate Guarantee Period:

0.445% of each insured Member’s Pre-Disability Earnings insured under the Policy.

9.2 Changes

Initial Rate Guarantee Period:

May 1, 2002 to May 1, 2004
Advance Notice Period:

30 days

9.3 Payment of Premiums

Premium Due Dates:

May 1, 2002 and the first day of each calendar month thereafter.

9.4 Grace Period

Grace Period:

31 days

Section 10. The Contract

10.7 Termination of Contract

Minimum Participation:

Number: 10 Members
Percentage: 100% of Members

Advance Notice Period:

31 days

Approval Date: 05/01/02
Revision Date:
MEDICAL REIMBURSEMENT PROGRAM

Under the Medical Reimbursement Program the employee will receive cash for diligence in spotting and correcting billing errors on clinic and hospital bills, and charges to the City of Bismarck’s Health Plan that should have been assessed to another plan. These cash payments are being provided to promote health care cost awareness which helps control the cost of health care services.

HOW DOES THIS PROGRAM WORK?

The Medical Reimbursement Program encourages City Employees to review all medical bills and notification of benefits forms for accuracy, and to challenge any doubtful claims or items. This program is only available to the City Employees if the City of Bismarck’s Medical Insurance Plan is primary, first source of benefits for the employee or employee’s dependents.

Some examples of items to check are as follows:

1. Medications:
   - Did you receive the medication?
   - Was it ordered by the doctor?
   - Was the medication you took a generic drug? If so, was it billed as a generic drug?
   - Were you charged for medicine to take home but did not receive it?

2. Hospital bills:
   - Are there any duplicate charges?
   - Did you have all the tests or x-rays you are being charged for?
   - Did you get credit for any weekend passes?
   - Did you get charged for the correct type of room (semi-private vs. private)?
   - Were there any unusual miscellaneous charges? Ask for these to be itemized.
   - Are you being charged rental on items, such as walkers, crutches, wheelchairs, bed pads, etc.? If any of these items were listed as purchased, did you receive them?
   - Were you charged for blood transfusions and did you provide a donor or bank your own blood?
   - Did you receive as many hours of physical therapy or occupational therapy as billed?
   - Review the operating room costs. Are they reasonable?
Billing errors detected by the Plan Administrator or by the Human Resources Department’s internal weekly audit WILL NOT be considered for reimbursement under this program. The Plan Administrator’s contract requires a computer audit of each claim prior to settlement. Charges that are considered duplicate charges for duplicate services are not paid by the insurance fund and are not eligible for reimbursement. The billings errors must be detected by the employee or dependent after the claim has been approved by the Plan Administrator in order to be eligible for the reimbursement.

The employee’s efforts that lead to a correct billing, as confirmed by Blue Cross Blue Shield, will be recognized by a 50% sharing of the saving to the City of Bismarck’s Medical Insurance Fund. The following limitations apply:

- $25.00 minimum (i.e., a $50.00 benefit error); and
- $1,000.00 maximum per incident award.

To participate in this Medical Reimbursement Program, follow the procedures outlined below:

1. Acquire an itemized bill from the provider. Always ask for an itemized copy at the time of discharge. The provider will send it to you at a later date.

2. Complete the itemized bill with your notification of benefits (blue form from Blue Cross/Blue Shield).

3. Contact the provider to discuss any item that you feel is incorrect.

4. Obtain a copy of the corrected billing.

5. Call the Human Resources office for a copy of the Claim Reimbursement Form.

6. Send the original bill, the corrected bill, a copy of the blue notification of benefits form and the completed medical insurance reimbursement form to the Human Resources Department. The Human Resource Department will request confirmation from Blue Cross Blue Shield that the error has been corrected.

The Insurance Committee will review and approve/reject the Employee’s claim at its next meeting. All savings awards are made quarterly. Any cash savings award received is considered taxable income and will appear on the W-2 form at year end.

Approval Date: 01/28/97
Revision Date: 03/28/03
MEDICAL REIMBURSEMENT PROGRAM COST FORM

1. NAME ________________________________

2. SOCIAL SECURITY NUMBER _________________

3. ADDRESS _____________________________________________

4. DATE OF SERVICE _____________

5. TYPE OF ERROR (EXPLAIN) _____________________________________________
   _____________________________________________
   _____________________________________________

5. AMOUNT OF ERROR _____________

6. ORIGINAL BILL ATTACHED  YES ____  NO ____

7. CORRECTED BILL ATTACHED  YES ____  NO ____

8. NOTIFICATION OF BENEFITS FORM ATTACHED  YES ____  NO ____

9. NAME OF PATIENT _____________________________________________

10. DO YOU HAVE ANY OTHER INSURANCE?  YES ____  NO ____

11. WAS THIS AN AUTO ACCIDENT?  YES ____  NO ____

12. IF THE ANSWER TO NUMBER 11 OR 12 IS "YES", PLEASE COMPLETE THE FOLLOWING:
   A. NAME OF COMPANY _____________________________________________
   B. ADDRESS _____________________________________________
   C. NAME OF INSURED _____________________________________________

PLEASE HIGHLIGHT THE ERROR ON THE ORIGINAL BILLING AND THE CORRECTED BILLING.

Approval Date: 01/28/97
Revision Date:
LIFE INSURANCE

The present carrier is Lincoln Mutual Life and Casualty Insurance Company, 203 N 10 St, Fargo, North Dakota 58102.

Coverage’s Available

The Human Resources Department or the Company.

An active employee who becomes totally and permanently disabled prior to age sixty (60) may have his/her life insurance protection continued without payment of premium after six (6) months of disability, as long as he/she remains disabled. Proof of disability must be furnished periodically as required by the Insurance Company and the initial application for waiver must be made no later than the first anniversary date of disability.

Loss of Benefits/Termination

a. **Basic Life** ...... Class 1 - $15,000.00
   ..........Class 2 - $20,000.00

   **Accidental Death & Dismemberment**
   ..........Class 1 - $15,000.00
   ..........Class 2 - $20,000.00

Class 1 includes all Fire Pension employees
Class 2 includes all other full-time employees

*This term coverage is employer paid.*

b. **Supplemental Life** .......... $10,000.00
**Supplemental AD/D** .......... $10,000.00

*Employee paid term coverage.*

c. **Dependent Life**
**Spouse**............................ $2,000.00
**Children:**
Birth to 6 months............... $  125.00
6 months to 19 years .......... $1,000.00
19 to 23, if full-time student $1,000.00

*Employee paid.*
Benefits Available

The amount of the employee’s insurance as shown above is payable to the designated beneficiary in the event of his/her death at any time or place, from any cause.

Life and AD/D benefits reduce 35% at age sixty-five (65) and terminate at age seventy (70).

Coverage’s are available for all full-time employees.

A detailed schedule of benefits for accidental death and dismemberment and loss of sight insurance is available from the Human Resources Department or the company.

An active employee who becomes totally and permanently disabled prior to age sixty (60) may have his/her life insurance protection continued without payment of premium after six (6) months of disability, as long as he/she remains disabled. Proof of disability must be furnished periodically as required by the Insurance Company and the initial application for waiver must be made no later than the first anniversary date of disability.

Loss of benefits/termination

Benefits are subject to be canceled if false information is submitted.

Coverage terminates when full-time employment ceases. However, benefits are continued for thirty-one (31) days when insurance would otherwise cease due to termination of employment. During this 31-day period, the employee may convert the group life insurance benefit in an amount up to that which is terminating. Conversion will be without evidence of insurability to an individual policy, other than term, without supplemental benefits. Standard rates will apply.

Fiscal information:

Basic life premiums are paid by funds as provided by the City’s annual budget. Supplemental and dependent coverage’s are employee paid.

Claims forms for benefits may be obtained from the Human Resources Department.

Approval Date: 01/28/97
Revision Date: 02/01/02
FLEXIBLE SPENDING - CAFETERIA PLAN

Participant Summary Plan Description

Plan Administrator/Employer .......................... City of Bismarck
Robert W. McConnell
221 N 5 St
PO Box 5503
Bismarck ND 58501

Client Number: D487
Plan Year Start: 1/01/05

Administration Agent ....................... Flex-System
A Division of TASC
2303 International Lane
Madison WI 53704
1-800-422-4661
608-241-1900

This Summary Plan Description lists the benefits available to your employee(s). The Department of Labor requires that this summary or a copy of it be given to each employee.

Benefits Offered To Employees

- Medical or Medical Related Premium ....................... Offered
- Medical or Medical Related Expense ....................... Offered
- Individually Purchased Premium
  - Reimbursement Accounts ....................... Offered
- Maximum Medical Related Expense Reimbursement ...... Offered
- Dependent Care Reimbursement ....................... Offered
- Voluntary Term Life Insurance (employer/group
  sponsored only) ..................................... Offered
- Disability Insurance (employer/group sponsored only) .... Not Offered
- Cancer Insurance (employer/group sponsored only) .... Offered
- Transportation Expenses (not medical related) ............ Offered

The Benefits Offered Above Are Not Available To The Following Employees

- Part-time Employees .................................. No minimum required
- Seasonal Employees .................................. No minimum required
- Age of Employees .................................. 18 years
- Probationary Employees ................................ 1 Month
- Members of Bargaining Unit ................................ Excluded
- Participant Entry Period ................................ Monthly
**Purpose**

Your Employer has adopted this flexible Compensation Plan to provide compensation alternatives for qualifying, participating employees and their dependents. You will now be able to choose among certain “tax free” benefits in lieu of taxable compensation. The Plan is intended to qualify as a “Cafeteria Plan” within the meaning of Section 125(d) of the Internal Revenue Code, and the benefits you elect will be excluded from your income under Section 125(a). This is a Summary Plan Description and any conflict with the Summary Plan Description will be resolved by the language in the Plan Document.

**Contributions**

By participation in the plan, you agree to have your annual compensation reduced by the total cost of the Plan benefits you select with the signed Enrollment Form.

**Eligibility**

**Existing Employees**
If you are in the Employer’s employment on the Plan’s effective date, you shall be eligible to participate on the later of the Plan’s Effective Date or on the date you satisfy the eligibility requirements.

**New Employees**
If your employment begins after the Plan’s effective date, you will be eligible to participate on the entry date noted in the Adoption Section of the Plan Document following the date you satisfy the eligibility requirements.

**Re-Employment of Former Employees**
A re-employed former employee shall be eligible to participate on the first day of the following plan year.

**Age Requirement**
There will be no maximum age requirement for participation in the Plan.

**Termination of Participation**
You will automatically cease to be a participant on the earliest of the following dates:

- Your death;
- The date the Plan terminates;
- The date you retire under any Employer-sponsored retirement, pension or annuity plan;
- The date you receive retirement benefits under any state or federal government retirement plan or Social Security law;
- The date the administrator determines you made fraudulent or improper use of any plan, certificate or identification.
Continuation of Coverage

The Medical Flexible Spending account is subject to Continuation of Coverage. “Continuation of Coverage” means your right, or your spouse’s or dependent’s right(s), to continue to be covered under the Medical Expense Reimbursement Plan if participation by you (including your spouse and dependents) otherwise would end due to the occurrence of a “Qualifying Event”. A Qualifying Event includes the following:

- Termination of your employment (other than for gross misconduct) or reduction of your work hours below the eligibility requirements;
- Your death;
- Your becoming entitled to receive Medicare benefits;
- Divorce or legal separation from your spouse;
- A dependent of yours ceases to be a dependent.

It is your obligation to inform the Plan Administrator of the occurrence of any Qualifying Event within thirty (30) days of the occurrence, other than a change in your employment status. The Plan Administrator, in turn, has a legal obligation to furnish you or your spouse, as the case may be, with separate, written options to continue the coverage provided through this plan at stated premium cost for the applicable period prescribed by law.

Employers with fewer than twenty (20) employees are exempt from COBRA. The notification you will receive will explain other terms, conditions, and expectations of the continued coverage as they apply.

Termination

Employee Right to Terminate
Once the Plan Year commences, your election is irrevocable except under the following circumstances:

- Legislation required termination of or substantial amendment to the Plan;
- The company terminates the Plan and/or coverage.

Plan Termination
The Plan or any portion of the Plan shall be subject to termination at any time by the Employer. Upon the termination of the Plan, the Administrator may continue the Plan in order to pay balances to distribute balances.

Your Rights

As a participant in the Company’s Medical and Dental Expense Reimbursement plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act (ERISA). ERISA provides that all Plan participants shall be entitled to the following:

To examine, without charge, at the Plan Administrator’s Office and at other specified locations such as work-sites and union halls, all plan documents including insurance contracts, collective bargaining agreements, and copies of all documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and plan descriptions. Plan documents and other Plan information will be provided upon written request of the Plan Administrator.
The Plan Administrator may make a reasonable charge for the copies. A summary of the Plan’s annual financial report will be automatically sent when such a report is required by law.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit Plan. The people who operate your Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of the Plan participants and beneficiaries. No one, including your employer, your union, or any other person may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit from the Plan or from exercising your rights under ERISA.

If your claim for a benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the Plan Administrator review and reconsider your claim. Under ERISA, you may take certain steps to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to $110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator. If a claim for benefits is denied or ignored in whole or in part, you may file suit in a state or federal court as above. If it should happen that Plan fiduciaries misuse the Plan’s money or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose or if your claim is found to be frivolous, the court may order you to pay these costs and fees. If you have any questions about the Plan, you should contact the Plan Administrator. If you have any questions about this part of the Summary Plan Description or about your rights under ERISA, you should contact the nearest office of the U.S. Labor-Management Services Administration, Department of Labor.
EMPLOYEE ASSISTANCE PROGRAM

1. Statement of Policy

a. The City has vital concern for its employees’ personal problems when those problems impair an employee’s ability to perform satisfactorily in his or her job. These may be problems such as alcohol abuse, drug abuse, or other behavioral/medical disorders which either endanger fellow employees, or result in poor interpersonal relations, excessive absenteeism, and/or deteriorating work performance.

b. The purpose of this policy is to assist employees with disabling personal problems, in finding help and assuring that the employee will receive the same careful consideration and assistance that is presently extended to City employees who become ill or disabled.

c. It is expected that a City-wide program will enlighten employees that the social stigma of alcoholism and drug addiction is without foundation and that these conditions are treatable as are most other disorders.

d. The City’s concern with alcoholism and drug abuse is strictly limited to its effects on the employee’s performance on the job. Whether an employee chooses to drink or not drink socially is the individual’s concern.

e. For the purpose of this policy, alcoholism and drug addiction is defined as an illness in which an employee’s consumption of alcoholic beverage or drugs definitely and repeatedly interferes with his or her job performance and/or health.

2. Procedures

a. It is the responsibility of all supervisors of all departments of the City to implement this policy, and to follow procedures which assure that no employee with alcoholism or drug addiction will have his or her job security or promotional opportunities jeopardized by referral or request for consultation and/or treatment. An employee who complies with a request for consultation, submits to an evaluation, and satisfactorily completes treatment as indicated, may not be suspended, demoted or terminated, or have his or her job security or promotional opportunities jeopardized by such referral, evaluation or by any absence from work necessary for treatment.

b. It is recognized that supervisors do not have the professional qualifications to permit judgment as to whether or not an employee has an alcohol or drug addiction. Referral to the Human Resources Department for consultations and subsequent offer of assistance will be based upon unsatisfactory work performance resulting from an apparent medical or behavioral problem, regardless of its nature.
c. An employee must report to the Human Resources Department for consultation when directed to do so by a Supervisor or appointing authority.

d. An employee’s continued refusal to report for consultation and/or refusal of assistance or refusal to submit to an evaluation and/or treatment, if indicated, will be dealt with in accord with Section 9-06-02.

e. It is expected that through this policy, employees who suspect that they may have a medical, alcohol, or drug related problem, even in its early stages, will be encouraged to voluntarily seek consultation and, when indicated, follow through with prescribed treatment.

f. The confidential nature of medical records of employees with alcohol or drug related problems will be preserved to assure privacy in the same manner as all other medical records.

g. Implementation of this policy will not require, or result in, any special social regulations, privileges, or exemptions from the standard administrative practices applicable to job performance requirements.

3. **Applicability**

   The program and policies contained in this section apply to all full-time employees of the City.

4. **Employee Assistance Program**

   a. General Statement:

      City of Bismarck recognizes that some employees may experience a wide range of personal problems that may adversely affect their job performance. It is also recognized that most personal problems can be dealt with successfully when identified early and referred for appropriate care. The purpose of the Employee Assistance Program is to provide these services leading to appropriate care.

      The Employee Assistance Program is designed to deal with a broad spectrum of human problems, such as personal problems, interpersonal problems, financial concerns, problems with addiction, parent/child conflict, marital problems, and other concerns. Most employees may overcome personal problems without professional assistance, but at times professional counseling and/or referral to appropriate community agencies may be beneficial. The Program provides problem assessment and short-term counseling, not to exceed eight sessions, and referral to community resources when deemed appropriate. The cost for assessment, short-term counseling, and referral is covered by the City of Bismarck. If costs are incurred for other services that are not covered by the City of Bismarck or other benefits, those costs will be the responsibility of the employee.

      Employees will be given prompt, careful, confidential consideration.
b. Below are the guidelines for utilizing the Employee Assistance Program:

1. City of Bismarck is concerned with an employee’s personal problem when the problem adversely affects job performance.

2. The Employee Assistance Program extends to each full-time employee, regardless of job title or responsibility.

3. Since problems at home can affect job performance, the Employee Assistance Program is also available to each employee’s immediate family on a self-referral basis. If an employee or immediate family member has personal problems that may benefit from assistance, the employee or immediate family member has personal problems that may benefit from assistance, the employee or immediate family member is encouraged to use the program. Immediate family is defined as spouse and/or children living in the same household as the full-time employee. Dependent children living outside the home, i.e., college students will be considered eligible for EAP services.

Children under eighteen (18) will be provided an initial assessment by phone, however, they will be required to have parental permission to receive EAP services beyond the initial phone contact.

4. Should a performance problem occur at work, employees may be encouraged to seek assistance to determine if personal problems are causing unsatisfactory job performance. Supervisors will not be able to insist that the employee seek Employee Assistance Program assistance. If performance problems are corrected, no further action will be taken. If performance problems persist, the employee will be subject to the normal progressive discipline procedures.

5. All employees are responsible for using this program, when appropriate, to assist in resolving job performance deficiencies related to personal problems. Supervisors and administrative representatives have been given a comprehensive orientation session. The session identified the goals and objectives of the Employee Assistance Program. Also, the mechanism for referring employees for services through the Employee Assistance Program was explained. Employees received a general orientation session to provide information regarding the Employee Assistance Program. This information provides an overview of what services are available and how to make use of those services. New employees will receive information about the Employee Assistance Program at the time of their initial orientation provided by Human Resources. Quarterly representatives form the provider will be available to provide a group orientation for all new employees if so requested by Human Resources. Annual supervisory sessions will also be made available for any new supervisory staff.
6. When an employee voluntarily contacts EAP for assistance, no contact is made with the supervisor. When the employee contacts EAP for services at the request or referral of a supervisor, there will be a follow-up contact with the referring supervisor which will discuss whether the employee came for the appointment and whether the employee is following general recommendations relating to treatment/follow-up services.

7. Participation in the program will not jeopardize an employee’s job security or promotional opportunities. All records and discussions of the personal problem will be handled in a confidential manner. These records will be considered as EAP records and will be maintained by the EAP. Records maintained by the EAP are not part of the provider’s regular medical record. They will not be released without the expressed, written consent of the employee. These records will not become a part of the employee personnel file.

8. Employee and members of their immediate families will receive an assessment and up to seven additional counseling sessions for further assessment, evaluation, or treatment of that problem. During the contract period, employees and members of their immediate families may experience multiple problems for which assessment, evaluation or treatment by the program may be appropriate. Under the provisions of this program, an eligible employee and/or member of his/her immediate family would receive additional services from the program providing the new problem is not related to a situation for which services have already been received. The employee and/or family member will receive an assessment of their new problem and up to seven additional assessments.

Depending on the type of problem experienced, a referral to community agency or resource may be the most appropriate service provided.

9. Where necessary, leave will be granted in accordance with established procedure. If a supervisor refers an individual based on performance concerns or an employee requests of the Supervisor to be referred, sick leave will be granted.

10. The employee may request that his/her supervisor attend counseling sessions with the employee.

c. This program and the policies contained herein shall be implemented under a City-wide program under the administration of Human Resources which shall:

    1. Enlist the active cooperation and participation of the City Health Officer and all supervisory personnel in the implementation of the program.

    2. Train supervisory personnel in documentation and referral procedures as set forth in this program on the basis of deterioration work performance.
3. Receive and evaluate (with the aid and counsel of the City Health Officer) those cases referred by supervisory personnel.

4. Refer those cases which indicate a need for professional evaluation and/or treatment to the appropriate community service agencies both public and private, for evaluation and/or treatment.

5. Oversee the implementation of the provisions of this program with supervisory personnel in order to assure:
   - the referral of employees with deteriorating work performance and,
   - that referred individuals follow through with prescribed treatment.

6. Report progress of referred cases to the appropriate appointing authority.

7. Issue further directives and instructions as are required, consistent with the policies enunciated in this section.

8. Supervisory personnel shall cooperate and actively participate in this program by documenting and referring cases of deteriorating work performance of employees under their supervision.

9. All evaluations ordered by an appointing authority or Human Resources shall be at no cost to the employee.

Approval Date: 01/28/97
Revision Date:
SPECIAL TAX NOTICE REGARDING PENSION

PLAN PAYMENTS

This notice contains important information you will need before you decide how to receive your benefits from the City of Bismarck Police or Employee Pension Plan (the “Plan”).

This notice is provided to you by the City of Bismarck because all or part of the payment that you will soon receive from the “Plan” may be eligible for rollover by you or your Plan Administrator to a traditional IRA or another qualified employer plan. (The term “IRA,” includes individual retirement accounts and individual retirement annuities.) A “traditional IRA” does not include a ROTH IRA, SIMPLE IRA, or EDUCATION IRA.

If you have additional questions after reading this notice, you can contact the Human Resources Department at 355-1330.

SUMMARY

There are two (2) ways you may be able to receive a Plan payment that is eligible for rollover:

1. Certain payments can be made directly to a traditional IRA or, if you choose, another qualified employer plan that will accept “DIRECT ROLLOVER”, or

2. The payment can be PAID TO YOU.

If you choose a DIRECT ROLLOVER

- Your payment will not be taxed in the current year and no income tax will be withheld.

- Your payment will be made directly to your traditional IRA or, if you choose, to another qualified employer plan that accepts your rollover. Your Plan payment cannot be rolled over to a Roth IRA, a Simple IRA, or an Education IRA because these are not traditional IRA’s.

- Your payment will be taxed later when you take it out of the traditional IRA or the qualified employer plan.

If you choose to have a Plan payment that is eligible for rollover PAID TO YOU

- You will receive only 80% of the payment, because the Plan Administrator is required to withhold 20% of the payment and send it to the IRS as income tax withholding to be credited against your taxes.

- Your payment will be taxed in the current year unless you roll it over. Under limited circumstances, you may be able to use special tax rules that could reduce the tax you owe. However, if you receive the payment before age 59-1/2, you also may have to pay an additional 10% tax.

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You can roll over the payment by paying it to your traditional IRA or to another qualified employer plan that accepts your rollover within sixty (60) days after you receive the payment. The amount rolled over will not be taxed until you take it out of the traditional IRA or qualified employer plan.

If you want to roll over 100% of the payment to a traditional IRA or another qualified employer plan, you must find other money to replace the 20% that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and that is not rolled over.

PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

Payments from the Plan may be "eligible rollover distributions". This means that they can be rolled over to an IRA or to another employer plan that accepts rollovers. Payments from a plan cannot be rolled over to a Roth IRA, a Simple IRA, or an Education IRA. Your Plan Administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

The following types of payments cannot be rolled over:

Non-taxable Payments

In general, only the “taxable portion” of your payment can be rolled over. If you have made “after-tax” employee contributions to the Plan, these contributions will be non-taxable when they are paid to you, and they cannot be rolled over. (After-tax employee contributions generally are contributions you made from your own pay that were already taxed.) Your Plan Administrator should be able to tell you how much of your payment is the taxable portion and how much is the after-tax employee contribution portion.

Payments Spread Over Long Periods

You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for:

- Your lifetime (or your life expectancy), or
- Your lifetime and your beneficiary’s lifetime (or life expectancies), or
- A period of ten years or more.

Required Minimum Payments

Beginning in the year you reach age 70-1/2 or retire, whichever is later, a certain portion of your payment cannot be rolled over because it is a “required minimum payment” that must be paid to you. Special rules apply if you own 5% or more of your employer.
Hardship Distributions

A hardship distribution from your employer’s 401(k) plan may not be eligible for rollover. Your Plan Administrator should be able to tell you if your payment includes amounts which cannot be rolled over.

DIRECT ROLLOVER

A DIRECT ROLLOVER is a direct payment of the amount of your Plan benefits to a traditional IRA or another qualified employer plan that will accept it. You can choose a DIRECT ROLLOVER of all or any portion of your payment that is an eligible rollover distribution, as described above. You are not taxed on any portion of your payment for which you choose a DIRECT ROLLOVER until you later take it out of the traditional IRA or qualified employer plan. In addition, no income tax withholding is required for any portion of your Plan benefits for which you choose a DIRECT ROLLOVER.

Direct Rollover to a Traditional IRA

You can open a traditional IRA to receive the direct rollover. If you choose to have your payment made directly to a traditional IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. However, in choosing a traditional IRA, you may wish to consider whether the traditional IRA you choose will allow you to move all or part of your payment to another traditional IRA at a later date, without penalties or other limitations. See IRS Publication 590, “Individual Retirement Arrangements”, for more information on traditional IRA’s (including limits on how often you can roll over between IRA’s).

Direct Rollover to a Plan

If you are employed by a new employer that has a qualified employer plan, and you want a direct rollover to that plan, ask the Plan Administrator of that plan whether it will accept your rollover. A qualified employer plan is not legally required to accept a rollover. If your new employer’s plan does not accept a rollover, you can choose a DIRECT ROLLOVER to a traditional IRA.

Direct Rollover of a Series of Payments

If you receive a payment that can be rolled over to a traditional IRA or another qualified employer plan that will accept it, and it is paid in a series for less than ten (10) years, your choice to make or not make a DIRECT ROLLOVER for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.
PAYMENT PAID TO YOU

If your payment can be rolled over and the payment is made to you in cash, it is subject to 20% income tax withholding. The payment is taxed in the year you receive it unless, within sixty (60) days, you roll it over to a traditional IRA or another qualified employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

Income Tax Withholding

Mandatory Withholding

If any portion of the payment can be rolled over and you do not elect to make a DIRECT ROLLOVER, the Plan is required by law to withhold 20% of that amount. This amount is sent to the IRS as income tax withholding. For example, if you can rollover a payment of $10,000, only $8,000 will be paid to you because the Plan must withhold $2,000 as income tax. However, when you prepare your income tax return for the year, you will report the full $10,000 as a payment from the Plan. You will report the $2,000 as tax withheld, and it will be credited against any income tax you owe for the year.

Voluntary Withholding

If any portion of your payment is taxable but cannot be rolled over, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. To elect out of withholding, ask the Plan Administrator for the election form and related information.

Sixty-Day Rollover Option

If you receive a payment that can be rolled over, you can still decide to roll over all or part of it to a traditional IRA or another qualified employer plan that accepts rollovers. If you decide to roll over, you must contribute the amount of the payment you received to a traditional IRA or another qualified plan within sixty (60) days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the traditional IRA or the qualified employer plan.

You can roll over up to 100% of your payment that can be rolled over, including an amount equal to the 20% that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the traditional IRA or the qualified employer plan, to replace the 20% that was withheld. On the other hand, if you roll over only the 80% that you received, you will be taxed on the 20% that was withheld.

Example

The portion of your payment that can be rolled over is $10,000, and you choose to have it paid to you. You will receive $8,000, and $2,000 will be sent to the IRS as income tax withholding. Within sixty (60) days after receiving the $8,000, you may roll over the entire $10,000 to a traditional IRA or a qualified employer plan. To do this, you roll over the $8,000 you received from the Plan, and you will have to find $2,000 from other sources (your savings, a loan, etc.). In this case, the entire $10,000 is not taxed until
you take it out of the traditional IRA or qualified employer plan. If you roll over the entire $10,000 when you file your income tax return, you may get a refund of part or all of the $2,000 withheld.

If, on the other hand, you roll over only $8,000, the $2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return you may get a refund of part of the $2,000 withheld. (However, any refund is likely to be larger if you roll over the entire $10,000.

Additional 10% Tax If You Are Under Age 59-1/2

If you receive a payment before you reach age 59-1/2 and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The additional 10% tax generally does not apply to:

1. payments that are paid after you separate from service with your employer during or after the year you reach age fifty-five (55),
2. payments that are paid because you retire due to disability,
3. payments that are paid as equal (or almost equal) payments over your life or life expectancy (or your and your beneficiary's lives or life expectancies),
4. dividends paid with respect to stock by an employee stock ownership plan (ESOP) as described in Code Section 404(k),
5. payments that are paid directly to the government to satisfy a federal tax levy,
6. payments that are paid to an alternate payee under a qualified domestic relations

Special Tax Treatment If You Were Born before January 1, 1936

If you receive a payment that can be rolled over and you do not roll it over to a traditional IRA or other qualified employer plan that will accept it, the payment will be taxed in the year you receive it. However, if the payment qualifies as a "lump sum distribution," it may be eligible for special tax treatment. (See also, "Employer Stock or Securities," below.) A lump sum distribution is a payment, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you after you have reached age 59-1/2 or because you have separated from service with your employer (or, in the case of a self-employed individual, after you have reached age 59-1/2, or have become disabled). For a payment to be treated as a lump sum distribution, you must have been a participant in the plan for at least five (5) years before the year in which you received the distribution. The special tax treatment for lump sum distributions that may be available to you is described below.

* Ten-Year Averaging

If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using "10-year averaging" (using 1986 tax rates). Ten-year averaging often reduces the tax you owe.
* Capital Gain Treatment

If you receive a lump sum distribution and you were born before January 1, 1936 and if you were a participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. If you have previously rolled over a distribution from the Plan (or certain other, similar plans of the employer), you cannot use this special averaging treatment for later payments from the Plan. If you roll over your payment to a traditional IRA, you will not be able to use this special tax treatment for later payments from the traditional IRA. Also, if you roll over only a portion of your payment to a traditional IRA, this special tax treatment is not available for the rest of the payment. See IRS Form 4972 for additional information on lump sum distributions and how you elect the special tax treatment.

Employer Stock or Securities

There is a special rule for a payment from the Plan that includes employer stock (or other employer securities). To use this special rule:

1. the payment must qualify as a lump sum distribution, as described above, except that you do not need five years of plan participation, or

2. the employer stock included in the payment must be attributable to "after-tax" employee contributions, if any. Under this special rule, you may have the option of not paying tax on the "net unrealized appreciation" of the stock until you sell the stock. Net unrealized appreciation generally is the increase in the value of the employer stock while it was held by the Plan. For example, if employer stock was contributed to your Plan account when the stock was worth $1,000 but the stock was worth $1,200 when you received it, you would not have to pay tax on the $200 increase in value until you later sold the stock.

You may instead elect not to have the special rule apply to the net unrealized appreciation. In this case, your net unrealized appreciation will be taxed in the year you receive the stock, unless you roll over the stock. The stock (including any net unrealized appreciation) can be rolled over to a traditional IRA or another qualified employer plan, either in a direct rollover or a rollover that you make yourself.

If you receive only employer stock in a payment that can be rolled over, no amount will be withheld from the payment. If you receive cash or property other than employer stock, as well as employer stock, in a payment that can be rolled over, the 20% withholding amount will be based on the entire amount paid to you (including the employer stock but excluding the net unrealized appreciation). However, the amount withheld will be limited to the cash or property (excluding employer stock) paid to you.
If you receive employer stock in a payment that qualifies as a lump sum distribution, the special tax treatment for lump sum distributions described above (such as 10-year averaging) also may apply. See IRS Form 4972 for additional information on these rules.

Re-payment of Plan Loans

If you end your employment and have an outstanding loan from your Plan, your employer may reduce (or "offset") your balance in the Plan by the amount of the loan you have not repaid. The amount of your loan offset is treated as a distribution to you at the time of the offset and will be taxed unless you roll over an amount equal to the amount of your loan offset to another qualified employer plan or a traditional IRA within 60 days of the date of the offset. If the amount of your loan offset is the only amount you receive or are treated as having received, no amount will be withheld from it. If you receive other payments of cash or property from the Plan, the 20% withholding amount will be based on the entire amount paid to you, including the amount of the loan repayment. The amount withheld will be limited to the amount of other cash or property paid to you (other than any employer securities).

SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses or former spouses who are "alternate payees." You are an alternate payee if your interest in the Plan results from a "qualified domestic relations order", which an order is issued by a court, usually in connection with a divorce or legal separation. Some of the rules summarized above also apply to a deceased employee's beneficiary who is not a spouse. However, there are some exceptions for payments to surviving spouses, alternate payees, and other beneficiaries that should be mentioned.

If you are a surviving spouse, you may choose to have a payment that can be rolled over, as described above paid in a DIRECT ROLLOVER to a traditional IRA or paid to you. If you have the payment paid to you, you can keep it or roll it over yourself to a traditional IRA but you cannot roll it over to a qualified employer plan. If you are an alternate payee, you have the same choices as the employee. Thus, you can have the payment paid as a direct rollover or paid to you. If you have it paid to you, you can keep it or roll it over yourself to a traditional IRA or to another qualified employer plan that accepts rollovers.

If you are a beneficiary other than the surviving spouse, you cannot choose a direct rollover, and you cannot roll over the payment yourself.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is generally not subject to the additional 10% tax described in PAYMENT PAID TO YOU section above, even if you are younger than age 59-1/2.

If you are a surviving spouse, an alternate payee, or another beneficiary, you may be able to use the special tax treatment for lump sum distributions and the special rule for payments that include employer stock, as described in PAYMENT PAID TO YOU section above. If you receive a payment because of the employee's death, you may be able to treat the payment as a lump sum distribution if the employee met the appropriate age requirements whether or not the employee had five (5) years of participation in the Plan.
HOW TO OBTAIN ADDITIONAL INFORMATION

This notice summarizes only the federal (not state or local) tax rules that might apply to your payment. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with a professional tax advisor before you take a payment of your benefits from the Plan. Also, you can find more specific information on the tax treatment of payments from qualified retirement plans in IRS Publication 575, "Pension and Annuity Income", and IRS Publication 590, "Individual Retirement Arrangements". These publications are available from your local IRS office, on the IRS's Internet Web Site at www.irs.gov/forms_pubs/index.html, or by calling 1-800-TAX-FORMS.

Approval Date: 01/28/97
Revision Date: 02/12/01
THE CITY OF BISMARCK EMPLOYEES’ PENSION PLAN

SUMMARY

The following summary has been prepared for valuation purposes only. It outlines the provisions found in Chapter 9-07, "City Employees’ Pension" necessary to perform the Actuarial Valuation, as interpreted by Stanton Group.

DEFINITIONS

Actuarial Equivalence Factors

In calculating the actuarial equivalence of one form of benefit to another; the interest rate to be used shall be 7.0% and the mortality table to be used shall be the “applicable mortality table” as defined by Section 417 (e) (3) of the Code (9-07-10).

Average Basic Monthly Compensation

The average of the monthly base compensation of a Participant over the 36-month period of employment. Monthly base compensation excludes overtime, bonuses, severance payments, and other remuneration in excess of base compensation (9-07-15(1)).

Effective Date of the Plan

January 1, 1966

Early Retirement Date

Participants who have completed sixty (60) consecutive months of contributing service and have attained age fifty (50) are eligible for a monthly pension benefit (9-07-15 (2)).

Membership Fee

Every full-time employee of the City of Bismarck, except police officers and fire fighters, shall be assessed and required to pay an amount of 5.0% of their basic salary (9-07-01).

Normal Form of Benefit

Married Participants receive a Joint & Two-Thirds to Survivor annuity. Single Participants receive a Life Only annuity.

Normal Retirement Date

Participants who have attained age sixty-two (62) are eligible for a monthly pension benefit (9-07-15 (1)).
Plan Year

January 1 through December 31 (9-07-08).

Recognized Service

Full and fractional years of contributing service during which the employee contributed to the fund (9-07-23). Military service will be included as part of the period of service with the City provided that the period does not exceed five (5) years and the employee pays into the fund 5.0% of the lesser of the last full year’s salary paid by the City or military salary for each year of military service (9-07-05).

PLAN PROVISIONS

Eligibility

Every full-time employee, other than members of the Police Department who are sworn officers, members of the firefighter’s relief association, and employees who perform fire suppression duties (9-07-11).

Normal Retirement Benefit

Participants serving until the Normal Retirement Date are eligible for a monthly pension benefit computed by multiplying his or her highest thirty-six (36) months of Average Basic Monthly Compensation times 1.75% times his or her number of full and fractional years of Recognized Service prior to January 1, 2005 plus 2.25% times his or her number of full or fractional years of Recognized Service after December 31, 2004 (9-07-15(1)).

Early Retirement Benefit

The monthly pension benefit shall be equal to the Normal Retirement Benefit actuarially reduced for payments commencing prior to age 62 (9-07-15(2)). The reduction factors are as follows:

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Termination Benefit

After sixty (60) consecutive months of contributing service and termination of employment, a Participant may elect a deferred retirement benefit to commence at an elected age fifty (50) to sixty-two (62). The Participant's deferred benefit shall equal the Normal Retirement Benefit (based on service and compensation to the date of termination) actuarially reduced for early commencement (9-07-15(3)).

Death Benefit

The surviving spouse (while unmarried) receives 2/3 of the actuarially reduced pension to which the Participant would have been entitled, but not less than $65.00 per month provided the Participant served at least sixty (60) consecutive months of contributing service (9-07-15(4)).

The surviving spouse has the option to elect a refund of contributions in lieu of the above-mentioned benefit (9-07-15(5)).

If there is no surviving spouse, the Participant's contributions are paid to the Participant's estate (9-07-15(6)).

Refund of Contributions

Any Participant who has contributed to the plan and terminates employment before being entitled to a pension shall be entitled to a refund of all contributions made by him to the pension system with accumulated interest. Interest of 5.0% per year will be credited on such contributions made after July 1, 1972. Interest of 2.5% per year will be credited on such contributions made before July 1, 1972.

Any Participant electing a refund of contributions forfeits all rights to any other form of benefit under this plan (9-07-14).

Cost of Living Adjustments

Persons receiving pension payments shall be eligible for cost of living adjustments in an amount determined by the Board of Trustees. The adjustment may not exceed the lesser of the City employees' salary adjustment or 3% (9-07-16).
CHAPTER 9-07, CITY EMPLOYEE PENSION PLAN

9-07-01. Assessments; Pick-up Provision. Each full-time employee of the city who is a participant in the city employee pension plan pursuant to section 9-07-11 shall be assessed and required to pay monthly an amount of five percent upon the amount of the basic salary that would be paid to the employee but for this provision, which shall be deducted and retained out of such salary.

The amount of assessment provided under this section 9-07-01 shall be applied by a payroll reduction agreement to be remitted through an executed trust agreement or contract with an insurance company in such a manner so far as practicable as to be exempt from any federal or state income taxes on the assessment or on investment income until an act of constructive receipt of these funds occurs.

Although these assessments may be designated as employee contributions, they are deemed to have been paid to the city employee's pension fund by the city in lieu of contributions by the employee; and the employee has no option to receive the contributed amounts directly. 
(Ord. 5153, 01-08-02)

9-07-02. Board of Trustees and Duties. The superintendent of the park district, and city librarian, and all other department heads, with the exception of the chief of police, shall constitute the board of trustees for the management of the pension and retirement system and the fund created for the same. The city administrator shall be president and the city investment officer shall be an ex-officio member and act as treasurer of the board. The trustees shall not receive any compensation for their services as members of the board. The director of human resources shall act as clerk of the board and shall keep such records and accounts as the board may direct. The board shall have such powers and perform such duties as may be provided by law. Department heads shall mean those persons classified as department heads pursuant to the City Classification schedule. 
(Ord. 5041, 04-11-00; Ord. 5153, 01-08-02)

9-07-03. Investment of Surplus. At the end of each fiscal year, the board of trustees may invest any surplus left in the city employee's pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Surplus funds may be invested in:

a. interest-bearing bonds of the United States or the state, or bonds or warrants of any county, township or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority;

b. investments with any federally-insured bank or savings and loan association; or

c. other investments by selecting a funding agent or agents and establishing an investment agreement contract regarding surplus funds. The contract shall authorize the funding agent or agents to hold and invest funds for the board. Funds shall be
placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, in which moneys belonging to the fund are invested, shall be deposited with the treasurer of the board for safekeeping.

In no event shall any part of the city employees’ pension fund be paid to or become vested in the city, or be used for any purpose whatsoever other than for the exclusive benefit of contributing members, former contributing members and their beneficiaries, except as provided in section 9-07-21 and section 9-07-22 of this chapter, except that contributions of the city may be returned if:

1. The contribution was conditioned on the qualification of the plan under Internal Revenue Code Section 401(a), the plan does not so qualify and the contribution is returned within one year after the plan is found to not so qualify; or

2. The contribution was made due to a mistake of fact, the contribution is returned within one year of the mistaken payment of the contribution and the return satisfied the requirements of the last paragraph of this section.

The return of a contribution (or portion of a contribution) to the city satisfies the requirements of this paragraph if the amount so returned (a) does not exceed the excess of the contribution over the amount which could have been contributed had there been no mistake of fact, (b) does not include the net earnings attributable to such excess contributions, and (c) is reduced by any net losses attributable to the excess contribution.

(Ord. 5041, 04-11-00; Ord. 5153, 01-08-02)

9-07-04. Gifts, Devises or Bequests. The board may take by gift, devise or bequest any money or property, real or personal, or other thing of value for the benefit of the fund. All rewards in moneys, fees, gifts or emoluments of any kind or nature that may be paid or given to the city or to any employee, except when allowed to be retained or given for endowing a medal or other permanent or competitive reward on account of extraordinary services rendered by the city or any employee shall be paid into the pension fund.

(Ord. 5153, 01-08-02)

9-07-05. Military Service. Any employee of the city subject to the provisions of this chapter who has resigned or who resigns to serve in the Army, Navy, Air Force or Marine Corps, or Reserves of the United States, or who has been selected for training under the Selective Service Provisions of the Laws of the United States and who has returned with an honorable discharge or other document showing honorable service, and who applies for reemployment with the city within 90 days of discharge, shall have the period of military service included as part of his or her period of service in the city, provided that credit allowed for military service shall not exceed a total of five years. Any employee who seeks credit for military service shall, upon return to the employment of the city, pay into the fund for each year of military service, five percent of the last full year’s salary paid by the city, or five percent of annual military pay, whichever is less. Notwithstanding the foregoing, effective December 12, 1994, contributions, benefits and service credited with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

(Ord. 5041, 04-11-00)
9-07-06. Retired Employees, Re-employment. An appointing authority may hire any former employee of this city retired under the provisions of this chapter 9-07, chapter 9-08 or the Bismarck Fire Fighters Relief Association pension plan to work part-time for the City. The salary received by any person so employed plus the pension received under the terms and provisions of this chapter 9-07, Chapter 9-08 or the Bismarck Fire Fighters Relief Association pension plan shall not exceed the regular pay for the position from which the employee has retired. All part-time positions must be filled pursuant to chapter 9-03.

(Ord. 5153, 01-08-02; Ord. 5571, 01-09-07)

9-07-07. Exemption. All pensions paid under the provisions of this chapter shall not be subject to assignment and shall be exempt from liability for debts of the person to or on account of whom they are paid, and shall not be subject to seizure upon execution or other process. The foregoing prohibition on assignment and seize and exemption from liability expressly includes exemption from assignment, seizure or liability pursuant to any domestic relations order, including divorce decrees and child or spousal orders.

(Ord. 5153, 01-08-02)

9-07-08. Fiscal Year. The fiscal year for the fund shall commence on the first day of January of each year and terminate on the 31st day of December of the same year. The fiscal year shall be considered the limitation year for purposes of Internal Revenue Code Section 415.

(Ord. 5041, 04-11-00)

9-07-09. Contribution of City. The board of city commissioners shall annually levy a tax as may be needed to maintain the pension fund in a sound actuarial condition, the proceeds of which shall be placed in the pension fund. The levy shall be in addition to any other levies authorized by law for a general purpose; provided, however, that when there is a sufficient balance in the fund to meet any proper or legitimate charges that may be made against it, the city shall not be required to levy a tax for this purpose.

(Ord. 5153, 01-08-02)

9-07-10. Actuary. The pension and retirement system shall be based upon actuarial tables and the board of trustees shall, from time to time, be empowered to engage the services of an actuary for the purpose of determining the condition of the fund. The actuary shall be paid by check issued by the board of trustees in a reasonable amount determined by the board of trustees.

In calculating the actuarial equivalence of one form of benefit to another, the interest rate to be used shall be 7% and the mortality table to be used shall be the “applicable mortality table”, defined as the mortality table based upon the Internal Revenue Service Commissioner’s standard table used to determine reserves for group annuity contracts issued on the date as of which present value is determined, as published by the Department of the Treasury for purposes of Section 417(e)(3) of the Code.

Notwithstanding the foregoing, effective January 1, 2000, for the purpose of determining the lump sum value of a participant’s benefit, the interest rate shall be the “applicable interest rate”, defined as the annual interest rate on 30-year United States Treasury Securities as published by the Department of the Treasury and Federal Reserve as in effect for the second
month (the "look-back month") preceding the first day of the "stability period." The "stability period" shall be the plan year.  
(Ord. 5225, 01-07-03)

9-07-11. **Persons Included.** Every full-time employee, other than sworn members of the police department, non-sworn members of the police department who begin employment before December 31, 2006 and members of the firefighter's relief association, shall be a participant of the city employee pension fund. Effective January 1, 2007, every full-time employee of the city shall be a participant in the city employee pension fund except:

(a) members of the police department who are sworn officers;
(b) members of the firefighter's relief association; and
(c) employees who perform any fire suppression duties.  
(Ord. 4308, 12-19-89; Ord. 5153, 01-08-02; Ord. 5555, 10-24-06)

9-07-12. **Notice of Change in Status.** It shall be the duty of the clerk or the department head in the absence of the clerk to give immediate notice of the change in pension status of any employee of the city, other than employees of the police department and fire department, resulting from death or other cause, and he or she shall furnish such other information concerning any employee, other than policemen and firemen, as the board of trustees may require.

9-07-13. **Regulations Governing Fund.** The board of trustees shall be authorized from time to time to adopt such regulations as may be deemed necessary, consistent with the terms and provisions of this chapter governing the operation of the fund and the requirements as to members and payments to beneficiaries. Each member and beneficiary shall be subject to all the provisions of this chapter governing the operation of the fund and the requirements as to members and payments to beneficiaries. Each member and beneficiary shall be subject to all the provisions of this chapter and to all rules and regulations adopted by the board of trustees and shall furnish to the board of trustees such information affecting the employee's status as a member or beneficiary of the system as the board of trustees may require.

9-07-14. **Refunds of Contributions.** Any employee of the city subject to the provisions of this chapter who has contributed to the pension retirement system adopted under Chapter 207 of the Session Laws of 1941, and continued under Chapter V of the Revised Ordinances of 1966 and subsequent amendments, and discontinued, who leaves employment shall be entitled upon application at the time of termination of employment, to a refund of the employee's "entire interest." The employee's entire interest shall be the sum of all an employee's contributions made under Section 9-07-01 plus interest earnings at two and one-half percent (2.5%) per annum on contributions made through 1972 and plus interest earnings at five percent (5%) per annum on all employee contributions thereafter. No rights to pension benefits shall accrue to an employee or to the employee's beneficiary during any leave of absence, except that this clause shall not be construed to deprive any employee of pension benefits accrued during a regular annual leave or sick leave or absence duly granted, as provided by this chapter, nor to an employee referred to in section 9-07-05.

Notwithstanding any other provision of this chapter, effective with respect to distributions on or after March 28, 2005, any account with a value that exceeds $1000,
including any rollover amounts, shall not be distributed to the participant during his/her lifetime and prior to his/her normal retirement date as set in this chapter, without the consent of the participant.

Any member of this pension retirement system who leaves the employment of the city and elects a refund in accordance with this section forfeits all rights to any other form of benefit under this pension retirement system.

(Ord. 4944, 09-22-98; Ord. 5153, 01-08-02; Ord. 5376, 12-28-04; Ord. 5572, 03-13-07)

9-07-15. Pension Eligibility; Computations; Required Distributions. Every employee of the city who is a participant in the city employee pension plan pursuant to section 9-07-11 or the surviving spouse of any such employee who is deceased, provided said participant or said surviving spouse has made application to the board of trustees and been certified by the board of trustees as entitled to a pension, shall be paid out of the city employees' pension fund an amount determined in accordance with the following:

1. Any contributing member who has served in active employment until the age of sixty-two shall be eligible for a monthly pension benefit computed by multiplying the member’s highest thirty-six (36) months (or total months of employment, if less) of average basic monthly compensation times one and three-quarters percent (1.75%) and then multiplying the resultant product by the member’s number of full and fractional years of recognized service as defined in section 9-07-23. Notwithstanding the foregoing, with respect to any member who terminated employment or retired from the city prior to January 1, 2002, the phrase "highest thirty-six (36) months" in the foregoing sentence shall be replaced with "highest sixty (60) months." In computing benefits accruing on and after January 1, 2005, "one and three-quarters percent (1.75%)") in the foregoing sentence shall be replaced with "two and one-quarter percent (2.25%)."

On or after January 1, 2005, a participant may elect to apply the two and one-quarter percent multiplier to all or any portion of the participant’s recognized service prior to January 1, 2005. The additional cost to the pension fund of applying the higher multiplier to such prior recognized service, as determined by the plan’s actuary, shall be borne by the participant. The participant may elect one or more of following options to fund said additional cost:

(a) The participant may make an irrevocable election to contribute to the plan, on a pre-tax basis, compensation not yet earned. The election shall specify an amount to be deducted and retained from the participant’s salary each month, for payment to the pension fund, until said additional cost has been funded. Such contributions shall be deemed to have been paid to the plan by the city in lieu of contributions by the employee and the employee shall have no option to receive the contributed amounts directly.

(b) The participant may make an irrevocable election to contribute all or any portion of any payout for sick, vacation or other paid time off accrued but not taken up to the day prior to the date of the election, to fund said additional cost. Such a contribution shall be deemed to have been paid to the plan by the city in lieu of contributions by the employee and the employee shall have no option to receive the contributed amounts directly.
The participant may make an election to transfer all or any portion of the participant’s excess account, as described in paragraph 4 of section 9-07-22, to fund said additional cost.

The City intends that the foregoing provisions shall be applied and interpreted consistent with applicable law. Any election made pursuant to the foregoing provisions shall be effective only to the extent consistent with applicable law, this ordinance and any rules and procedures adopted by the City. Participants making any election under this section shall do so in compliance with any rules and procedures adopted by the City and any limits imposed by other sections of this ordinance or applicable law.

Effective for benefits accruing after December 31, 1988, the annual compensation of each employee taken into account under the plan shall not exceed $200,000 ($150,000 for fiscal years beginning on or after January 1, 1996), as adjusted by the Secretary of the Treasury for cost of living adjustments. For fiscal years prior to January 1, 1997, in determining the compensation of an employee, the rules of Internal Revenue Code Section 414(9)(6) shall apply, except that the term “family” shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the plan year.

2. Any contributing member who has served at least sixty (60) months of contributing service, whether or not consecutive, in the employment of the city, shall be entitled to retirement. Notwithstanding the foregoing, with respect to any member who terminated employment or retired from the city prior to January 1, 2002, the phrase "sixty (60) months of contributing service" in the foregoing sentence shall be replaced with "one hundred twenty (120) months of contributing service." Such member’s retirement benefit shall be equal to the member’s accrued normal retirement benefit as determined under the preceding subsection 1 of this section 9-07-15 multiplied by the actuarial equivalent factor set forth below, interpolated to the nearest monthly age at the date upon which the pension benefits commence.

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<tr>
<th>Age</th>
<th>Actuarial Equivalent Factors</th>
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3. Any contributing member who has served at least sixty (60) months of contributing service, whether or not consecutive, in the employment of the city and who terminates employment with the city, may elect a deferred retirement benefit to commence at the elected age from age fifty to age sixty-two. Notwithstanding the
foregoing, with respect to any member who terminated employment or retired from the city prior to January 1, 2002, the phrase "sixty (60) months of contributing service" in the foregoing sentence shall be replaced with "one hundred twenty (120) months of contributing service." The deferred benefit shall be equal to the member's accrued normal retirement benefit as determined in subsection 1 of this section 9-07-15, (based upon service and compensation to the date of employment termination) multiplied by the actuarial, equivalent factor set forth in subsection 2 of this section 9-07-15, determined on the basis of the age elected for deferred benefits to commence hereunder.

4. To the surviving spouse as long as he or she remains unmarried, a sum equal to two-thirds of the pension to which the employee would have been entitled under the provisions of sections 9-07-15(l)-(3), 9-07-16 and 9-07-17, not less, however, than $65.00 per month, provided the employee served at least sixty (60) months of contributing service, whether or not consecutive, in the employment of the city. Notwithstanding the foregoing, with respect to any member who died prior to January 1, 2002, the phrase "sixty (60) months of contributing service" in the foregoing sentence shall be replaced with "one hundred twenty (120) months of contributing service." A spouse shall be considered to be a surviving spouse only if the spouse was married to the employee when the employee separated from service, or, if such separation occurred prior to the plan’s effective date, the spouse was also married to the employee on the effective date of the plan.

5. A surviving spouse has the option to withdraw all of the employee’s entire interest as defined in Section 9-07-14. A surviving spouse who elects to withdraw an employee’s entire interest does so in lieu of all benefits outlined in subsection 4 of this section 9-07-15.

6. If there is no surviving spouse, then the employee’s entire interest, as defined in Section 9-07-14, will be paid to the employee’s estate.

7. Distribution Upon Death.

(a) Death After Commencement of Benefits. If distribution of an employee’s interest has begun in accordance with subsection 1, 2, or 3 of this section 9-07-15, and the employee dies before his or her entire interest has been distributed to him or her, then the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of his or her death.

(b) Death Before Commencement of Benefits. If an employee dies before distribution of the employee’s interest has begun, the entire interest of the employee shall be distributed no later than December 31 of the calendar year which contains the fifth anniversary of the date of the employee’s death. This five-year distribution rule shall not apply if (1) any portion of the employee’s interest (or of the deceased spouse of such employee, as provided below) is payable to or for the benefit of a designated beneficiary, as determined pursuant to Proposed Treasury regulations § 1.401(a) (9)-1 (or any successor regulation); (2) this portion will be distributed over the life of such designated beneficiary (or
over a period not extending beyond the life expectancy of the designated beneficiary), and (3) the distributions commence no later than December 31 of the calendar year immediately following the calendar year in which the employee died. If the surviving spouse is the beneficiary and dies before payments are deemed to have begun, the five-year distribution rule and the exception to it stated in this paragraph are to be applied as if the surviving spouse were the employee and the spouse's date of death shall be substituted for the employee's date of death.

This five-year distribution rule shall also not apply if: (1) the portion of the employee's interest to which the surviving spouse is entitled will be distributed over the life of the surviving spouse (or over a period not extending beyond the life expectancy of the surviving spouse, which may be recalculated not more frequently than annually); and (2) the distributions commence on or before the later of December 31 of the calendar year in which the employee would have attained age 70½ or December 31 of the calendar immediately following the calendar year in which the employee died.

(c) Designated Beneficiary. For purposes of this section, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.

8. Required Distributions. Notwithstanding any provision of the plan to the contrary, the following provisions shall control:

(a) General Rule. The entire interest of each employee shall be distributed to such employee not later than the required beginning date (as defined below), or will be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary).

(b) Required Beginning Date. For purposes of this section, the term "required beginning date" means April 1st of the calendar year following the later of (i) the calendar year in which the employee attains age 70 1/2; or (ii) the calendar year in which the employee retires.

(c) Designated Beneficiary. For purposes of this section, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.

(d) Continued Service Beyond Age 62. An employee may at his or her request be continued in employment beyond age 62. In such event, no retirement benefit will be paid to such employee until he or she actually retires, subject, however, to any required minimum distributions pursuant to this section 9-07-15. Such an employee shall continue to accrue credit for years of service after attainment of age 62, and changes in average basic monthly compensation shall also be taken into account.
(e) With respect to distributions under the city employee pension plan made for calendar years beginning on or after January 1, 2001, the plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(Ord. 4299, 10-17-89; Ord. 5041, 04-11-00; Ord. 5153, 01-08-02; Ord. 5376, 12-28-04)

9-07-16. Cost of Living Adjustment Procedure. Persons receiving pension payments under the provisions of this chapter shall be eligible for cost of living adjustments in an amount determined by the board of trustees. The adjustment, if any, will be effective at the same time as the city employees’ salary adjustment made in the same year. The adjustment may not exceed the lesser of:

1. The city employees’ adjustments; or
2. 3%.

Cost of living adjustments shall be made in respect to pensioners and surviving spouses who are receiving pension benefits at the time the cost of living adjustments are made.

(Ord. 4878, 12-09-97; Ord. 5041, 04-11-00; Ord. 5153, 01-08-02)

9-07-17. Optional Settlements and Life Annuity Limitations. Any optional settlements under this plan shall be limited to the life expectancy of the participating member or the surviving spouse of the participating member. In no event is an "interest only" option permissible where under the total payout would extend beyond the life expectancy of the member and the member’s spouse. The following restrictions and limitations shall apply to benefit payments.

1. Benefit Limited to Maximum Permissible Benefit. The Annual Benefit otherwise payable to a member at any time shall not exceed the Maximum Permissible Benefit. If the benefit the member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the rate of accrual shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

2. Adjustment if in Two or More Defined Benefit Plans. If the member is, or has ever been, a member of another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the city, the sum of the member’s Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the member’s employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Maximum Permissible Benefit applicable at that age, the city shall limit a member’s benefit in accordance with the terms of the plans.
3. Definitions. For purposes of this Section 9-07-17, the following terms shall have the respective meanings set forth below, unless expressly provided for herein, and when the defined meaning is intended, the term is capitalized.

a. “Annual Benefit” means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided below, where a benefit is payable in a Straight Life Annuity, the benefit shall be adjusted to an actuarially equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month before applying the limitations of this Section 9-07-17. For a member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Section 9-07-17 as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Regulations Section 1.401(b)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)-1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (1) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member’s benefit were paid in another form; (2) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or (3) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Section 9-07-17, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 9-07-17 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to member contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a Straight Life Annuity shall be made in accordance with (i) or (ii) below.

(i) Benefit forms not subject to Code Section 417(e)(3). The Straight Life Annuity that is actuarially equivalent to the member’s form of benefit shall be determined under this subsection (i) if the form of the member’s benefit is either (1) a nondecreasing annuity (other than a Straight Life Annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the
life of the surviving spouse), or (2) an annuity that decreases during the life of the member merely because of (A) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (B) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).

(1)  Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, the actuarially equivalent Straight Life Annuity is equal to the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (II) 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs.

(2)  Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, the actuarially equivalent Straight Life Annuity is equal to the greater of (a) the annual amount of the Straight Life Annuity (if any) payable to the member under the Plan commencing at the same Annuity Starting Date as the member's form of benefit; and (b) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs.

(ii)  Benefit Forms Subject to Code Section 417(e)(3). The Straight Life Annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in subsection 3(a)(i) above. The actuarially equivalent Straight Life Annuity is equal to the greatest of (a) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (b) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs; and (c) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member's form of benefit,
computed using the applicable interest rate and applicable mortality table, both as described in Section 417(e)(3) of the Code, divided by 1.05.

b. “Maximum Permissible Benefit” means, effective for Limitation Years ending after December 31, 2001, $160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a Straight Life Annuity. The new limitation shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment, but a member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

(i) Adjustment for Less Than 10 Years of Participation or Service: If the member has less than 10 years of participation in the Plan, the Maximum Permissible Benefit shall be multiplied by a fraction - (i) the numerator of which is the number of Years of Participation in the Plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10). In the case of a member who has less than ten Years of Service with the city, the Maximum Permissible Benefit shall be multiplied by a fraction - (i) the numerator of which is the number of Years of Service with the city (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

(ii) Adjustment for Benefit Commencement Before Age 62 or after Age 65: Effective for benefits commencing in Limitation Years ending after December 31, 2001, the Maximum Permissible Benefit shall be adjusted if the Annuity Starting Date of the member’s benefit is before age 62 or after age 65.

(iii) Adjustment for Benefit Commencement Before Age 62:

(1) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the member’s benefit is prior to age 62 and occurs in a Limitation Year beginning before July 1, 2007, the Maximum Permissible Benefit for the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (a) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (b) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(2) Limitation Years Beginning on or After July 1, 2007.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at both Age 62 and the Age of
Benefit Commencement. If the Annuity Starting Date for the member’s benefit is prior to age 62 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing Straight Life Annuity payable at both age 62 and the age of benefit commencement, the Maximum Permissible Benefit for the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible Benefit (adjusted under subsection(i) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in the Plan (and expressing the member’s age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the member’s benefit is prior to age 62 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing Straight Life Annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limitation for the member’s Annuity Starting Date is the lesser of the limitation determined under subsection (b)(iii) and the Maximum Permissible benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing Straight Life Annuity under the Plan at the member’s Annuity Starting Date to the annual amount of the immediately commencing Straight Life Annuity under the Plan at age 62, both determined without applying the limitations of this Section 9-07-17.

Notwithstanding the foregoing, no age adjustment to the Maximum Permissible Benefit shall be required for commencement of benefits before age 62 for any member who is a full-time employee of any police department or fire department that is organized and operated by the city to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of the city and with respect to whom the service taken into account in determining the amount of the benefit under the plan includes at least 15 years of service of the member. For purposes of this section, only the classification of the city, not the job classification of the member, is relevant in
(iv) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age 65:

(1) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the Maximum Permissible Benefit for the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under subsection (i) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (A) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (B) a five-percent (5%) interest rate assumption and the applicable mortality table under Section 417(e)(3) for the calendar year in which the Annuity Starting Date occurs.

(2) Limitation Years Beginning on or After July 1, 2007.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing Straight Life Annuity payable at both age 65 and the age of benefit commencement, the Maximum Permissible Benefit at the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible Benefit (adjusted under subsection (i) for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) for the calendar year in which the Annuity Starting Date occurs (and expressing the member’s age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning on or after July 1, 2007, and the plan has an
immediately commencing Straight Life Annuity payable at both age 65 and the age of benefit commencement, the Maximum Permissible Benefit at the member’s Annuity Starting Date is the lesser of the limitation determined under subsection 3(b)(iv) and the Maximum Permissible Benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the Plan at the member’s Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the Plan at age 65, both determined without applying the limitations of this Section 9-07-17. For this purpose, the adjusted immediately commencing Straight Life Annuity under the Plan at the member’s Annuity Starting Date is the annual amount of such annuity payable to the member, computed disregarding the member’s accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

(v) Notwithstanding the other requirements of this section, no adjustment shall be made to the Maximum Permissible Benefit to reflect the probability of a member’s death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member’s death if the Plan does not charge members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the member’s death.

(vi) Minimum benefit permitted: Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(1) the retirement benefits payable for a Limitation Year under any form of benefit with respect to such member under this Plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the city do not exceed $10,000 multiplied by a fraction – (a) the numerator of which is the member’s number of Years (or part thereof, but not less than one year) of Service (not to exceed ten (10)) with the city, and (b) the denominator of which is ten (10); and
(2) the city has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory member contributions under a defined benefit plan, individual medical accounts under Code Section 401(h), and accounts for post-retirement medical benefits established under Code Section 419A(d)(1) are not considered a separate defined contribution plan).

c. "Straight Life Annuity" means an annuity payable in equal installments for the life of a member that terminates upon the member's death.

4. Application of Code Section 415. Notwithstanding any other provision of the plan, this Section shall be construed in a manner which is consistent with Code Section 415 (which is hereby incorporated herein.) and the rulings and regulations issued there under.

(Ord. 5041, 04-11-00; Ord. 5153, 01-08-02; Ord. 5225, 01-07-03; Ord. 5749, 12-22-09)

9-07-18. Money Drawn; How Paid; Report. All pensions paid and all moneys drawn from the pension fund under the provisions of this chapter shall be upon checks authorized by the board of trustees, and issued by the treasurer of the board, which shall designate the name of the person and purpose for which payment is made. The treasurer's annual report shall show the receipts and expenditures of the fund for the preceding fiscal year, the money on hand and how invested. The report shall be made to the board of trustees and shall be filed with the clerk of the board.

9-07-19. Reduction of Pension. Whenever the amount realized from the tax levy, assessment upon salary, fees, gifts and grants as provided for, shall be insufficient to meet the demands of the withdrawals due to retirement or disability, the board of trustees shall have the power and authority, in order to safeguard the future of this plan and for the future purpose of ensuring that there shall be no accumulated liability upon the city for unpaid pensions, to make the adjustments and the apportionments of the pensions to be paid as in their judgment will safeguard the pension fund and protect the city from any accumulative liability for pension except such as is provided by the amount of levy authorized by the city employees' pension law. For that purpose and to that end the board of trustees may in their judgment make such reductions and apportionments in the payments of the amount to the employees entitled to a pension or their dependents as is available and increase contributions in a manner to safeguard the future of the pension plan.

9-07-20. Direct Rollovers

1. General Rule. If a “distributee” of any “eligible rollover distribution”:

   (a) elects to have such eligible rollover distribution paid directly to an “eligible retirement plan,” and

   (b) specifies the eligible retirement plan to which such eligible rollover distribution is to be paid (in such form and at such time as the city may prescribe), such eligible rollover distribution shall be made in the form of a “direct rollover” to the eligible retirement plan so specified by the distributee.
2. Definitions.

A “direct rollover” is an eligible rollover distribution that is paid directly to an eligible retirement plan for the benefit of the distributee.

“Distributee” means the employee or the surviving spouse of an employee.

An “eligible retirement plan” is an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity (other than an endowment contract) described in Internal Revenue Code Section 408(b), a qualified defined contribution retirement plan that accepts rollover distributions, or an annuity plan described in Internal Revenue Code Section 403(a) that accepts rollover distributions. Notwithstanding the foregoing, if the distributee is the employee’s surviving spouse, “eligible retirement plan” shall mean either an individual retirement account or an individual retirement annuity (other than an endowment contract).

For the purposes of the direct rollover provisions in this Section 9-07-20, for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p).

“Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of an employee in a qualified plan, provided, however, that an eligible rollover distribution does not include:

(a) any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, for the life or life expectancy of the distributee, or for the joint lives or life expectancies of the distributee and his or her spouse or designated beneficiary, or for a specified period of 10 years or more;

(b) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9), relating to minimum distribution requirements; or

(c) the portion of any distribution that is not includible in income.

3. Procedures.

(a) In General. The city may prescribe any procedure for a distributee to elect a direct rollover provided the procedure is reasonable. Such procedure
may include any reasonable requirement for information or documentation from the distributee.

(b) Notice and Waiver of Notice Period. At least thirty (30) days and no more than ninety (90) days before making any distribution subject to this section 9-08-19, the city shall provide to the distributee a written explanation of the rules concerning direct rollovers, income tax withheld on distributions not rolled over, and any other information required by Internal Revenue Code Section 402(f) (the “402(f) notice”). Such distribution may commence less than 30 days after the 402(f) notice is given, provided that: (i) the city clearly informs the employee that the employee has a right to a period of at least 30 days after receiving the 402(f) notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (ii) the employee, after receiving the 402(f) notice, affirmatively elects a distribution.

(c) $500 Rule. A distributee may elect to have a portion of an eligible rollover distribution paid to an eligible retirement plan in a direct rollover and to have the remainder paid to the distributee only if the portion paid to the eligible retirement plan equals at least $500.

(d) Direct Rollover to One Account Only. An eligible rollover distribution (or portion thereof) may be distributed in a direct rollover only to a single eligible retirement plan selected by the distributee.

(e) $200 Rule. A distributee may not elect a direct rollover with respect to eligible rollover distributions during a year if such distributions are reasonably expected to total less than $200.

(f) Method of Making a Direct Rollover. The city may accomplish a direct rollover by any reasonable means of direct payment to an eligible retirement plan including providing a distributee with a check payable to the eligible retirement plan with instructions to the distributee to deliver the check to the eligible retirement plan.

(g) Default Option. If the distributee does not so elect or does not provide the required information in the form and at the time required by the city, the city shall direct that the distribution be made directly to the distributee and to withhold income taxes on such distribution equal to 20% of the value of such distribution (or such other amount provided under Internal Revenue Code Section 3405(c), as amended). Provided, however, that the city shall not make a distribution under this default option earlier than the date which is 60 days after the distributee is provided with the 402(f) notice. The city shall not withhold tax from an eligible rollover distribution if such distribution is not subject to a direct rollover election because the distribution was not reasonably expected to total $200 in the year.

(h) Periodic Payments. If a distribution subject to this section 9-07-20 is to be paid in a series of periodic payments that are eligible rollover distributions, the following rules shall apply:
(i) a distributee's election to make or not make a direct rollover with respect to a single payment shall control whether a direct rollover is made of all subsequent payments unless the distributee changes the previous election; and

(ii) the city shall provide the 402(f) notice described in the foregoing paragraph at least once annually for as long as the periodic payments continue.

(Ord. 5153, 01-08-02; Ord. 5268, 08-12-03)

9-07-21. Pension Claims Theretofore Allowed. There shall be paid out of the pension fund pension claims theretofore allowed in the same amounts as were in effect on the date discontinuance of the employees' pension plan under Article 2 of Chapter V of the Revised Ordinances of 1966, until the death or disqualification of the pension claimant in the same manner as if the plan had been discontinued.

9-07-22. Variable Annuity; Application of Contributions Thereto.

1. For receipt of any benefits, a member must make application through the city and such benefits will be paid by and controlled by the city. Benefit payments from an executed trust agreement or contract with an insurance company will be paid to the city for distribution of the eligible recipient.

2. Prior to January 1, 2005, a member may have the option of having his or her contributions invested in fixed income investments or equity variable income investments or any permissible combination. Effective January 1, 2005, members shall have no investment authority with regard to any assets of the plan, including contributions made pursuant to Section 9-07-01 and earnings thereon. The City shall direct the investment of all plan assets.

3. The pension benefits available under section 9-07-15(1)-(3) shall be provided from all plan assets, whether contributed pursuant to Section 9-07-01 or Section 9-07-09 or whether attributable to earnings on such contributions.

4. Effective January 1, 2005, all contributions made prior to January 1, 2005, pursuant to Section 9-07-01 on behalf of an employee plus net investment earnings thereon up to an amount that is equal to said contributions plus interest at five percent per annum accumulated through December 31, 2004, shall be transferred into the control of the City to be used to pay benefits as provided in this chapter and shall no longer be invested at the direction of the employee. If, as of January 1, 2005, said contributions plus net earnings exceeds an amount that is equal to said contributions plus interest at five percent per annum accumulated through December 31, 2004, the excess amount will be determined and will be placed into an account that will continue to be invested at the direction of the employee (hereinafter the "excess amount"). No further contributions made pursuant to Section 9-07-01 or any other provision of this chapter shall be directed into an employee's excess account or be subject to the investment direction of the employee.
5. Notwithstanding any provision to the contrary, forfeitures of benefits under this pension retirement system because an employee leaves the employ of the city for any reason shall not be used to increase the pension benefits any member would otherwise receive under the plan at any time prior to termination of the plan or the complete discontinuance of contributions, and any amounts so forfeited shall be used as soon as possible to reduce the city's contributions under the plan.

(Ord. 5041, 04-11-00; Ord. 5153, 01-08-02; Ord. 5376, 12-28-04)

9-07-23. Recognized Service. Recognized service prior to December 28, 1971, shall be based upon recognized service according to the city's record as applicable under the pension ordinances in effect at that time. Recognized service subsequent to that time shall be defined as full and fractional years of service during which (a) the employee contributed to the city employee pension fund pursuant to section 9-07-01 and (b) the employee was a participant pursuant to section 9-07-11.

(Ord. 5153, 01-08-02)


1. It is hereby expressly provided that upon the partial or complete termination of the city employees' pension system, or upon the complete discontinuance of contributions hereunder, the rights of each employee to benefits accrued to the date of termination or discontinuance, to the extent then funded, or the rights of each employee to the amounts credited to his or her account at the time, shall become nonforfeitable. This requirement shall not apply in respect to benefits for the twenty-five highest paid employees to the extent such benefits may be restricted in the event of early termination in accordance with the requirements of section 9-07-25.

2. It is further provided that any previously unallocated funds shall be allocated to the employees covered by this program in the event of termination or complete discontinuance of contributions under the city employees' pension system. The allocation shall be in the following order. The total allocation shall represent the actuarial reserve requirements for benefits accrued under the plan and may be distributed either in the form of cash or deferred annuities.

   (a) All employees' total contribution accounts with accumulated income.

   (b) All retired participants of beneficiaries receiving payments (reserves in excess of (a) above).

   (c) All vested participants (reserves in excess of (a) above).

   (d) All others (reserves in excess of (a) above). In the event there are not sufficient assets to fully comply with the reserve requirements of any of the groups defined above the total remaining assets shall be allocated to that group on a pro rata basis based upon actuarial reserve requirements.

3. In no event shall the city receive any amounts from the pension fund upon termination of the city employees' pension system, except that, and notwithstanding any
other provision of the plan, the city shall receive such amounts, if any, as may remain after the satisfaction of all liabilities of the plan and arising out of any variations between actual requirements and expected actuarial requirements.

(Ord. 5153, 01-08-02)

9-07-25. Early Termination.

1. If the plan is terminated or the full current costs are not met within ten years after its establishment or until the full current costs are funded for the first time, the amount of the fund to be used for the benefit of any employee or the beneficiary of any employee who is among the twenty-five highest paid employees of the employer at the time the plan is established, and whose anticipated annual benefit exceeds one thousand five hundred dollars ($1,500.00) shall not exceed the larger of twenty thousand dollars ($20,000.00) or twenty percent of the first fifty thousand dollars ($50,000.00) of his or her annual average compensation multiplied by the number of years between the effective date of this agreement, and
   (a) Termination of the plan;
   (b) Date the benefit of the employee becomes payable, if before the date of termination of the plan;
   (c) Date of the failure to meet the full current costs of the plan;
   (d) Any excess reserves arising by application of the foregoing provisions shall be used and applied equitably for the benefit of other employees, retired employees and their beneficiaries and beneficiaries of deceased retired employees on the basis value of the respective portions of the full retirement allowance accrued to the date of the termination of the plan to such employees.

2. If a participant to whom this limitation may be applied leaves the employ of the city or withdraws from participation, prior to his or her normal retirement date, when the full current costs have been met, the benefits which he or she may receive from the employer’s contributions shall not at any time, within the first ten years after the effective date, exceed the benefits set forth in paragraph (1).

3. The foregoing conditions shall not restrict the current payment of any retirement allowance called for by the plan to any retired employee or his or her spouse while the plan is in full effect and its full current costs have been met.

(Ord. 5153, 01-08-02)

Revision Date: 12/22/09
THE BISMARCK POLICE EMPLOYEES' PENSION PLAN

SUMMARY

The following summary has been prepared for valuation purposes only. It outlines the Provisions found in Chapter 9-08 (Police Pension) necessary to perform the Actuarial Valuation, as interpreted by Stanton Group.

DEFINITIONS

Actuarial Equivalence Factors

In calculating the actuarial equivalence of one form of benefit to another, the interest rate to be used shall be 7.0% and the mortality table to be used shall be the “applicable mortality table” as defined by Section 417(e)(3) of the Code (9-08-10).

Average Basic Monthly Compensation

The average of the monthly base compensation of a Participant over the highest 36-month period of employment. Monthly base compensation excludes overtime, bonuses, severance payments, and other remuneration in excess of base compensation (9-08-15(1)).

Effective Date of the Plan

January 1, 1972

Early Retirement Date

Participants who have completed sixty (60) consecutive months of contributing service and have attained age forty-eight (48) are eligible for a monthly pension benefit (9-08-15(2)).

Membership Fee

Every full-time police employee shall be assessed and required to pay an amount of 9.4% of their basic salary (changed from 6.0% for years prior to 1/1/2005) (9-08-01).

Normal Form of Benefit

Married Participants receive a Joint & Two-Thirds to Survivor annuity. Single Participants receive a Life Only annuity.

Normal retirement Date

Participants who have attained age fifty-five (55) are eligible for a monthly pension benefit (9-08-15(1)).
Plan Year

January 1 through December 31 (9-08-08).

Recognized Service

Full and fractional years of contributing service during which the employee contributed to the fund (9-08-22). Military service will be included as part of the period of service with the City provided that the period does not exceed five (5) years and the employee pays into the fund 9.4% of the lesser of the last full year’s police salary or military salary for each year of military service (changed from 6.0% for years prior to January 1, 2005) (9-08-05).

PLAN PROVISIONS

Eligibility

Every full-time police employee shall be included (changed from all full-time police employees after thirty (30) days of service effective May 10, 2005) (9-08-11).

Normal Retirement Benefit

Participants serving until the Normal Retirement Date are eligible for a monthly pension benefit computed by multiplying his or her highest thirty-six (36) months of Average Basic Monthly Compensation times 2.5% times his or her number of full and fractional years of Recognized Service (changed from 2.0% effective January 1, 2005). The monthly pension benefit payable shall not exceed 90% of Average Basic Monthly Compensation (9-08-15(1)).

Early Retirement Benefit

The monthly pension benefit shall be equal to the Normal Retirement Benefit actuarially reduced for payments commencing prior to age 55 (9-08-15(2)). The reduction factors are as follows:

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Termination Benefit

After sixty (60) consecutive months of contributing service and termination of employment, a Participant may elect a deferred retirement benefit to commence at an elected age forty-eight (48) to fifty-five (55). The Participant’s deferred benefit shall equal the Normal Retirement
Benefit (based on service and compensation to the date of termination) actuarially reduced for early commencement (9-08-15(3)).

**Death Benefit**

The surviving spouse (while unmarried) receives 2/3 of the actuarially reduced pension to which the Participant would have been entitled, but not less than $100.00 per month provided the Participant served at least sixty (60) consecutive months of contributing service (9-08-15(4)).

The surviving spouse has the option to elect a refund of contributions in lieu of the above-mentioned benefit (9-08-15(5)).

If there is no surviving spouse, the Participant’s contributions are paid to the Participant’s estate (9-08-15(6)).

**Refund of Contributions**

Any Participant who has contributed to the plan and terminates employment before being entitled to a pension shall be entitled to a refund of all contributions made by him to the pension system with accumulated interest. Interest of 5% per year will be credited on such contributions made after July 1, 1972. Interest is 2.5% per year will be credited on such contributions made prior to July 1, 1972.

Any Participant electing a refund of contributions forfeits all rights to any other form of benefit under this plan (9-08-14).

**Cost of Living Adjustments**

Persons receiving pension payments shall be eligible for cost of living adjustments in an amount determined by the Board of Trustees. The adjustment may not exceed the lesser of the City employee’s salary adjustment or 3% (9-08-16).

Approval Date: 01/28/97
Revision Date: 05/07/08, 05/10/05, 01/01/05, 04/04/97
CHAPTER 9-08, POLICE PENSION

9-08-01. Membership Fee; Assessments. Every full-time police employee who is a member of the police pension shall be assessed and required to pay an amount of six percent upon the amount of the basic salary that would be paid to said employee but for this provision, which assessment shall be deducted and retained out of such salary. Effective January 1, 2005, "six percent" in the foregoing sentence shall be replaced with "9.4 percent."

For all calendar years after December 31, 1983, and prior to January 1, 1999:

1. Although these assessments may be designated as employee contributions, they are deemed to have been paid to the police department employee’s pension fund by the city in lieu of contributions by the employee; and

2. All full-time police employees under city civil service shall be deemed as having no option to receive the contributed amounts directly, except as provided in section 9-08-14.

For all calendar years after December 31, 1998:

1. Although these assessments may be designated as employee contributions, they are being paid to the police department employees’ pension fund by the city in lieu of contributions by the employees; and

2. All full-time police employees have no option to receive the contributed amounts directly, except as provided in section 9-08-14.

(Ord. 4943, 09-22-98; Ord. 5042, 04-11-00; Ord. 5366, 11-09-04; Ord. 5555, 10-24-06)

9-08-02. Board of Trustees and Duties. The chief of police, two members of the police department appointed by the chief of police, each with no less than eight years of service, and two elected members of the police department, each with no less than eight years of service, shall constitute the board of trustees for the management of the police pension plan and the fund created for the same. The appointed and elected trustees shall be chosen by and from employees of the police department who are currently contributing members of the police pension plan. The election for the elected trustees shall be held on the second Tuesday in June of each year and each elected trustee shall serve for a two-year term. Each appointed trustee shall serve for a two-year term.

In the event of the death, retirement, resignation or other incapacitation of an elected or appointed trustee occurring more than ninety days prior to expiration of his or her term, a special election will be conducted within thirty days to fill the unexpired term of an elected trustee and the chief of police shall appoint a qualified member to fill the unexpired term of an appointed trustee. The terms of elected and appointed trustees shall commence on July 1 of the year elected or appointed.

The chief of police shall be president, the board shall elect a vice president, and the chief financial officer of the city shall act as treasurer of the board. The director of human resources shall act as clerk of the board and shall keep such records and accounts as the board may direct. Trustees shall not receive any compensation for their services as members of the board. The board shall have such powers and perform such duties as may be provided by law.

(Ord. 5151, 01-08-02; Ord. 5608, 06-26-07)
9-08-03. **Investment of Surplus.** At the end of the fiscal year, the board of trustees may invest any surplus left in the police department employees’ pension fund, but no part of moneys realized from any tax levy shall be used for any purposes other than the payment of pensions. Surplus funds may be invested in interest-bearing bonds of the United States or the state, or bonds or warrants of any county, township, or municipal corporation of this state which constitutes the general obligations or contingent general obligations of the issuing tax authority, or investments with any federally-insured bank or savings and loan association. All securities shall be deposited with the treasurer of the board for safekeeping. The board may also invest all or part of surplus funds in other investments by selecting a funding agent or agents and establishing an investment agreement contract regarding surplus funds. The contract shall authorize the funding agent or agents to hold and invest funds for the board. Funds shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

In no event shall any part of the city police department employees’ pension fund be paid to or become vested in the city, or be used for any purpose whatsoever other than for the exclusive benefit of contributing members, former contributing members and their beneficiaries, except as provided in section 9-08-21 and section 9-08-23, except that contributions of the city may be returned if:

1. The contribution was conditioned on the qualification of the plan under Internal Revenue Code Section 401(a), the plan does not so qualify and the contribution is returned within one year after the plan is found to not so qualify; or

2. The contribution was made due to a mistake of fact, the contribution is returned within one year of the mistaken payment of the contribution and the return satisfies the requirements of the last paragraph of this section.

The return of a contribution (or a portion of a contribution) to the city satisfies the requirements of this paragraph if the amount so returned (a) does not exceed the excess of the contribution over the amount which could have been contributed and there has been no mistake of fact; (b) does not include the net earnings attributable to such excess contributions; and (c) is reduced by any net losses attributable to the excess contribution.

(Ord. 5042, 04-11-00)

9-08-04. **Gifts, Devises or Bequests.** The board may take by gift, grant, devise, or bequest any money or property, real or personal, or other thing of value for the benefit of the fund. All rewards, in moneys, fees, gifts, or emoluments of any kind or nature that may be given to the police department or to any member, except when allowed to be retained or given for endowing a medal or other permanent or competitive reward on account of extraordinary services rendered by this city or any employee shall be paid into the pension fund.

(Ord. 5151, 01-08-02)

9-08-05. **Military Service.** Any member of the police department of the city subject to the provisions of this chapter who has resigned or who shall resign to service in the Army, Navy, Air Force or Marine Corps, or Reserves of the United States, or who shall have been selected for training under the Selective Service Provisions of the Laws of the United States and who has returned with an honorable discharge, or other document showing honorable service, and who applies for reemployment with the city within 90 days of discharge, shall have
a period of military service included as part of his or her period of service in the city, provided that credit allowed for military service shall not exceed a total of five years. Any employee who seeks credit for military service shall, upon return to the employment of the city, pay into the fund for each year of military service nine and four tenths percent (9.4%) of the last full year’s salary paid by the city, or annual military pay, whichever is the lesser amount. Notwithstanding the foregoing, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

(Ord. 5042, 04-11-00; Ord. 5402, 04-12-05)

9-08-06. Retired Employees, Re-employment. The chief of police may hire any former employee of this city retired under the provisions of this chapter 9-08, chapter 9-07 or the Bismarck Fire Fighters Relief Association pension plan, to work part-time for the department. The salary received by any person so employed plus the pension received under the terms and provisions of this chapter 9-08, chapter 9-07 or the Bismarck Fire Fighters Relief Association pension plan shall not exceed the regular pay for the position from which the employee has retired. All part-time positions must be filled pursuant to chapter 9-03.

(Ord. 5571, 01-09-07)

9-08-07. Exemption. All pensions paid under the provisions of this chapter shall not be subject to assignment and shall be exempt from liability for debts of the person to or on account of whom they are paid, and shall not be subject to seize upon execution or other process. The foregoing prohibition on assignment and seize and exemption from liability expressly includes exemption from assignment, seize or liability pursuant to any domestic relations order, including divorces, decrees and child or spousal support orders.

(Ord. 5151, 01-08-02)

9-08-08. Fiscal Year. The fiscal year for the fund shall commence on the first day of January of each year and terminate on the 31st day of December of the same year. The fiscal year shall be considered the limitation year for purposes of Internal Revenue Code Section 415.

(Ord. 5042, 04-11-00)

9-08-09. Contribution of City. The board of city commissioners shall annually levy a tax as may be needed to maintain the pension fund in a sound actuarial condition, the proceeds of which shall be placed in the police pension fund. The levy shall be in addition to any other levies authorized by law for a general purpose; provided, however, that when there is sufficient balance in the fund to meet any proper or legitimate charges that may be made against it, the city shall not be required to levy a tax for this purpose.

(Ord. 5151, 01-08-02)

9-08-10. Actuary. The pension and retirement system shall be based upon actuarial tables and the board of trustees shall, from time to time, be empowered to engage the services of an actuary for the purpose of determining the condition of the fund. The actuary shall be paid by check issued by the board of trustees in a reasonable amount determined by the board of trustees.

In calculating the actuarial equivalence of one form of benefit to another, the interest rate to be used shall be 7% and the mortality table to be used shall be the “applicable mortality table”, defined as the mortality table based upon the Internal Revenue Service Commissioner's
standard table used to determine reserves for group annuity contracts issued on the date as of which present value is determined, as published by the Department of the Treasury for purposes of Section 417(e)(3) of the Code.

Notwithstanding the foregoing, effective January 1, 2000, for the purpose of determining the lump sum value of a participant's benefit, the interest rate shall be the "applicable interest rate", defined as the annual interest rate on 30-year United States Treasury Securities as published by the Department of the Treasury and Federal Reserve as in effect for the second month (the "look-back month") preceding the first day of the "stability period." The "stability period" shall be the plan year.

(Ord. 5226, 01-07-03)

9-08-11. Persons Included. Every full-time police employee shall be included in this pension fund. Non-sworn police employees beginning employment after December 31, 2006, shall be members of the city employees' pension plan.

(Ord. 5411, 05-10-05; Ord. 5555, 10-24-06)

9-08-12. Notice of Change in Status. It shall be the duty of the chief of police to give immediate notice to the director of human resources of the change in pension status of any member of the police department subject to the provisions of this chapter as the result of death or other cause, and he or she shall furnish such other information concerning any member as the board of trustees may require.

(Ord. 5151, 01-08-02)

9-08-13. Regulations Governing Fund. The board of trustees shall be authorized from time to time to adopt such regulations as may be deemed necessary, consistent with the terms and provisions of this chapter governing the operation of the fund and the requirements as to members and payments to beneficiaries. Each member and beneficiary shall be subject to all the provisions of this chapter and to all the rules and regulations adopted by the board of trustees, and shall furnish to the board of trustees such information affecting his or her status as a member or beneficiary of the system as the board of trustees may require.

9-08-14. Refund of Contribution. Any employee of the police department subject to provisions of this chapter who has contributed to the pension and retirement system adopted under Chapter 174 of the Sessions Law of 1936, continued on to Chapter V of the Revised Ordinance of 1966, or revised ordinances of 1973, and discontinued, who leaves employment shall be entitled upon application at the time of termination of employment to a refund of the employee's "entire interest." The employee's entire interest shall be the sum of all an employee's contributions made under Section 9-08-01 plus interest earnings at two and one-half percent (2.5%) per annum on contributions made through 1972 and plus interest earnings at five percent (5%) per annum on all employee contributions thereafter. No rights to pension benefits shall accrue to any employees or their beneficiaries during any leave of absence, except this clause shall not be construed to deprive any employee of pension benefits accrued during the regular annual leave or sick leave or absence duly granted, as provided by this chapter, nor to any employee referred to in section 9-08-05.

Notwithstanding any other provision of this chapter, effective with respect to distributions on or after March 28, 2005, any account with a value that exceeds $1000, including any rollover amounts, shall not be distributed to the participant during his/her lifetime.
and prior to his/her normal retirement date as set in this chapter, without the consent of the participant.

Any member of this pension retirement system who leaves the employment of the police department and elects a refund in accordance with this section forfeits all rights to any other form of benefit under this pension retirement system.

(Ord. 4945, 09-22-98; Ord. 5042, 04-11-00; Ord. 5151, 01-08-02; Ord. 5378, 12-28-04; Ord. 5573, 03-13-07)

9-08-15. Pension Eligibility; Computations; Required Distributions. Every member of the police department who is a participant in the police pension fund pursuant to Section 9-08-11 or the surviving spouse of any such employee who is deceased, provided said participant or said surviving spouse has made application to the board of trustees and been certified by the board of trustees as entitled to a pension, shall be paid out of the police pension fund an amount determined in accordance with the following:

1. Any contributing member who has served in active employment until the age of fifty-five is eligible for a monthly pension benefit computed by multiplying his or her highest thirty-six months (or total months of employment, if less) of average basic monthly compensation times two percent and then multiplying that resultant product by his or her number of full and fractional years of recognized service as defined in Section 9-08-22. Effective January 1, 2005, "two percent" in the foregoing sentence shall be replaced with "two and a half percent." Effective January 1, 2005, the maximum monthly pension benefit payable shall not exceed ninety percent of the average of the participant's compensation for the highest thirty-six months of his or her employment as a member of the police department.

"Average basic monthly compensation" means the average of the monthly base compensation of a participant over the thirty-six month period described above. "Monthly base compensation" means the monthly base compensation paid by the city to the participant, excluding the following:

(a) overtime;
(b) bonuses;
(c) severance payments; and
(d) other remuneration in excess of base compensation.

All elective contributions made by the city on behalf of an employee that are not includible in the gross income of the employee under Code Sections 125, 132(f)(4), 402(e)(3), 402(h) and 403(b) shall be included in monthly base compensation.

Effective for benefits accruing after December 31, 1988, the annual compensation of each employee taken into account under the plan shall not exceed $200,000 ($150,000 for fiscal years beginning on or after January 1, 1996), as adjusted by the Secretary of the Treasury for the cost of living adjustments. For fiscal years prior to January 1, 1997, in determining the compensation of an employee, the rules of Internal Revenue Code Section 414 (q)(6) shall apply, except that the term "family" shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the plan year.
2. Any contributing member who has served at least sixty consecutive months of contributing service in the employment of the police department and has attained at least age forty-eight is eligible for a monthly pension benefit. Notwithstanding the foregoing, with respect to any member who terminated employment or retired from the city prior to January 1, 2002, the phrase "sixty consecutive months" in the foregoing sentence shall be replaced with "one hundred twenty (120) consecutive months." The monthly pension benefit shall be equal to the accrued normal retirement benefit as determined under subsection 1 of this section 9-08-15 and then multiplied by the actuarial factor set forth below, interpolated to the nearest monthly age at the date upon which the pension benefits commence.

<table>
<thead>
<tr>
<th>Age</th>
<th>Actuarial Equivalent Factor</th>
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<td>48</td>
<td>.6070</td>
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<td>49</td>
<td>.6492</td>
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<td>52</td>
<td>.8004</td>
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<td>53</td>
<td>.8607</td>
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<tr>
<td>54</td>
<td>.9270</td>
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3. Any contributing member who has served at least 60 consecutive months of contributing service in the employment of the police department and terminates employment with the police department may elect a deferred retirement benefit to commence at an elected age from age forty-eight to fifty-five. Notwithstanding the foregoing, with respect to any member who terminated employment with the city prior to January 1, 2002, the phrase "60 consecutive months" in the foregoing sentence shall be replaced with "one hundred twenty (120) consecutive months." The deferred benefit shall be equal to the member's accrued normal retirement benefit as determined under subsection 1 of this section 9-08-15, (based upon service and compensation to the date of employment termination) multiplied by the actuarial equivalent factor set forth in subsection 2 of this section 9-08-15 determined on the basis of the age elected for deferred benefits to commence.

4. To the surviving spouse as long as he or she remains unmarried, a sum equal to two-thirds of the amount of pension earned by the member under this plan to the date of his or her death, but not less than one hundred dollars ($100.00) per month, provided the employee served at least sixty consecutive months of contributing service in the employment of the police department. Notwithstanding the foregoing, with respect to any member who died prior to January 1, 2002, the phrase "sixty consecutive months" in the foregoing sentence shall be replaced with "one hundred twenty (120) consecutive months." The term "surviving spouse" shall mean only the surviving spouse of a deceased employee if such spouse was married to the employee on the date the employee separated from service and the separation from service occurred after the plan’s effective date, or of an employee who retired prior to the date this plan took effect if such spouse was married to such employee on the plan’s effective date.
5. A surviving spouse has the option to withdraw all of the employee's entire interest, as defined in Section 9-08-14. A surviving spouse who elects to withdraw an employee's entire interest does so in lieu of all benefits outlined in subsection 4 of this section.

6. If there is no surviving spouse, then the employee's entire interest, as defined in Section 9-08-14, will be paid to the employee's estate.

7. **Distribution Upon Death.**

   (a) Death After Commencement of Benefits. If distribution of an employee's interest has begun in accordance with subsection 1, 2 or 3 of this section 9-08-15, and the employee dies before his entire interest has been distributed to him or her, then the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of his or her death.

   (b) Death Before Commencement of Benefits. If an employee dies before distribution of the employee's interest has begun, the entire interest of the employee shall be distributed no later than December 31 of the calendar year which contains the fifth anniversary of the date of the employee's death.

   This five-year distribution rule shall not apply if: (1) any portion of the employee's interest (or of the deceased spouse of such employee, as provided below) is payable to or for the benefit of a designated beneficiary, as determined pursuant to Proposed Treasury Regulation § 1.401(a)(9)-1 (or any successor regulation); (2) this portion will be distributed over the life of the designated beneficiary (or over a period not extending beyond the life expectancy of the designated beneficiary); and (3) the distributions commence no later than December 31 of the calendar year immediately following the calendar year in which the employee died. If the surviving spouse is the beneficiary and dies before payments are deemed to have begun, the five-year distribution rule and the exception to it stated in this paragraph are to be applied as if the surviving spouse were the employee and the spouse's date of death shall be substituted for the employee's date of death.

   This five-year distribution rule shall also not apply if: (1) the portion of the employee's interest to which the surviving spouse is entitled will be distributed over the life of the surviving spouse (or over a period not extending beyond the life expectancy of the surviving spouse, which may be recalculated not more frequently than annually); and (2) the distributions commence on or before the later of December 31 of the calendar year in which the employee would have attained age 70½ or December 31 of the calendar year immediately following the calendar year in which the employee died.

   (c) Designated Beneficiary. For purposes of this section, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.
8. Required Distributions. Notwithstanding any provision of the plan to the contrary, the following provisions shall control:

(a) General Rule. The entire interest of each employee shall be distributed to such employee not later than the required beginning date (as defined below), or will be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary).

(b) Required Beginning Date. For purposes of this section, the term "required beginning date" means April first of the calendar year following the later of (i) the calendar year in which the employee attains age seventy and one-half or (ii) the calendar year in which the employee retires.

Any participant who attains age 70½ on or prior to December 31, 2001, shall be entitled to commence distributions on the required beginning date set forth in the foregoing sentence or, if earlier, as of April 1 of the calendar year immediately following the calendar year in which the participant attains age 70½. Any participant who attained age 70½ prior to January 1, 2001, and who has not yet terminated employment with the City, may elect to stop distributions and recommence distributions by the April 1 of the calendar year following the year in which the participant retires. The recommencement of distributions shall not be considered a new annuity starting date for which spousal consent is required, except as spousal consent may be required under IRS Notice 97-75, 1997-2 C.B. 337.

(c) Designated Beneficiary. For purposes of this section, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.

(d) Continued Service Beyond Age 55. An employee may at his or her own request be continued in employment beyond age 55. In such event no retirement benefit will be paid to such employee until he or she actually retires, subject, however, to any required minimum distributions pursuant to Section 9-08-15. Such an employee shall continue to accrue credit for years of service after attainment of age 55 and changes in average basic monthly compensation shall also be taken into account.

(e) With respect to distributions under the police pension plan made for calendar years beginning on or after January 1, 2001, the plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.
Notwithstanding any other provision of this chapter to the contrary, effective July 1, 1974, any surviving spouse currently receiving less than one hundred dollars ($100.00) per month shall commence to receive one hundred dollars per month. 
(Ord. 4300, 10-17-89; Ord. 4997, 07-13-99; Ord. 5042, 04-11-00; Ord. 5151, 01-08-02; Ord. 5226, 01-07-03; Ord. 5366, 11-09-04; Ord. 5378, 12-28-04)

9-08-16. **Cost of Living Adjustment Procedure.** Persons receiving pension payments under the provision of this chapter shall be eligible for cost of living adjustments in an amount determined by the board of trustees. The adjustment, if any, will be effective at the same time as the city employees' salary adjustment is made in the same year. The adjustment may not exceed the lesser of:

1. The city employees' adjustment; or
2. 3%.

Cost of living adjustments shall be made in respect to pensioners and surviving spouses who are receiving pension benefits at the time the cost of living adjustments are made hereunder. 
(Ord. 4879, 12-09-97; Ord. 5042, 04-11-00; Ord. 5151, 01-08-02)

9-08-17. **Optional Settlements and Life Annuity Limitations.** Any optional settlements under this plan shall be limited to the life expectancy of the participating member or the surviving spouse of the participating member. In no event is an "interest only" option permissible whereby the total payout would extend beyond the life expectancy of the member and the member's spouse. The following restrictions and limitations shall apply to benefit payments.

1. **Benefit Limited to Maximum Permissible Benefit.** The Annual Benefit otherwise payable to a member at any time shall not exceed the Maximum Permissible Benefit. If the benefit the member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the rate of accrual shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

2. **Adjustment if in Two or More Defined Benefit Plans.** If the member is, or has ever been, a member of another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the city, the sum of the member's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the member's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Maximum Permissible Benefit applicable at that age, the city shall limit a member's benefit in accordance with the terms of the plans.

3. **Definitions.** For purposes of this Section 9-08-17, the following terms shall have the respective meanings set forth below, unless expressly provided for herein, and when the defined meaning is intended, the term is capitalized.

   a. "Annual Benefit" means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided below, where a benefit is payable in a Straight Life Annuity, the benefit shall be adjusted to an actuarially
equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month before applying the limitations of this Section 9-08-17. For a member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Section 9-08-17 as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Regulations Section 1. 401(b)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)-1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (1) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member’s benefit were paid in another form; (2) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or (3) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Section 9-08-17, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 9-08-17 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to member contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a Straight Life Annuity shall be made in accordance with (i) or (ii) below.

(i) Benefit forms not subject to Code Section 417(e)(3). The Straight Life Annuity that is actuarially equivalent to the member’s form of benefit shall be determined under this subsection (i) if the form of the member’s benefit is either (1) a nondecreasing annuity (other than a Straight Life Annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (2) an annuity that decreases during the life of the member merely because of (A) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (B) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).
(1) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, the actuarially equivalent Straight Life Annuity is equal to the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member’s form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (II) 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs.

(2) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, the actuarially equivalent Straight Life Annuity is equal to the greater of (a) the annual amount of the Straight Life Annuity (if any) payable to the member under the Plan commencing at the same Annuity Starting Date as the member’s form of benefit; and (b) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member’s form of benefit, computed using a 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs.

(ii) Benefit Forms Subject to Code Section 417(e)(3). The Straight Life Annuity that is actuarially equivalent to the member’s form of benefit shall be determined under this paragraph if the form of the member’s benefit is other than a benefit form described in subsection 3(a)(i) above. The actuarially equivalent Straight Life Annuity is equal to the greatest of (a) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member’s form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (b) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member’s form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table under Section 417(e)(3) of the Code for the calendar year in which the Annuity Starting Date occurs; and (c) the annual amount of the Straight Life Annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the member’s form of benefit, computed using the applicable interest rate and applicable mortality table, both as described in Section 417(e)(3) of the Code, divided by 1.05.
b. “Maximum Permissible Benefit” means, effective for Limitation Years ending after December 31, 2001, $160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a Straight Life Annuity. The new limitation shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment, but a member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

(i) Adjustment for Less Than 10 Years of Participation or Service: If the member has less than 10 years of participation in the Plan, the Maximum Permissible Benefit shall be multiplied by a fraction -- (i) the numerator of which is the number of Years of Participation in the Plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10). In the case of a member who has less than ten Years of Service with the city, the Maximum Permissible Benefit shall be multiplied by a fraction -- (i) the numerator of which is the number of Years of Service with the city (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

(ii) Adjustment for Benefit Commencement Before Age 62 or after Age 65: Effective for benefits commencing in Limitation Years ending after December 31, 2001, the Maximum Permissible Benefit shall be adjusted if the Annuity Starting Date of the member’s benefit is before age 62 or after age 65.

(iii) Adjustment for Benefit Commencement Before Age 62:

(1) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the member’s benefit is prior to age 62 and occurs in a Limitation Year beginning before July 1, 2007, the Maximum Permissible Benefit for the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (a) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (b) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(2) Limitation Years Beginning on or After July 1, 2007.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the member’s benefit is prior to age 62 and occurs in a
Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing Straight Life Annuity payable at both age 62 and the age of benefit commencement, the Maximum Permissible Benefit for the member's Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member's Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible Benefit (adjusted under subsection(i) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in the Plan (and expressing the member's age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the member's benefit is prior to age 62 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing Straight Life Annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limitation for the member's Annuity Starting Date is the lesser of the limitation determined under subsection (b)(iii) and the Maximum Permissible benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing Straight Life Annuity under the Plan at the member's Annuity Starting Date to the annual amount of the immediately commencing Straight Life Annuity under the Plan at age 62, both determined without applying the limitations of this Section 9-08-17.

Notwithstanding the foregoing, no age adjustment to the Maximum Permissible Benefit shall be required for commencement of benefits before age 62 for any member who is a full-time employee of any police department or fire department that is organized and operated by the city to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of the city and with respect to whom the service taken into account in determining the amount of the benefit under the plan includes at least 15 years of service of the member. For purposes of this section, only the classification of the city, not the job classification of the member, is relevant in determining whether this paragraph applies.
(iv) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age 65:

(1) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the Maximum Permissible Benefit for the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation (adjusted under subsection (i) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (A) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (B) a five-percent (5%) interest rate assumption and the applicable mortality table under Section 417(e)(3) for the calendar year in which the Annuity Starting Date occurs.

(2) Limitation Years Beginning on or After July 1, 2007.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing Straight Life Annuity payable at both age 65 and the age of benefit commencement, the Maximum Permissible Benefit at the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a Straight Life Annuity commencing at the member’s Annuity Starting Date that is the actuarial equivalent of the Maximum Permissible Benefit (adjusted under subsection(i) for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table under Section 417(e)(3) for the calendar year in which the Annuity Starting Date occurs (and expressing the member’s age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the member’s benefit is after age 65 and occurs in a Limitation Year beginning on or after July 1, 2007, and the plan has an immediately commencing Straight Life Annuity payable at both age 65 and the age of benefit commencement, the Maximum Permissible Benefit at the member’s Annuity
Starting Date is the lesser of the limitation determined under subsection 3(b)(iv) and the Maximum Permissible Benefit (adjusted under subsection (i) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the Plan at the member’s Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the Plan at age 65, both determined without applying the limitations of this Section 9-08-17. For this purpose, the adjusted immediately commencing Straight Life Annuity under the Plan at the member’s Annuity Starting Date is the annual amount of such annuity payable to the member, computed disregarding the member’s accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

(v) Notwithstanding the other requirements of this section, no adjustment shall be made to the Maximum Permissible Benefit to reflect the probability of a member’s death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member’s death if the Plan does not charge members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the member’s death.

(vi) Minimum benefit permitted: Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(1) the retirement benefits payable for a Limitation Year under any form of benefit with respect to such member under this Plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the city do not exceed $10,000 multiplied by a fraction – (a) the numerator of which is the member’s number of Years (or part thereof, but not less than one year) of Service (not to exceed ten (10)) with the city, and (b) the denominator of which is ten (10); and

(2) the city has not at any time maintained a defined contribution plan in which the member participated (for this
purpose, mandatory member contributions under a defined benefit plan, individual medical accounts under Code Section 401(h), and accounts for post-retirement medical benefits established under Code Section 419A(d)(1) are not considered a separate defined contribution plan).

c. “Straight Life Annuity” means an annuity payable in equal installments for the life of a member that terminates upon the member’s death.

4. Application of Code Section 415. Notwithstanding any other provision of the plan, this Section shall be construed in a manner which is consistent with Code Section 415 (which is hereby incorporated herein.) and the rulings and regulations issued there under.

(Ord. 4879, 12-09-97; Ord. 5042, 04-11-00; Ord. 5151, 01-08-02; Ord. 5226, 01-07-03; Ord. 5750, 12-22-09)

9-08-18. Reduction of Pension. Whenever the amount realized from the tax levy, assessment upon salary, fees, gifts and grants as herein provided for, shall be insufficient to meet the demands of the withdrawals due to retirement or disability, the board of trustees shall have the power and authority, in order to safeguard the future of this plan and for the future purpose of ensuring that there be no accumulated liability upon the city for unpaid pensions, to make such adjustments and such apportionments of the pensions to be paid as in their judgment will safeguard the police department employee pension fund and safeguard the city from any accumulative liability for pension except such as is provided by the amount of levy authorized by the police employees’ pension law. For that purpose and to that end the board of trustees may in their judgment make such reductions and apportionments in the payments of the amount to the employees entitled to a pension or their dependents as is available and increase contributions in a manner to safeguard the future of the pension plan.

9-08-19. Direct Rollovers.

1. General Rule. If a “distributee” of any “eligible rollover distribution”:

(a) elects to have such eligible rollover distribution paid directly to an “eligible retirement plan,” and

(b) specifies the eligible retirement plan to which such eligible rollover distribution is to be paid (in such form and at such time as the city may prescribe), such eligible rollover distribution shall be made in the form of a “direct rollover” to the eligible retirement plan so specified by the distributee.

Notwithstanding the foregoing, this section 9-08-19 shall apply only to the extent the eligible rollover distribution would be includible in gross income if not transferred as provided above.

2. Definitions.

A “direct rollover” is an eligible rollover distribution that is paid directly to an eligible retirement plan for the benefit of the distributee.
“Distributee” means the employee or the surviving spouse of an employee.

An “eligible retirement plan” is an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity (other than an endowment contract) described in Internal Revenue Code Section 408(b), a qualified defined contribution retirement plan that accepts rollover distributions, or an annuity plan described in Internal Revenue Code Section 403(a) that accepts rollover distributions. Notwithstanding the foregoing, if the distributee is the employee’s surviving spouse, “eligible retirement plan” shall mean either an individual retirement account or an individual retirement annuity (other than an endowment contract).

For the purposes of the direct rollover provisions in this Section 9-08-19, for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p).

“Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of an employee in a qualified plan, provided, however, that an eligible rollover distribution does not include:

(a) any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, for the life or life expectancy of the distributee, or for the joint lives or life expectancies of the distributee and his or her spouse or designated beneficiary, or for a specified period of 10 years or more;

(b) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9), relating to minimum distribution requirements; or

(c) the portion of any distribution that is not includible in income.

3. Procedures.

(a) In General. The city may prescribe any procedure for a distributee to elect a direct rollover provided the procedure is reasonable. Such procedure may include any reasonable requirement for information or documentation from the distributee.

(b) Notice and Waiver of Notice Period. At least thirty (30) days and no more than ninety (90) days before making any distribution subject to this section 9-08-19, the city shall provide to the distributee a written explanation of the rules
concerning direct rollovers, income tax withheld on distributions not rolled over, and any other information required by Internal Revenue Code Section 402(f) (the "402(f) notice"). Such distribution may commence less than 30 days after the 402(f) notice is given, provided that: (i) the city clearly informs the employee that the employee has a right to a period of at least 30 days after receiving the 402(f) notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (ii) the employee, after receiving the 402(f) notice, affirmatively elects a distribution.

(c) $500 Rule. A distributee may elect to have a portion of an eligible rollover distribution paid to an eligible retirement plan in a direct rollover and to have the remainder paid to the distributee only if the portion paid to the eligible retirement plan equals at least $500.

(d) Direct Rollover to One Account Only. An eligible rollover distribution (or portion thereof) may be distributed in a direct rollover only to a single eligible retirement plan selected by the distributee.

(e) $200 Rule. A distributee may not elect a direct rollover with respect to eligible rollover distributions during a year if such distributions are reasonably expected to total less than $200.

(f) Method of Making a Direct Rollover. The city may accomplish a direct rollover by any reasonable means of direct payment to an eligible retirement plan including providing a distributee with a check payable to the eligible retirement plan with instructions to the distributee to deliver the check to the eligible retirement plan.

(g) Default Option. If the distributee does not so elect or does not provide the required information in the form and at the time required by the city, the city shall direct that the distribution be made directly to the distributee and to withhold income taxes on such distribution equal to 20% of the value of such distribution (or such other amount provided under Internal Revenue Code Section 3405(c), as amended). Provided, however, that the city shall not make a distribution under this default option earlier than the date which is 60 days after the distributee is provided with the 402(f) notice. The city shall not withhold tax from an eligible rollover distribution if such distribution is not subject to a direct rollover election because the distribution was not reasonably expected to total $200 in the year.

(h) Periodic Payments. If a distribution subject to this section 9-08-19 is to be paid in a series of periodic payments that are eligible rollover distributions, the following rules shall apply:

(i) a distributee’s election to make or not make a direct rollover with respect to a single payment shall control whether a direct rollover is made of all subsequent payments unless the distributee changes the previous election; and
the city shall provide the 402(f) notice described in the
foregoing paragraph at least once annually for as long as the periodic
payments continue.

(Ord. 5151, 01-08-02; Ord. 5268, 08-12-03)

9-08-20. Pension Claims Theretofore Allowed. There shall be paid out of the police
employee pension fund pension claims theretofore allowed in the same amounts as were in
effect on the date of discontinuance of the employees’ pension plan under Article I of Chapter
V of the Revised Ordinance of 1966, until the death or disqualification of the pension claimant
in the manner as if the plan has been continued.

9-08-21. Variable Annuity; Application of Contributions.

1. For receipt of any benefits, a member must make application through the
city and such benefits will be paid by and controlled by the city. Benefit payments from
an executed trust agreement or contract with an insurance company will be paid to the
city for distribution of the eligible recipient.

2. Prior to January 1, 2005, a member may have the option of having his or
her contributions invested in fixed income investments or equity variable income
investments or any permissible combination. Effective January 1, 2005, members shall
have no investment authority with regard to any assets of the plan, including
contributions made pursuant to Section 9-08-01 and earnings thereon. The City shall
direct the investment of all plan assets.

3. The pension benefits available under Section 9-08-15(1)-(3) shall be
provided from all plan assets, whether contributed pursuant to Section 9-08-01 or
Section 9-08-09 or whether attributable to earnings on such contributions.

4. Effective January 1, 2005, all contributions made prior to January 1, 2005,
pursuant to Section 9-08-01 on behalf of an employee plus net investment earnings
thereon up to an amount that is equal to said contributions plus interest at five percent
per annum accumulated through December 31, 2004, shall be transferred into the
control of the City to be used to pay benefits as provided in this chapter and shall no
longer be invested at the direction of the employee. If, as of January 1, 2005, said
contributions plus net earnings exceeds an amount that is equal to said contributions
plus interest at five percent per annum accumulated through December 31, 2004, the
excess amount will be determined and will be placed into an account that will continue
to be invested at the direction of the employee (hereinafter the “excess amount”). No
further contributions made pursuant to Section 9-08-01 or any other provision of this
chapter shall be directed into an employee’s excess account or be subject to the
investment direction of the employee.

5. Notwithstanding any provision to the contrary, forfeitures of benefits under
this pension retirement system because an employee leaves the employ of the city for
any reason shall not be used to increase the pension benefits any member would
otherwise receive under the plan at any time prior to termination of the plan or the
complete discontinuance of contributions, and any amounts so forfeited shall be used
as soon as possible to reduce the city’s contributions under the plan.

(Ord. 5151, 01-08-02; Ord. 5366, 11-09-04)
9-08-22. Recognized Service. Recognized service prior to December 28, 1971, shall be based upon recognized service according to the city’s record as applicable under the pension ordinances in effect at that time. Recognized service subsequent to that time shall be defined as full and fractional years of service during which (a) the employee contributed to the police pension fund pursuant to Section 9-08-01 and (b) the employee was a participant pursuant to Section 9-08-11.

(Ord. 5151, 01-08-02)

9-08-23. Additional Internal Revenue Code Requirement.

1. It is hereby expressly provided that upon the partial or complete termination of the police employees' pension system, or upon the complete discontinuance of contributions hereunder, the rights of each employee to benefits accrued to the date of termination or discontinuance, to the extent then funded, or the rights of each employee to the amounts credited to his or her account at the time, shall become non-forfeitable. This requirement shall not apply in respect to benefits for the twenty-five highest paid employees to the extent such benefits may be restricted in the event of early termination in accordance with the requirements of section 9-08-24.

2. It is further provided that any previously unallocated funds shall be allocated to the employees covered by this program in the event of termination or complete discontinuance of contributions under the police employees' pension system. The allocation shall be in the following order. The total allocation shall represent the actuarial reserve requirements for benefits accrued under the plan and may be distributed either in the form of cash or deferred annuities.

   (a) All employees' total contribution accounts with accumulated income.

   (b) All retired participants or beneficiaries receiving payments (reserves in excess of (a) above).

   (c) All vested participants (reserves in excess of (a) above).

   (d) All others (reserves in excess of (a) above).

3. In no event shall the city receive any amounts from the pension fund upon termination of the police employees’ pension system, except that, and notwithstanding any other provision of the plan, the city shall receive such amounts, if any, as may remain after the satisfaction of all liabilities of the plan and arising out of any variations between actual requirements and expected actuarial requirements.

   In the event there are not sufficient assets to fully comply with the reserve requirements of any of the groups defined above the total remaining assets shall be allocated to that group on a pro rata basis based upon actuarial reserve requirements.

(Ord. 5042, 04-11-00; Ord. 5151, 01-08-02)
9-08-24. Early Termination.

1. If the plan is terminated or the full current costs are not met within ten years after its establishment or until the full current costs are funded for the first time, the amount of the fund to be used for the benefit of any employee or the beneficiary of any employee who is among the twenty-five highest paid employees of the employer at the time the plan is established, and whose anticipated annual benefit exceeds one thousand five hundred dollars ($1,500.00) shall not exceed the larger of twenty thousand dollars ($20,000.00) or twenty percent of the first fifty thousand dollars ($50,000.00) of his or her annual average compensation multiplied by the number of years between the effective date of this agreement and:

(a) Termination of the plan;

(b) Date the benefit of the employee becomes payable, if before the date of the termination plan;

(c) Date of the failure to meet the full current costs of the plan.

(d) Any excess reserves arising by application of the foregoing provisions shall be used and applied equitably for the benefit of other employees, retired employees and their beneficiaries and beneficiaries of deceased retired employees on the basis of the value of the respective portions of the full retirement allowance accrued to the date of termination of the plan to the employees.

(Ord. 5151, 01-08-02)

9-08-25. How Pension Paid. All pensions paid and all money drawn from the pension fund under the provisions of this chapter shall be upon checks authorized by the board of trustees, and issued by the treasurer of the board. Each check shall designate the name of the person and purpose for which payment is made. The treasurer’s annual report shall show the receipts and expenditures of the fund for the preceding fiscal year, the money on hand and how invested. The report shall be made to the board of trustees and shall be filed with the city administrator.

(Ord. 5042, 04-11-00)
HOLIDAYS

1. Holidays for full-time and regular part-time employees of the City are those designated by state law for state employees.

2. Regular full-time employees whose duties require them to work a regular shift on a holiday must be given an additional eight hours of vacation leave that can be taken at the discretion of the Department head.

3. Employees who have a regular work week in excess of forty (40) hours per week are granted additional time at a rate adjusted to take into account the extra hours so that their holiday computation is comparable to a forty-hour per week employee.

4. Shift workers whose duties require them to work an irregular work week, including, but not limited to, Police and Fire Department employees, must be given additional hours of annual leave if they do not work on a holiday because the holiday coincides with a regularly scheduled time off.

5. Regular part-time employees shall be granted a pro-rated amount of holiday time payable at their usual rate of compensation.

Approval Date: 01/28/97
Revision Date:
ANNUAL LEAVE

Annual leave shall accrue and be taken as follows:

1) Eligible regular full-time employees working a forty-hour week (average) are granted annual leave with pay based upon their total years of service with the City except that an employee who leaves employment with the City and then returns to employment with the City more than five (5) years after leaving employment shall not retain the prior years of service for purposes of determining annual leave. Annual leave shall be awarded as follows:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Hours per Month</th>
<th>Hours per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3</td>
<td>8</td>
<td>96</td>
</tr>
<tr>
<td>4-7</td>
<td>10</td>
<td>120</td>
</tr>
<tr>
<td>8-12</td>
<td>12</td>
<td>144</td>
</tr>
<tr>
<td>13-18</td>
<td>14</td>
<td>168</td>
</tr>
<tr>
<td>Over 18</td>
<td>16</td>
<td>192</td>
</tr>
</tbody>
</table>

An hour of leave shall be used for each hour of absence from employment.

2) Fire employees who have a regular work week in excess of forty (40) hours per week are granted annual leave at a rate adjusted to take into account the extra hours so that their annual leave is comparable to the leave granted for 40-hour per week employees. Eligible fire employees are granted annual leave with pay based upon their total years of service with the City except that a fire employee who leaves employment with the City and then returns to employment with the City more than five (5) years after leaving employment shall not retain the prior years of service for purposes of determining annual leave. Annual leave shall be awarded as follows:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Hours per Month</th>
<th>Hours per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3</td>
<td>10.6</td>
<td>127.2</td>
</tr>
<tr>
<td>4-7</td>
<td>13.3</td>
<td>159.6</td>
</tr>
<tr>
<td>8-12</td>
<td>15.9</td>
<td>190.8</td>
</tr>
<tr>
<td>13-18</td>
<td>18.6</td>
<td>223.2</td>
</tr>
<tr>
<td>Over 18</td>
<td>21.2</td>
<td>254.4</td>
</tr>
</tbody>
</table>

An hour of leave shall be used for each hour of absence from employment.

3) Annual leave accrued in excess a total of three hundred sixty hours (360) for all covered employees or four hundred seventy seven hours (477) for fire fighters is forfeited without compensation on the day before the start of the last full pay period of any year.
4) Annual leave with pay may be taken by the employee at such time as approved by the head of the Department. Hours for the days the employee would normally have off shall not be counted in the vacation period. No employee may waive leave for the purpose of receiving double compensation.

5) Regular part-time employees that are scheduled to work weekly schedules on an annual basis shall earn a pro-rated number of working days’ vacation beginning at time of hire, payable at their usual rate of compensation.

An hour of leave shall be used for each hour of absence from employment.

Approval Date: 01/28/97
Revision Date: 2/28/2017 (retroactive in application to 1/1/2017), 03/24/09, 01/11/05 (retroactive in application to 10/1/03)
SICK LEAVE

Sick leave shall accrue and be granted as follows:

1. Sick leave with pay shall accrue to each forty-hour per week employee at the rate of eight (8) hours of leave for each full month of service. Employees who have a regular work week in excess of forty (40) hours shall accrue sick leave in hours that are comparable to an equivalent day in an average work week.

2. A maximum of twenty-four (24) hours sick leave may be taken in the event of death in the immediate family of a regular full-time employee or a regular full-time employee’s spouse. Fire employees who have a regular work period of two hundred four (204) hours shall be granted forty-eight (48) hours of leave. As used in this section, “immediate family” means spouse, parent, grandparent, child, step child, brother or sister, grandchild, step parent, or step brother or sister.

3. Sick leave may be accumulated to a maximum of nine hundred sixty (960) hours, one thousand, two hundred seventy-two (1272) hours for fire employees who have a regular work period of two hundred four (204) hours. During each year, the excess of earned and unused hours over 960/1272 will be paid annually at a rate of 40%. The balance of hours and the employee’s rate of pay will be determined as of December 31 of each year. Payment shall be made to each qualifying employee on the first payroll following the hour calculation. At the time of payment, the employee’s sick leave hours will be reduced to 960/1272.

4. An hour of sick leave shall be used for each hour of absence from employment. Sick leave is granted as a privilege and not as a right, and the claim for such leave is subject to investigation. If an employee takes sick leave for four or more consecutively scheduled work days, the employee will be required to provide medical certification stating the cause of the incapacity before the employee may return to work. For sick leave absences that are less than four consecutive scheduled work days the department head at their discretion may request a medical certification stating the cause of the incapacity before the employee may return to work.

5. Regular part-time employees that are scheduled to work weekly schedules on an annual basis shall be granted a pro-rated amount of sick leave beginning at time of hire, payable at their usual rate of compensation.

An hour of sick leave shall be used for each hour of absence from employment.
6. Sick leave shall not be used in combination with any other employer-funded program that results in payment to an employee in excess of the employee's base salary. Sick leave shall be on the basis of hours actually used. In the case of a Worker's Compensation Claim, sick leave will be used until Worker's Compensation time-loss benefits begin. After the injured employee begins receiving Worker's Compensation time-loss benefits, he or she will be placed on injury leave pursuant to City Ordinance 9-05-04.

7. A total of sixty 60 hours sick leave per year may be taken in the case of the illness of a member of the employee's immediate family that requires the employee to care for that individual. As used in this section, “immediate family” means spouse, parent, grandparent, child, step child, brother or sister, grandchild, step parent, or step brother or sister. Fire employees who have a regular work period of two hundred four (204) hours shall be granted seventy-nine and one-half (79.5) hours of leave. The care authorized by this section may not include any visitation but must be for actual care.

8. Sick leave shall not be used by itself or in combination with other leave or actual hours worked to create an overtime pay liability of the City.

Approval Date: 01/28/97
Revision Date: 2/28/2017 (Retroactive to 1/1/2017), 07/23/13, 05/22/12, 04/27/10, 09/11/07, 03/27/06
LEAVE DONATION POLICY

Annual Leave Donation Policy

A City of Bismarck employee who is eligible to accrue annual leave may donate annual leave to another City of Bismarck employee who is eligible to accrue annual leave and who is suffering from or has a parent, spouse, or child suffering from a severe illness, severe injury or severe condition that has caused or is likely to cause the employee to take leave without pay or terminate employment. Annual leave may be donated or received only by City of Bismarck employees who are eligible to accrue annual leave and who are not temporary or otherwise limited in term. The receiving employee must have used up all forms of paid leave prior to using donated leave. If the employee’s paid leave accruals will result in less than twelve (12) weeks of absence, the employee may request donations to the extent that the donated leave plus the employee’s paid leave does not exceed twelve (12) weeks of absence in any twelve-month period (consistent with the existing FLMA policy). Once leave is donated, it is not returnable.

Notwithstanding the requirement for a severe illness, severe injury or severe condition, an employee may request a leave donation for a maternity leave.

The employee must have been on approved leave with or without pay for eighty (80) consecutive hours for each absence prior to crediting and using donated leave.

There are other restrictions on donating annual leave. Supervisors should consult the Human Resource Office for procedures to follow for proper donation and receipt of donated annual leave.

Sick Leave Donation Policy

A City of Bismarck employee who is eligible to accrue sick leave may donate sick leave to another City of Bismarck employee who is eligible to accrue sick leave and who is suffering from a severe illness, injury, severe impairment or severe condition that has caused or is likely to cause the employee to take leave without pay or terminate employment. Sick leave may be donated or received only by regular City of Bismarck employees who are eligible to accrue sick leave and who are not temporary or otherwise limited in term. The receiving employee must have used up all forms of paid leave prior to using donated leave. If the employee’s paid leave accruals will result in less than twelve weeks of absence, the employee may request donations to the extent that the donated leave plus the employee’s paid leave does not exceed twelve (12) weeks of absence in any twelve-month period (consistent with the existing FMLA policy). Once leave is donated, it is not returnable. Sick leave can be contributed only from current active balance amounts and not from reserved or banked balances.

Notwithstanding the requirement for a severe illness, severe injury or severe condition, an employee may request a leave donation for a maternity leave.

The employee must have been on approved leave with or without pay for eighty (80) consecutive hours for each absence prior to crediting and using donated leave.
There are other restrictions on donating sick leave. Supervisors should consult the Human Resources Office for procedures to follow for proper donation and receipt of donated sick leave.

(Note: Contact Human Resources for the appropriate forms to donate or receive annual leave or sick leave in accordance with these policies.)
INJURY LEAVE

1) Injury leave shall be available to any employee eligible for the City’s leave program and who was injured on the job and is receiving Worker’s Compensation time-loss benefits.

2) Any employee injured on the job and receiving Worker’s Compensation time-loss benefits will be placed on injury leave until such time as a determination is made as to when and if he/she can return to work. While on injury leave, the employee will use sick leave in an amount that, when combined with the Worker’s Compensation time-loss benefits, will bring the employee to regular salary. All normal benefits (pension, leave, health insurance) will continue to accrue.

3) The injured employee on injury leave will have his or her status reviewed on an at-least-monthly basis by the City Health Officer or his designee and will submit to examinations as requested by the City Health Officer or designee. The City Health Officer may promulgate a policy concerning the review of these cases.

4) As opportunities become available, an injured employee may be asked to return to work in a temporary position, doing work that has been cleared by the City Health Officer.

5) The injured employee will forward copies of their Worker’s Compensation check to Human Resources. Human Resources will deduct the amount of the Worker’s Compensation check from the employees injury leave check and reinstate the sick leave balances.

Approval Date: 01/28/97
Revision Date: 02/10/98
FAMILY MEDICAL LEAVE

The Family and Medical Leave Act effective August 5, 1993 (updated in January of 2009) requires employers with 50 or more employees to grant up to 12 weeks of paid or unpaid leave per year to employees who need to care for family members or whose personal serious health condition requires absence beyond the sick leave accumulated by the employee. FMLA and benefited paid time off, sick leave, emergency leave, and/or personal/vacation leave run concurrently. Eligible employees are those whose employment is not limited in duration, who have been employed by the City of Bismarck 1,250 hours during the previous twelve months, and are employees who have been employed by the City for at least one year, and are within a 75 mile radius.

Family leave may include paid or unpaid leave of absence and is available to all eligible employees for the birth, adoption, or foster placement of a child or for the serious health condition of the employee, the employee’s parent, child or spouse. Family leave used for the birth, adoption or foster care placement of a child expires within twelve months of the date of birth or placement.

The maximum length of the leave is twelve weeks per year which includes any days of unpaid leave and any appropriate paid leave used by the employee in a rolling twelve month period measured backward from the date the employee uses any FMLA leave. The leave may be taken on consecutive days and weeks or intermittently so long as the total days do not exceed the equivalent of twelve weeks and so long as the serious health condition of the employee or family member continues to be medically verified. If both spouses are employed by the City of Bismarck, the aggregate leave is limited to twelve weeks.

Employees shall make a written request for the leave (attached below) at least thirty days prior to the commencement of the leave period. This provision may be waived by the Director of Human Resources in a case where the employee had no reasonable anticipation of the situation requiring the leave. The employee is also responsible for notifying the employee’s Department Head or immediate supervisor.

The City may require medical certification or recertification (no more often than every 30 days) that the leave is needed due to the employee’s own serious health condition or that of a family member. A second opinion may be requested at the city’s expense.

The City may also require verification from a social service agency in the case of an adoption or foster placement. When the leave period is completed, the employee will be returned to the same position or a similar position with equivalent compensation and benefits. If a reduction in force would have caused the position to be eliminated, this reinstatement does not apply. Employees utilizing family leave will be provided health related benefits at the same level received while actively employed, if on paid or unpaid leave. If on paid leave, the employee is required to pay the same portion of the premium paid while actively employed. The employee granted such a leave will not lose any employment benefits accrued prior to the leave; however sick leave, emergency leave, retirement eligibility and eligibility for salary increments shall not accrue during the period of the leave, unless they are on paid leave.
FAMILY AND MEDICAL LEAVE REGULATIONS

Leave Description

The use of unpaid family and medical leave is subject to the following:

1. It may be used for up to a combined total of 12 weeks each year, on a rolling basis that is dependent to the individual situation (29 C.F.R. 825.200).

2. Other appropriate paid vacation, personal, sick leave, or emergency leave will be used for family and medical leave necessitated by birth, adoption/foster care placement, or a family member's serious health condition or employee's own serious health condition. The City will pay family leave or sick leave only under circumstances permitted by the applicable leave plan (29 C.F.R. 825.207).

3. To be eligible for FMLA leave, an employee must (29 C.F.R. 825.110 and 825.111):
   a. Have been employed by the City for at least 12 months.
   b. Have been employed for at least 1,250 hours of service during the 12 month period immediately before the beginning of the leave.

4. Family and medical leave is available in one or more of the following instances (29 C.F.R. 825.112 and 825.200):
   a. The birth and first-year care of a son or daughter.
   b. The adoption or foster placement of a child.
   c. The serious health condition of an employee's spouse, parent, or child.
   d. The employee's own serious health condition.
   e. "Any qualifying exigency" during a family member's active military service, or the family member being called to active military duty; or to care for a member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness suffered while on active duty.

5. The City Commission approved policy will govern family and medical leaves, but the FMLA, and its implementing regulations, will be the final authority.

Procedure to Request Leave

1. If possible, an employee shall notify the Human Resources’ department of the date the employee will need a family and medical leave at least 30 days before a leave is to begin. If 30 days' notice is not practicable, the employee should give the notice at least two business days after the need becomes known to the employee. The employee is encouraged to provide a written notice, but a verbal notice is sufficient. The notice must provide sufficient information to make the City aware that the employee needs a family and medical leave, and the anticipated timing and duration of the leave (29 C.F.R. 825.302).

2. Upon the City's request, an employee must support his or her request for a leave necessitated by a family member's or the employee's own serious health condition, with
a certificate completed by the employee's or family member's health care provider. The certificate must be provided to the HR department within 15 calendar days after the request and on the City’s form. Failure to provide the certification may result in a denial of the leave request (29 C.F.R. 825.208, 825.302, 825.305, and 825.311).

3. Intermittent or Reduced-Leave Schedule
   a. Leave increments are limited to minimum of one-hour periods of time (29 C.F.R. 825.203[d]) for all employees.
   b. An employee should follow the regular notice procedures when requesting an intermittent or reduced-hour leave. If the leave is taken because of the birth or placement of a child, leave may be taken intermittently or on a reduced schedule only if the City agrees. If the leave is taken to care for a sick family member or for the employee’s own serious health condition, leave may be taken intermittently or on a reduced schedule when medically necessary (29 C.F.R. 825.203[a]).

Response to Leave Request

1. Regardless of the type of leave requested, the City will (29 C.F.R. 825.208):
   a. Determine the reason for any requested leave.
   b. Decide whether it is a FMLA-qualifying leave.
   c. Decide whether the City will require the employee to substitute available paid leave (sick, emergency, personal, or vacation) for family and medical leave.

2. If the leave qualifies as a FMLA leave, the City will provide the employee with written Notice of the Leave’s Terms and Procedures, which include (29 C.F.R. 825.208 and 825.301):
   a. An explanation that the leave is designated as, and will be counted against, the annual FMLA leave entitlement, including the substitution of otherwise available paid leave.
   b. Any medical certification requirement, that is required and an explanation of he consequences for failing to furnish one. (29 C.F.R. 825.114 and 825.306).
   c. Any requirement for the employee to make premium payments to maintain health benefits and the arrangement for making such payments (29 C.F.R. 825.209).
   d. Any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (29 C.F.R. 825.310).
   e. An explanation of the employee’s right to restoration to the same or an equivalent job upon returning from leave.
   f. Any requirement that the employee periodically report on his or her status and intention to return to work (29 C.F.R. 825.309).
3. The Director of Human Resources may challenge the adequacy of a medical certification and require the employee to obtain a second opinion from a second health care provider, paid for by the City (29 C.F.R. 825.307). If a second medical opinion conflicts with the first, the Director of Human Resources may require a third opinion, paid for by the City. The third health care provider must be designated or approved jointly by the City and the employee. The third opinion is final and binding (29 C.F.R. 825.308).

4. The Department Head shall ensure that work is arranged so that an employee returning from a family and medical leave will be given an equivalent position to his or her position before the leave, subject to the Department's assignment and reassignment policies and practices (29 C.F.R. 825.604).
REQUEST FOR FAMILY OR MEDICAL LEAVE

This form is to be completed by an eligible employee seeking up to twelve weeks of paid or unpaid leave under the provisions of the Family and Medical Leave Act for the purpose of caring for a child following a birth, adoption, or foster placement; for the serious health condition of the employee; or to care for the employee’s parent, child or spouse due to the serious health condition of that family member.

Name of employee_______________________ Current position _______________________

Location______________________ Date hired by the City of Bismarck_____________________

Reason for request _____________________________________________________________

If adoption or foster placement applies, state date of placement ______________________

If health of family member applies, state the name and address of family member requiring care and relationship to employee:

If illness of the employee or a family member necessitates the request, briefly describe the medical condition:

Name and address of physician able to confirm medical condition
________________________________________________________________________

Inclusive dates requested for leave: _____________________________________________

Signature of Employee_______________________ Date of Application_________________

Action Taken by Office of Human Resources

_____Approved _____Disapproved for Reason(s) Given Below:

________________________________________________________________________

Director- Human Resources  Date

Number of days and dates to be used as followed:

_____ Sick Days

_____ Annual Leave Days

_____ Loss Pay Days
CITY OF BISMARCK
CERTIFICATION OF ADOPTION OR FOSTER PLACEMENT

An employee of the City of Bismarck has requested leave under the Family Medical Leave Act due to an adoption or foster placement. Your confirmation is requested to verify the adoption or placement.

Name of Employee_________________________________ Position_________________________________

Address: _________________________________________ Building_________________________________

Request is for (circle one) Adoption, Foster, Placement

I hereby grant permission for __________________________ (Name of social service agency) to release the requested information regarding an adoption or foster placement made to this employee.

_________________________________ Date________________________
Signature of Employee

To be completed by social service agency:

Name of Agency_________________________________________

Address of Agency_________________________________________

Printed name of person completing this form______________________________

Phone number of person completing this form_____________________________

I hereby certify that this agency has facilitated the adoption or foster placement with the employee named above and that the date of placement is_____________________________

___________________________________ Date________________________
Signature of Agency Representative

Upon completion, this form should be returned to:
Office of Human Resources
City of Bismarck
P. O. Box 5503
Bismarck, North Dakota 58506-5503
Certification of Health Care Provider  
(Family and Medical Leave Act of 1993)  
City of Bismarck  

** To be returned to the employee upon completion

| 1. Employee’s Name | 2. Patient’s Name (if different from employee) |

3. A “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves one of the following descriptions. Does the patient’s injury qualify under any of the categories described? If so, please check the applicable category. **Words in *italics* are defined on page 4.

- A. Hospital Care
  Inpatient care (i.e., and overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* or subsequent *treatment* in connection with or consequent to such inpatient care.

- B. Absence Plus *Treatment*
  A period of *incapacity* of more than three consecutive calendar days (including any subsequent *treatment* or period of *incapacity* relating to the same condition), that also involves:
  1. *Treatment* two or more times by a health care provider within 7 days of the first incapacity; or
  2. *Treatment* by a health care provider on at least one occasion which results in a *regimen of continuing treatment* under the supervision of the health care provider.

- C. Pregnancy
  Any period of *incapacity* due to pregnancy, or for prenatal care.
  Indicate number of weeks of *disability* (personal recovery)
  __________________

  Indicate number of weeks of extended time off to care for child
  __________________

- D. Chronic Conditions Requiring *Treatments*
  A chronic condition which:
  1. Requires periodic visits for *treatment* by a health care provider, or by a nurse under direct supervision of a health care provider (a minimum of two visits to a health care provider per year);
  2. Continues and over an extended period of time; and
  3. May cause episodic rather than a continuing period of *incapacity* (e.g. asthma, diabetes, epilepsy, etc.)
### E. Permanent/Long-term Conditions Requiring Supervision

A period of *incapacity* which is permanent or long-term due to a condition for which *treatment* may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active *treatment* by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

### F. Multiple *Treatments* (Non-Chronic Conditions)

Any period of absence to receive multiple *treatments* (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of *incapacity* of more than three consecutive calendar days in the absence of medical intervention or *treatment*, such as cancer (chemotherapy, radiation, etc.), severe arthritis (PT/OT), and kidney disease (dialysis).

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5 (a). State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient’s present *incapacity* if different):

(b). Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for *treatment* described in item 6 below)?

If yes, give the probable duration:

(c). If the condition is a chronic condition (Condition D) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of *incapacity*.

6 (a). If additional *treatments* will be required for the condition, provide an estimate of the probable number of such *treatments*.

If the patient will be absent from work or other daily activities because of *treatment* on an intermittent or part-time basis, also provide an estimate of the probable number of and interval between such *treatments*, actual or estimated dates of *treatment* if known, and period required for recover if any:
(b). If any of these treatments will be provided by another provider of health services (e.g. physical therapist), please state the nature of the treatments:

(c). If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7 (a). If medical leave is required for the employee’s absence from work because of the employee’s own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?

(b). If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee’s job (the employee or the employer should supply you with information about the essential job functions)? If yes, please list the essential functions the employee is unable to perform.

(c). If neither (a) nor (b) applies, is it necessary for the employee to be absent from work for treatment?

______________________________________________________________
Signature of Health Care Provider

Type of Practice

______________________________________________________________
Address

Telephone Number

______________________________________________________________
City/State/Zip

Date
This section to be completed by employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

8 (a). If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?

(b). If no, would the employee’s presence to provide psychological comfort be beneficial to the patient or assist in the patient’s recovery?

(c). If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

__________________________
Signature of Employee

__________________________
Date
Terms and definitions:

1. Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

2. *Incapacity*, for purposes of FMLA is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, *treatment* before, or recovery from.

3. *Treatment* includes examinations to determine if a serious health condition exists and evaluations of the condition. *Treatment* does not include routine physical examinations, eye examinations, or dental examinations.

4. *A regimen of continuing treatment* includes, for example, a course of prescription medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of *treatment* does not include the taking of over-the-counter medications such as aspirin antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

5. *Serious Health Condition* is defined as an illness, injury, impairment, or physical or mental condition that involved inpatient care or continuing treatment by a health care provider. The ‘continuing treatment’ test for a serious health condition may be met through:
   + a period of incapacity of more than three consecutive calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment,
   + any period of incapacity related to pregnancy or for prenatal care,
   + any period of incapacity or treatment for a chronic conditions,
   + a period of incapacity for permanent or long-term conditions for which treatment may not be effective, or
   + any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than three consecutive calendar days absent medical treatment.

Approval Date: 01/28/97
Revision Date: 02/10/09, 08/01/03, 08/01/02, 06/05/01,
FAMILY MEDICAL LEAVE / MILITARY

FAMILY MEDICAL LEAVE

The Family and Medical Leave Act effective August 5, 1993 (updated in January of 2009) requires employers with 50 or more employees to grant up to 12 weeks of paid or unpaid leave per year to employees who need to care for family members or whose personal serious health condition requires absence beyond the sick leave accumulated by the employee. FMLA and benefited paid time off, sick leave, emergency leave, and/or personal/vacation leave run concurrently. Eligible employees are those whose employment is not limited in duration, who have been employed by the City of Bismarck for at least 1,250 hours during the previous twelve months, and are employees who have been employed by the city for at least one year, and are within a 75 mile radius.

Family leave may include a paid or unpaid leave of absence and is available to all eligible employees for the birth, adoption, or foster placement of a child or for the serious health condition of the employee, the employee’s parent, child or spouse. Family leave used for the birth, adoption or foster care placement of a child expires within twelve months of the date of birth or placement.

The maximum length of the leave is twelve weeks per year which includes any days of unpaid leave and any appropriate paid leave used by the employee in a rolling twelve month period measured backward from the date the employee uses any FMLA leave. The National Defense Authorization Act (NDAA) amended the FMLA to allow eligible employees of covered employers to take FMLA-qualifying leave because of any qualifying exigency arising from the fact that a spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Reserve or National Guard. The final rule clarified that this NDAA provision applies to a federal call to active duty, NOT a state call to active duty.

The NDAA also provides that an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered, wounded service member is entitled to a total of 26 workweeks of leave during a single 12-month period to care for the service member, which includes current members of the Regular Armed Forces as well as current members of the National Guard or Reserves.

Employees shall make a written request for the leave (attached below) at least thirty days prior to the commencement of the leave period. This provision may be waived by the Director of Human Resources in a case where the employee had no reasonable anticipation of the situation requiring the leave. The employee is also responsible for notifying the employee’s department head or immediate supervisor.

The City may also require verification from a social service agency in the case of an adoption or foster placement. When the leave period is completed, the employee will be returned to the same position or a similar position with equivalent compensation and benefits. If a reduction in force would have caused the position to be eliminated, this reinstatement does not apply. Employees utilizing family leave will be provided health related benefits at the same level received while actively employed, if on paid or unpaid leave. If on paid leave, the employee is required to pay the same portion of the premium paid while actively employed. The employee
granted such a leave will not lose any employment benefits accrued prior to the leave; however sick leave, emergency leave, retirement eligibility and eligibility for salary increments shall not accrue during the period of the leave, unless they are on paid leave.

FAMILY AND MEDICAL LEAVE REGULATIONS.

Leave Description

The use of unpaid family and medical leave is subject to the following:

1. It may be used for up to a combined total of 12 weeks each year, on a rolling basis that is dependent to the individual situation (29 C.F.R. 825.200).

2. Other appropriate paid vacation, personal, sick leave, or emergency leave will be used for family and medical leave necessitated by birth, adoption/foster care placement, or a family member's serious health condition or employee's own serious health condition. The City will pay family leave or sick leave only under circumstances permitted by the applicable leave plan (29 C.F.R. 825.207).

3. To be eligible for FMLA leave, an employee must (29 C.F.R. 825.110 and 825.111):
   a. Have been employed by the City for at least 12 months.
   b. Have been employed for at least 1,250 hours of service during the 12 month period immediately before the beginning of the leave.

4. Family and medical leave is available in one or more of the following instances (29 C.F.R. 825.112 and 825.200):
   a. The birth and first-year care of a son or daughter.
   b. The adoption or foster placement of a child.
   c. The serious health condition of an employee’s spouse, parent, or child.
   d. The employee's own serious health condition.
   e. "Any qualifying exigency" during a family member's active military service, or the family member being called to active military duty; or to care for a member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness suffered while on active duty. (see below)

5. The City Commission approved policy will govern family and medical leaves, but the FMLA, and its implementing regulations, will be the final authority.

Procedure to Request Leave

1. If possible, an employee shall notify the Human Resources’ department of the date the employee will need a family and medical leave at least 30 days before a leave is to begin. If 30 days' notice is not practicable, the employee should give the notice at least two business days after the need becomes known to the employee. The employee is encouraged to provide a written notice, but a verbal notice is sufficient. The notice must provide sufficient information to make the City aware that the employee needs a family
and medical leave, and the anticipated timing and duration of the leave (29 C.F.R. 825.302).

2. Upon the City's request, an employee must support his or her request for a leave with a certificate completed by the employee with military confirmation. The certificate must be provided to the HR department within 15 calendar days after the request and on the City's form (DOL form WH-384). Failure to provide the certification may result in a denial of the leave request (29 C.F.R. 825.208, 825.302, 825.305, and 825.311).

3. Intermittent or Reduced-Leave Schedule
   a. Leave increments are limited to a minimum of one-hour periods of time (29 C.F.R. 825.203[d]) for all employees.
   b. An employee should follow the regular notice procedures when requesting an intermittent or reduced-hour leave. If the leave is taken because of impending call or order to active duty, leave may be taken intermittently or on a reduced schedule only if the City agrees. If military caregiver leave is taken, leave may be taken intermittently or on a reduced schedule when medically necessary (29 C.F.R. 825.203[a]).

Response to Leave Request

1. Regardless of the type of leave requested, the City will (29 C.F.R. 825.208):
   a. Determine the reason for any requested leave.
   b. Decide whether it is a FMLA-qualifying leave.
   c. Decide whether the City will require the employee to substitute available paid leave (sick, emergency, personal, or vacation) for family and medical leave.

2. If the leave qualifies as a FMLA leave, the City will provide the employee with written Notice of the Leave's Terms and Procedures, which include (29 C.F.R. 825.208 and 825.301):
   a. An explanation that the leave is designated as, and will be counted against, the annual FMLA leave entitlement, including the substitution of otherwise available paid leave.
   b. Any medical certification requirement, that is required and an explanation of the consequences for failing to furnish one. (29 C.F.R. 825.114 and 825.306).
   c. Any requirement for the employee to make premium payments to maintain health benefits and the arrangement for making such payments (29 C.F.R. 825.209).
   d. An explanation of the employee’s right to restoration to the same or an equivalent job upon returning from leave.
   e. Any requirement that the employee periodically report on his or her status and intention to return to work (29 C.F.R. 825.309).
3. The Department Head shall ensure that work schedules are arranged so that an employee returning from a family and medical leave will be given an equivalent position to his or her position before the leave, subject to the Department’s assignment and reassignment policies and practices (29 C.F.R. 825.604).
REQUEST FOR FAMILY OR MEDICAL LEAVE

This form is to be completed by an eligible employee seeking up to twelve weeks of paid or unpaid leave under the provisions of the Family and Medical Leave Act for the purpose of caring for a child following a birth, adoption, or foster placement; for the serious health condition of the employee; or to care for the employee’s parent, child or spouse due to the serious health condition of that family member.

Name of employee_______________________ Current position________________________________

Location______________________ Date hired by City of Bismarck____________________

Reason for request ____________________________________________________________

If health of family member applies, state the name and address of family member requiring care and relationship to employee:

If illness of the employee or a family member necessitates the request, briefly describe the medical condition:

Name and address of physician able to confirm medical condition
________________________________________________________________________

Inclusive dates requested for leave: ___________________________________________________________________

Signature of Employee_________________________ Date of Application________

Action Taken by Office of Human Resources
_____Approved _____Disapproved for Reason(s) Given Below:

________________________________________________________________________

Director of Human Resources Date

Number of days and dates to be used as followed:  _____ Sick Days  ________
        _____ Annual Leave Days  ________
        _____ Loss Pay Days  ________
CERTIFICATION OF QUALIFYING EXIGENCY
FOR MILITARY FAMILY LEAVE
(FAMILY AND MEDICAL LEAVE ACT)

SECTION I: For Completion by the Employer

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. ph 825.309.

Employer name:________________________________________________________________________

Contact Information: ___________________________________________________________________

SECTION II: For Completion by the Employee

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 C.F.R. ph 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: ___________________________________________________________________________

First  Middle  Last

Name of covered military member on active duty of call to active duty status in support of a contingency operation: ___________________________________________________________________________________

First  Middle  Last

Relationship of covered military member to you:_________________________________________________________________________________________

Period of covered military member’s active duty: _______________________________________________________________________________________

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member’s active duty or call to active duty status in support of a contingency operation. Please check one of the following:

____ A copy of the covered military member’s active duty orders is attached.

____ Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.

____ I have previously provided by employer with sufficient written documentation confirming the covered military member’s active duty or call to active duty status in support of a contingency operation.
PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached

_____ Yes _____ No _____ None Available

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: ________________________________

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? _____ No _____ Yes.
   If so, estimate the beginning and ending dates for the period of absence:

___________________________________________________________________________________

3. Will you need to be absent from work periodically to address this qualifying exigency? ____No ____Yes
   Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

___________________________________________________________________________________
___________________________________________________________________________________
___________________________________________________________________________________

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e. one deployment-related meeting every month lasting four hours):

Frequency: _____times per _____ weeks(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.
PART C
If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member’s representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: ______________________________________ Title: _______________________

Organization: ____________________________________________________________________________

Address: ________________________________________________________________________________

Telephone: (______)_________________________ Fax: (______)______________________________

Email: __________________________________________________________________________________

Describe nature of meeting: __________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

PART D
I certify that the information I provided above is true and correct.

_________________________________________ Date

Signature of Employee
DEFINING LEAVE FOR QUALIFYING EXIGENCY

The final regulations define “any qualifying exigency” as one or more of the following:

• **Short notice (seven days or less) deployment**
  The employee can take up to seven days leave to address any issues that arise due to a short notice of a call to active duty.

• **Military events and related activities**
  To attend any official ceremony, program or event sponsored by the military related to active duty or a call to active duty or to attend family support or assistance programs sponsored or promoted by the military.

• **Childcare**
  To arrange for alternative childcare when duty necessitates a change in the existing childcare arrangement for a biological, adopted, foster, or step child, or a legal ward of the military member, or a child for whom the covered military member stands in loco parentis who is either under age 18 or is over age 18 and incapable of self-care due to a mental or physical disability. Also, leave may be taken to provide childcare on an urgent, immediate need basis when the need arises from the call to active duty.

• **School activities**
  To enroll in or transfer to a new school or day care facility or to attend meetings with staff of a school or daycare facility such as parent teacher conferences, meeting with school counselors, or meetings regarding disciplinary measures.

• **Financial and legal arrangements**
  To make or update financial or legal arrangements to address the covered military member’s absence while on active duty or call to active duty status, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or preparing or updating a will or living trust. Also, leave must be granted to allow the employee to act as the military member’s representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits.

• **Counseling**
  To attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or for the biological, adopted, or foster child, a stepchild, or a legal ward of the covered military member, or a child for whom the covered military member stands in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.

• **Rest and recuperation**
  To spend up to five days with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment.
• **Post-deployment activities**
  
  To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member’s active duty status and to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.

• **Additional activities**
  
  To address any other events which arise out of the covered military member’s active duty or call to active duty status that the employer and employee have agreed upon.

---

**Taking Caregiver Leave**

In order to take leave, the eligible employee must be the spouse, son or daughter, parent, or “next of kin” of a covered service member. A “spouse” means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized. [Note: Based on the federal Defense of Marriage Act, this definition does not include a same-sex spouse even if the same-sex marriage is recognized under State law (e.g. CA, MA, CT)].

A “son or daughter of a covered service member” is defined as the covered service member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. A “parent” is defined as a covered service member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents “in law.” “Next of kin” is the nearest blood relative, other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority:

- blood relatives who have been granted legal custody of the service member by court decree or statutory provisions,
- brothers and sisters,
- grandparents,
- aunts and uncles,
- first cousins.

However, the covered service member can specifically designate in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

When there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either
consecutively or simultaneously.

An employer is permitted to require an employee to provide confirmation of the family relationship to the covered service member. The employer can also require certification of the service member’s illness or injury. The regulations include a model Certification for Serious Illness or Injury of Covered Service member (Form WH-385) that must be completed by the employee or covered service member and a health care provider.
LEAVE OF ABSENCE

Leave of absence may be granted as follows:

1. A leave of absence without pay may be granted to an employee pursuant to the Family and Medical Leave Act of 1993 (FMLA) for the following reasons:
   a. The birth of a child and in order to care for that child.
   b. Adoption of a child or placement for adoption or foster care.
   c. To care for a spouse, child, or parent with a serious health condition; or
   d. The serious health condition of the employee.

2. To be eligible, an employee must qualify under the Family and Medical Leave Act of 1993 (FMLA) as set out in the City policy regarding medical and family leave of absences pursuant to the terms and requirements of the Family and Medical Leave Act of 1993 (FMLA).

3. Leave of absence or leave without pay may be granted for educational purposes, but only if it is determined by the Department head that such leave will be beneficial to the employee’s department and that it will not interfere with the normal operation of the department.

4. Employees who fail to return to duty upon completion of a leave of absence without pay shall be considered as separated from the civil service without prejudice on the intended date of return. If an employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the employee to reimburse the City the amount it paid for the employee’s health insurance premium during the leave period.

5. A leave of absence without pay may be granted to an employee serving in the legislature in conformance with a City Commission-approved legislative service policy.

6. A leave of absence without pay may be granted to an employee with no available leave balance at the discretion of the department.

Approval Date: 01/28/97
Revision Date: 05/22/12
Due to the nature of their duties, exempt employees are paid on a salary basis. They are expected to maintain a work presence for at least eighty (80) hours each two (2) work weeks for City employees; one hundred sixty (160) hours each twenty-eight (28) day work period for police shift employees; and two hundred four (204) hours each twenty-seven (27) day work period for fire shift personnel, but that presence may occur at non-traditional times and in non-traditional locations as the duties of the position dictate.

Exempt employees may work in excess of these hours but that excess will not yield additional compensation. Exempt employees may re-schedule their time with Department head approval in such a way that they work at least the identified minimum hours.

Leave granted as a result of working in excess of the identified minimum hours that is not covered by the conventional leave program will be known as discretionary leave. To grant discretionary leave the Department head must file a plan for such leave with Human Resources. The plan shall name the exempt employees in the Department, the customary work experience that justifies discretionary leave and the amount of discretionary leave granted. The leave granted to each employee shall be discretionary to the Department head. The maximum allowed will be ninety-six (96) hours per employee per calendar year. The plan may be amended at any time. All discretionary leave allocated will be available on January 1 of each year. There will be no carry-over of unused discretionary leave at any year end. Use of discretionary leave is considered a privilege, not a right. A leave slip needs to be filed for each use.
DISCRETIONARY LEAVE APPLICATION PROCESS

The following is the discretionary leave application process:

Each Administrator/Department head will file a “plan” with Human Resources for each associate granted discretionary leave. The “plan” shall include:

- the name of the exempt associate,
- the customary work experience that justifies discretionary leave,
- the amount of discretionary leave granted.

Use the form below (add pages as needed):

DISCRETIONARY LEAVE FORM

Name of Associate ___________________ Date __________

Detail of the customary work experience that justifies the discretionary leave (add pages as needed):

___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________

Total annual number of hours of discretionary leave granted:

_______________ for year ____.

Total Annual Hours

_________________________________________  Signature of Administrator/Department Head

For Human Resources:

Date received: __________
INCLEMENT WEATHER

1. PURPOSE

To identify the City's official policy for closing City offices in response to inclement weather.

2. PROCEDURE

At various times throughout the year, primarily during the winter months, adverse weather conditions suggest that for the safety and well-being of employees, City offices be closed. The decision to close shall be made by the Mayor. In the Mayor's absence, the Vice-President of the Board of City Commissioners or, in his/her absence, the City Administrator may declare the closure.

Every attempt will be made to make the closure decision at least one (1) hour before work is scheduled to begin. The decision to close City offices will be communicated to KFYR Radio and as many other media representatives as feasible.

Any employee, who fails to report for work at the scheduled time when City offices are declared open, regardless of weather conditions, shall be charged with annual leave. Department heads may send non-essential employees home if they report for work after offices are closed.

Those Departments, which must provide continuing or essential services during the period of emergency conditions, will require certain employees to work. All employees who are required to work will be given time off at another time equal to the time of the declared emergency. No inclement weather closing shall be effective later than 5:00 p.m.

Approval Date: 01/28/97
Revision Date:
MILITARY LEAVE

Military leave must be granted in accordance with Sections 37-01-25 and 37-01-25.1 of the North Dakota Century Code for full-time employees who:

- are members of the National Guard;
- are members of the armed forces reserves of the United States of America;
- shall be subject to call into federal service by the President of the United States; or
- shall volunteer for such service.

When ordered by proper authority to active non-civilian employment the employee, is entitled to a leave of absence from the Civil Service without loss of status or efficiency rating. If such employee has been continuously employed for ninety (90) days immediately preceding the leave of absence, he/she is eligible to receive up to one hundred sixty (160) hours (212 for firefighters) each calendar year without loss of pay.

During a full or partial mobilization of the Reserve and National Guard forces, the employee is entitled to thirty (30) days leave of absence with pay less any paid leave of absence previously granted during the calendar year pursuant to this section.

Leave shall be granted only for scheduled work hours missed for qualifying military duty.

Approval Date: 01/28/97
Revision Date: 07/13/04
DISASTER RESPONSE POLICY

If a disaster outside the City’s jurisdiction is recognized on a regional or national basis by the Federal Emergency Management Agency (FEMA), the Department of Homeland Security, ND Division of Emergency Services or the Centers for Disease Control, the City of Bismarck will use this policy in deciding on any response. This policy may be amended or set aside on an individual basis by action of the Board of City Commissioners.

The City of Bismarck recognizes its role and responsibility in mobilizing resources to respond appropriately to local, national or regional disasters. It also recognizes its responsibilities to city residents while offering assistance to others in need. Accordingly, the City will use the following criteria in structuring any response to these named events:

1. Only disaster responses dispatched through the Federal Emergency Management Agency (FEMA), the Department of Homeland Security, ND Division of Emergency Services or the Centers for Disease Control will be eligible for disaster response deployment.

2. Employees may be deployed for disaster response for no more than thirty (30) days.

3. Department heads must approve anyone applying for disaster response and any equipment to be used. A personnel action shall be filed. No self-deployed employee will be the responsibility for the City.

4. Department heads must be prepared to handle the work of City employees who are granted disaster response deployment.

5. The City Administrator must approve all disaster response deployment prior to its occurrence.

6. Travel, per diem, lodging and meal expenses will be paid by the requesting entity. A request for reimbursement for salary and fringe benefits will be made when available.

7. It is not the intent of this policy to replace any existing mutual aid agreement or military orders.

8. Any variances to this policy will be approved by the Board of City Commissioners in advance of the deployment.

On occasion communities within the State of North Dakota will experience natural or manmade disasters that inflict damage on the community that is beyond its normal ability to respond. Since these events are, for the most part, unplanned and unscheduled help is often needed from other communities to deal with time-sensitive needs of the stricken area.

The board of City Commissioners has, to this point in time, come together in special session to authorize assistance for emergencies in other areas upon request from the governing body of the stricken area. The response time for this process can be detrimental to the requesting entity.
To establish a more rapid response, the City Administrator, or in their absence, the Assistant city Administrator, is hereby empowered to respond to any formal request for assistance where the cost of the assistance to the city will not exceed $50,000. The request must be in conjunction with a locally declared emergency situation. Before any response is authorized, the City Administrator/Assistant Administrator, in consultation with the department heads involved with a prospective response shall determine that the assistance to be provided is available and that it will not compromise the city’s ability to provide reasonable service to its citizens. Immediately upon dispatching the requested assistance, the Administrator/Assistant Administrator will notify all commissioners of their action.

Approval Date: 09/14/05
Revision Date: 07/28/09; 11/14/05
JURY DUTY

An employee summoned for Jury Duty shall receive an amount which will equal the employee’s regular rate of pay when added to the compensation received for Jury Duty, or the employee may take annual leave and retain the amount received for Jury Duty.

Approval Date: 01/28/97
Revision Date:
City employees that wish to serve in elected public office, including the North Dakota Legislature, should report their intentions to their department head and supervisor as quickly as possible. The department head should assess the impact of any absences caused by this elective office and the ability of the department to accommodate these absences. No employee may be denied the opportunity to serve in elected public office but a department head may grant or deny the employee the leave necessary to serve in public office while retaining his/her employment without loss of status or efficiency rating based solely on the City’s ability to function in the employee’s absence. This decision may be grieved pursuant to City Ordinance 9-06-06.

An employee elected to the legislature and approved for legislative leave must utilize leave without pay for all absences from the employee’s job station during a regular or special legislative session. Other legislative absences not occurring during a regular or special legislative session may be handled under the City’s standard leave policies. An employee serving in the legislature during a duly called regular or special legislative session under this policy will not receive any employee benefits but will be allowed the option to purchase pension service credits missed while in legislative service. Employees and their dependents utilizing the flexible benefit program will be suspended from participation in the program, including incurring costs to be paid, while on leave without pay. This should be considered when making annual program financial arrangements.

The department head may, at their discretion, propose the hiring of temporary replacement help or the temporary promotion of another employee during the time of absence of an employee serving in the legislature. All such temporary actions must be initiated and terminated with personnel action forms.
CAUSES FOR SUSPENSION, DEMOTION OR DISMISSAL

An employee may be subject to disciplinary action for conduct impairing their performance or that of the City government, including, but not limited to:

1. Consumption of alcoholic beverages or unlawful use of any drugs, narcotic or other controlled substance while on duty, or reporting to work when under the influence of intoxicants or any narcotic or controlled substance.

2. Failure to follow orders of superiors.

3. Inability to get along with fellow employees or the citizenry resulting in interference with the performance of duties of any employee.

4. Being absent from work without permission or failure to report to the Supervisor or Department head when one is absent.

5. Being habitually tardy.

6. Continued failure to perform the assigned work in a satisfactory manner.

7. Being habitually wasteful of material, property or working time.

8. Failure to pay just debts to the best of one’s ability and means, if such failure impairs job performance or interferes with normal and efficient City government.

9. On or off duty conduct that is felonious or a misdemeanor involving dishonesty regardless of whether or not the person is charged or convicted with a criminal offense.

10. Violation of City ordinances or official written policies adopted by the Board of City Commissioners or departments.

11. Careless or negligent operation of City vehicles or equipment.

Approval Date: 01/28/97
Revision Date: 10/09/01, 03/26/99
NOTICE OF SUSPENSION, DEMOTION OR DISMISSAL

A written notice of proposed suspension, demotion or dismissal, stating the reason for the action and when it is to be effective, must be given to the official or employee or mailed by registered or certified mail to the last known place of residence no later than forty-eight (48) hours prior to the proposed action. A copy of the notice of suspension, demotion or dismissal must be immediately filed with the Director of Human Resources. The notice shall state that the employee has a right to an informal hearing with the Director of Human Resources, the appointing authority and the employee and/or employee’s representative, and an opportunity to be heard at that hearing prior to termination upon request. Following the hearing, if requested, the proposed action may be affirmed, modified or withdrawn.

Approval Date: 01/28/97
Revision Date:
EMPLOYEE SEPARATION AND DISCIPLINE

An appointing authority (Department Heads) may:

1. Lay off an employee in the Civil Service whenever necessary because of a change in duties or organization or shortage of work or funds. The order in which employees will be laid off must be determined in accordance with the employee's performance ratings with the City.

Employees thus separated from the service through no fault of their own shall, upon request, be placed on the employment list for their former classes of positions as provided by this article.

2. Suspend a full-time employee without pay up to a period of thirty (30) days within one (1) calendar year. If an exempt employee is suspended, it must be for a minimum of one (1) week.

3. Demote a full-time employee from a position in one (1) class to a position in a lower class.

4. Dismiss a full-time employee for cause.

5. Place an employee on paid or unpaid leave pending the investigation of a complaint or incident which may subject the employee to discipline or pending treatment resulting from an on-duty incident.

6. Take such other progressive discipline or disciplinary action or actions as are deemed appropriate.

Approval Date: 01/28/97
Revision Date: 05/22/12, 10/09/01, 03/26/99
GRIEVANCE PROCEDURE

1. An employee who is adversely affected by an action or decision of another employee, other than suspension, demotion or termination that may be in violation of any federal, state or City law, statute, regulation, ordinance or written policy may file a grievance utilizing the following procedures:

   a. The employee shall first discuss the grievance with the immediate Supervisor or Department head, unless the grievance involves unlawful acts or conduct by the supervisor or the Department head. If the grievance involves unlawful acts or conduct on the part of the immediate supervisor or Department head, the employee shall discuss the grievance with the Department head or file a written grievance with the Director of Human Resources, respectively.

   b. If the grievance is not resolved by informal discussion or agreement, the employee may file a written grievance, setting out in detail the action or decision complained of and the specific law, statute, regulation, ordinance or written policy which has been violated with the Director of Human Resources. The Director of Human Resources shall immediately provide a copy of the written grievance to the City Commissioner assigned the portfolio for the department in which the employee is employed, and the Department head. The Commissioner, Department head, Director of Human Resources and the employee and/or the employee’s representative, shall meet and attempt to resolve the grievance within ten (10) business days of the filing of the grievance. On or before the fifth (15) business day following the date on which the grievance was filed, the Director of Human Resources shall issue a written reply to the grievance and provide copies to all of the parties involved in the matter. The written reply shall set forth the agreement that was reached between the parties, or the response of the Department head and/or City Commissioner to the grievance.

   c. If the employee is not satisfied by the written reply, the employee may, within five (5) business days of receipt of the reply, submit an appeal in writing to the Civil Service Commission, by filing it in the office of the Director of Human Resources. The Commission shall thereupon schedule a hearing and proceed in accordance with the procedures set forth in section 9-06-04 of the City Ordinances.

   d. An employee may not utilize the procedure under this section to appeal or grieve a letter of reprimand, a letter of caution, an oral reprimand or any other personnel action unless that action satisfies the requirements of paragraph one.

2. An employee of the City or any other person who has knowledge of suspected violations of laws, ordinances, City policies or department rules and regulations, sexual harassment, or other misconduct or impropriety by any City employee or Department head may file a complaint. A complaint may not be filed regarding a matter of prosecutorial discretion or regarding a case in Municipal Court. A complaint may be filed utilizing the following procedures:
a. The employee or other person with responsibility for the employee in question shall file a written report setting out in detail the nature of the violation. If the allegations involve misconduct or impropriety on the part of a Department head, the complaint shall be filed with the Commissioner assigned the portfolio for that department.

The Department head shall immediately provide a copy of the complaint to the Commissioner assigned the portfolio for that department and the City Attorney. The City Attorney shall promptly review the complaint to determine if it should properly be referred to the State’s Attorney because it alleges violation of a criminal law or Chapter 34-11.1 of the North Dakota Century Code. Unless the complaint is referred to the State’s Attorney, within ten (10) business days of the receipt of the complaint, the City Commissioner shall meet with the Department head and employee or other person to attempt to resolve the complaint. On or before the tenth business day following receipt of the complaint, the Department head, or City Commissioner if the complaint was filed with the City Commissioner, shall issue a written reply to the complaint, and provide copies to the employee or other person who filed the complaint, and the City Commissioner or Department head. The written reply shall set forth the agreement or understanding made to resolve the complaint, if one was achieved, or proposed action, including referral to the Board of City Commissioners.

b. If the employee or other person is not satisfied by the written reply, he or she may, within five (5) business days of receipt of the reply, submit an appeal in writing to the Board of City Commissioners by filing a written appeal in the Office of the City Administrator. The Commission shall thereupon schedule a hearing and proceed substantially in conformance with the procedures set forth in Section 9-06-04 of the City Ordinances that are applicable to the Civil Service Commission.

Approval Date: 01/28/97
Revision Date: 10/09/01
APPEAL

1. Within five (5) business days after the effective date of suspension, demotion or termination and receipt of written notice of suspension, demotion or termination, issued pursuant to Section 9-06-03 of the City Ordinances, or written response to a grievance made pursuant to Section 9-06-06(1) of the City Ordinances, any official or employee affected may appeal in writing to the Civil Service Commission for a hearing.

   The written notice or written response shall contain a statement advising the employee of the right to a hearing upon request made within five (5) days.

2. The Commission, upon receiving Notice of Appeal, shall set a date for a hearing, which may not be less than five (5) nor more than twenty (20) days after the date of the filing of the Notice of Appeal. Notice of the time and place of the hearing must be served upon the appealing official or employee and upon the authority imposing the suspension, demotion or dismissal, or other action complained of, personally or by certified mail at least five (5) business days before the date of the hearing.

3. The Commission shall hear the appeal at the time set by it. The Commission may hear the evidence and facts to be presented by the appealing official or employee and the authority imposing the suspension, demotion or dismissal, or other action complained of in any order it deems appropriate so long as all parties are given a full opportunity to be heard. The evidence of the parties may be through sworn testimony of witnesses or through exhibits introduced through sworn witnesses. After all parties have presented their evidence and have been given a full opportunity to be heard, the Commission may call other persons or witnesses to ascertain the facts and may make any further investigation which it deems proper.

4. After having completed the hearing and any investigation which it has chosen to undertake, the Commission shall decide the appeal on its merits. The Commission can fully uphold the discipline imposed upon the appealing official or employee. The Commission can find that there was no just cause for the imposition of the discipline and it can reinstate the employee to the status held immediately prior to the discipline and restore to the employee any pay lost as a result. The Commission can also find that it was proper to discipline the employee or official, but that the level of discipline imposed did not fit the offense committed. It may therefore impose upon the employee or official some lesser form of discipline. Or, the Commission can issue its findings and an appropriate order with respect to an appeal of a grievance filed pursuant to Section 9-06-06(1). In all cases the Commission shall issue its written findings, conclusions and order within five (5) days of the hearing. A hearing may be continued from time to time by the Commission.
5. The Commission shall also hear appeals under the procedures set forth above from any employee or official aggrieved as a result of disciplinary action or from any employee or official who alleges discrimination due to race, color, creed, sex, age, marital status, national origin, or, physical or mental disability, or other grievance relating to employment laws, rules, regulations or ordinances, or any other grievance relating to personnel matters.

6. A decision of the Commission is final.
GRIEVANCE FORMS & PROCEDURES

GRIEVANCE PROCEDURE
9-06-06(1)

The City of Bismarck’s grievance procedure is contained in Ordinance 9-06-06. Paragraphs 1 and 2 of that section are applicable to City employees. Paragraph 3 of that section applies to applicants for employment with the City.

Paragraph 1 of Ordinance 9-06-06 applies to situations where an employee has been adversely affected by an action or decision of another employee, other than suspension, demotion or dismissal. Actions regarding suspension, demotion or dismissal may be appealed pursuant to City Ordinance 9-06-04. The complained of action must be alleged to be in violation of a federal, state, or City, law, statute, regulation, ordinance or written policy. An employee may not utilize this section to appeal a letter of reprimand, letter of caution, an oral reprimand or any other personnel action unless the requirements of this paragraph are met.

To bring forward a grievance under paragraph 1 of section 9-06-06, an employee must:

1. First discuss the grievance with the immediate supervisor or department head unless the grievance involves alleged unlawful acts or conduct by the supervisor or department head. If the grievance involves the supervisor, the employee shall discuss the grievance with the department head. If the grievance involves the department head, the employee shall file a written grievance with the human resources director. The human resources director will attempt to informally resolve the grievance.

2. If the grievance is not resolved by the procedure contained in number 1 above, the employee may file a written grievance with the human resources director. The written grievance must set out, in detail, the action or decision complained of who took that action or made the decision and the law, statute, regulation, ordinance or written policy that has been violated by the action or decision.

3. After receiving a written grievance, the human resources director will provide copies of the grievance to the city commissioner holding the department portfolio and to the department head. Within 10 days of the filing of the written grievance, the commissioner, department head, human resources director, employee (grievant) and the employee’s representative, if any, will meet to attempt to resolve the grievance.

4. Within 5 days of the meeting, the human resources director shall issue a written response to the grievance which shall contain any agreement reached at the meeting or any other response to the grievance by the department head.

5. If no agreement is reached or if the employee is not satisfied with the written reply, the employee may appeal the matter to the civil service commission. A notice of such an appeal must be filed with the human resources director with 5 business days of the receipt of the written reply. The hearing before the Civil Service Commission shall follow the procedures as set out in Ordinance 9-06-04.
GRIEVANCE
9-06-06(1)

Employee Name ______________________  Employee Number ______

Department ________________  Immediate Supervisor __________________

Action or Decision that is subject of grievance _______________________ detailed account

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

continue on separate sheet

Specific law, statute regulation, ordinance or written policy that was violated

____________________________________________________________________

____________________________________________________________________

Date of action or decision __________

Person taking action or making decision ________________________________

Please attach copies of documentation supporting grievance.

List witnesses _________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

Employee ______________________  Date ____________________________

For Human Resources Use

Receipt Acknowledged ______________  __________ Date __________

Distribution:  Department head ______ Commissioner ________

Meeting Date: ____________________ Date __________ Time __________ Location __________

Notification:  Employee ______ Department head ______ Commissioner ________ Supervisor ________

Hearing Date: ____________________ Date __________ Time __________ Location __________

Notification:  Employee ______ Department head ______ Commissioner ________ Supervisor ________
GRIEVANCE PROCEDURE (COMPLAINT)
9-06-06(2)

The City of Bismarck’s grievance procedure is contained in Ordinance 9-06-06. Paragraphs 1 and 2 of that section are applicable to City employees. Paragraph 3 of that section applies to applicants for employment with the City.

Paragraph 2 of Ordinance 9-06-06 applies to situations where an employee or any other person has knowledge of suspected violations of law, ordinances, city policies or department rules and regulations, sexual harassment or other misconduct or impropriety by a city employee.

To bring forward a complaint under Ordinance 9-06-06(2) the employee or other person shall:

1. File a report setting out in detail the nature of the violation with the human resources director and the department head. If the allegation is against the department head, the commissioner with that department’s portfolio shall be substituted for the department head.

2. The human resources director shall immediately provide a copy of the report to the commissioner holding the portfolio and to the city attorney. The city attorney shall review the report for possible criminal charges and refer it to the state’s attorney, if appropriate.

3. If the report is not referred to the state’s attorney, the human resources director shall meet with the department head or city commissioner and the complainant to try to resolve the complaint.

4. On or before the 5th business day following the meeting, the department head or city commissioner shall issue a written reply to the complaint. The reply shall contain any agreement that was reached or the proposed action of the department.

5. If the complainant is not satisfied by the written reply, he or she may appeal the matter to the city commission. A written notice of appeal must be filed with the city administrator with 5 business days of the receipt of the written reply. The commission shall hear the appeal utilizing the process set forth in Ordinance 9-06-04 for appeals to the civil service commission.
COMPLAINT
9-06-06(2)

Name (complainant) _______________________________________

If applicable: Employee Number _______ Department ____________________

Immediate Supervisor ________________________________________

Action or Conduct that is subject of complaint __________________________ detailed account
__________________________________________________________________
__________________________________________________________________
__________________________________________________________________
continue on separate sheet

Specific law, statute regulation, ordinance or written policy that is alleged to have been violated.
__________________________________________________________________

Person(s) committing violation ________________________________________

Please attach copies of documentation supporting complaint.

List witnesses _____________________________________________________

I affirm that the information provided is accurate to the best of my knowledge.

_________________________ _________________
Signature Date

For Human Resources Use

_________________________ _________________
Receipt acknowledged Date

Distribution: Department head _______ Commissioner _______ City Attorney _______

Meeting Date: ___________________ ___________________ ___________________
Date Time Location

Notification: Complainant _______ Department head _______ Commissioner _______

Written Reply, distribution: complainant _______ Department head _______ Commissioner _______

City Commission Meeting Date: ____________________________
The City of Bismarck’s procedure for personnel actions involving suspension, demotion or dismissal is contained in Ordinance 9-06-03. Ordinance 9-06-04 contains the process for the appeal of a notice of suspension, demotion or dismissal under Ordinance 9-06-03.

Ordinance 9-06-04 applies to situations where an employee is given notice of suspension, demotion or dismissal and wishes to appeal that action. The complained of action must be have been taken under Ordinance 9-06-03 in order to utilize the appeal process in Ordinance 9-06-04. An employee given a notice of suspension, demotion or termination under Ordinance 9-06-03 has the right to an informal hearing with the appointing authority, the director of human resources, the employee and/or the employees representative prior to termination.

To bring forward an appeal under Ordinance 9-06-04, an employee must:

1. File a written notice of the appeal with the human resources director within five days of the effective date of any suspension, demotion or termination. The notice of appeal should set out the particular action being appealed and include a copy of the notice of suspension, demotion or termination that is the subject of the appeal.

2. After receiving the notice of appeal, the civil service commission will set a date for a hearing which shall be held not less than 7 days or more than 60 days after the filing of the notice of appeal, unless otherwise ordered by the commission. Notice of the hearing will be served on all parties.

3. The civil service commission shall hold the hearing at the time and place set and shall set the procedure for the hearing as it sees fit so long as all parties are given a full opportunity to be heard. The commission may accept evidence through witness testimony or receipt of exhibits. The commission may call additional witness as it deems necessary.

4. After the hearing is closed and the commission has completed any additional investigation that it has chosen to undertake, the commission shall decide the appeal on the merits.

   The commission can:

   a. Uphold the discipline.

   b. Reinstate the employee to his/her former status, with pay.

   c. Find that it was proper to discipline the employee/official but that the level of discipline imposed did not fit the offense committed and impose some lesser discipline.

   d. A decision of the civil service commission is final.
REQUEST FOR INFORMAL MEETING
9-06-03

Employee Name ________________________  Employee Number _________
Department _______________________  Appointing Authority ________________
Action that is subject of informal meeting _________________________________

attach copy of notice of suspension, demotion or termination

Effective date of suspension, demotion or termination ______________

I wish to have an informal meeting with the appointing authority and the Director of Human Resources.

Yes _____  No _____

List witnesses ________________________________

Please attach any exhibits you feel will be helpful in discussing the notice of suspension, demotion or termination.

NOTICE: In order to preserve your right to an appeal to the civil service commission from a notice of suspension, demotion or dismissal, you must deliver a written notice of appeal to the director of human resources within five (5) days of the effective date of the suspension, demotion or dismissal, notwithstanding the informal meeting.

________________________________________________________________________

Employee ______________________  Date ______________________

For Human Resources Use

________________________________________________________________________

Receipt Acknowledged ______________________  Date ______________________

Distribution: Department head ______

Meeting Date: _________________  _________________  _________________

Date  Time  Location

Notification: Employee ________ Department head ________
NOTICE OF APPEAL

9-06-04

Employee Name ____________________________  Employee Number __________

Department ______________________  Appointing Authority __________________

Action that is subject of appeal ______________________________________________

___________________________________________________________________________

attach copy of notice of suspension, demotion or termination

Effective date of suspension, demotion or termination ________________

Name of Legal Counsel ________________________________

I wish to appeal the above described personnel action.

___________________________________________________________________________

Employee __________  Date __________

For Human Resources Use

___________________________________________________________________________

Receipt of Appeal Acknowledged __________  Date __________

Distribution: Department head _____  Civil Service Commission _____  City Attorney _____

Meeting Date: __________  __________  __________  Date  Time  Location

Notification: Employee/Legal Counsel _____  Department head _____

Civil Service Commissioners _____  City Attorney _____
IN VOLUNTARY TERMINATION OF EMPLOYMENT POLICY

POLICY

In order to ensure uniform and consistent procedures for employee terminations, the City of Bismarck has established rules applicable to all such terminations.

All involuntary terminations must be approved by the employee’s appointing authority for the department in question, coordinated with Human Resources and processed in accordance with the provisions outlined in this policy. Notwithstanding the foregoing, should serious misconduct occur, the employee may be immediately suspended, pending an investigation and notification to Human Resources.

SCOPE

This policy applies to all full-time and part-time employees of the City of Bismarck.

PROCEDURAL NOTES

1. When the City of Bismarck initiates a termination (i.e., the employee is terminated), the termination is considered involuntary.

2. Involuntary terminations may occur for a variety of reasons, including with cause (i.e., employee misfeasance or malfeasance) or without cause (i.e., as a part of a layoff).

3. When practical, employees will be warned and counseled. However, failure to correct behavior or further violation of company policy may result in additional disciplinary action, up to and including termination. Depending on the nature of the offense, the City of Bismarck reserves the right to terminate any employee with a forty-eight (48) hour notice.

4. Warnings and counseling are to be documented as outlined in the Corrective Action Guidelines.

5. With respect to all involuntary terminations:
   a. the city will inform the employee of the reason for termination.
   b. the date of separation will be the employee’s last day worked.

6. With respect to all involuntary terminations without cause:
   a. the employee’s record will indicate an involuntary termination without cause (i.e., from layoff).
7. When appropriate, Human Resources will attempt to schedule and conduct an exit interview with the terminated employee. An exit interview helps the City of Bismarck to obtain information that may be useful in improving employee relations as well as to provide additional information to the terminated employee regarding pension, COBRA, etc.

8. The employee's Department Head must sign a Personnel Action Form provided by Human Resources. This form must be completed to ensure that the employee is terminated in a uniform and consistent manner from all appropriate systems, that City of Bismarck property is reclaimed and that the employee's final paycheck is paid in accordance with state and federal laws or regulations, etc.

9. All terminated employees will be paid in accordance with State and Federal laws. Earned but unused vacation will be paid in accordance with the City's "Vacation Policy".

10. Health insurance for a terminated employee will terminate on the fifteenth or last day of the month in which the termination becomes effective, unless otherwise noted in a written COBRA agreement. Long-term Disability Insurance and Life Insurance will terminate on the day in which the employee terminates. Human Resources is responsible for terminating all insurance and notifying the employee of his/her conversion rights.
VOLUNTARY TERMINATION OF EMPLOYMENT POLICY

POLICY

In order to ensure uniform and consistent procedures for employee terminations, the City of Bismarck has established rules applicable to all such terminations.

All voluntary terminations must be coordinated with Human Resources and processed in accordance with the provisions outlined in this policy.

SCOPE

This policy applies to all full-time and part-time employees of the City of Bismarck.

PROCEDURAL NOTES

1. When an employee initiates a termination (i.e., the employee resigns), the termination is considered voluntary.

2. When an employee has been absent for three (3) consecutive days without notification, the City will have the right to process a termination of that employee, effective as of the date of the first absence, and any such termination is considered voluntary.

3. When an employee fails to return from an approved leave of absence for a period of three (3) consecutive days without notification, the City will have the right to process a termination of that employee, effective as of the date the employee was scheduled to return from the leave of absence, and any such termination is considered voluntary.

4. With respect to all voluntary terminations:
   a. The employee’s appointing authority or Human Resources should attempt to determine the specific reason(s) for resignation.
   b. When appropriate, the employee’s appointing authority should attempt to retain the employee.
   c. The resigning employee is expected to provide the appointing authority and Human Resources with written notice of resignation, not less than two (2) weeks in advance of the date upon which the employee would have the resignation become effective.
   d. Once an employee’s resignation has been accepted by the City, the City will determine the employee’s last day to be worked, and the termination will be effective as of that date.
5. When appropriate, Human Resources will attempt to schedule and conduct an exit interview with the terminated employee. An exit interview helps the City to obtain information that may be useful in improving employee relations as well as to provide additional information to the terminated employee regarding pension, COBRA, etc.

6. The employee’s appointing authority must sign a Personnel Action Form provided by Human Resources. This form must be completed to ensure that the employee is terminated in a uniform and consistent manner from all appropriate systems, that City property is reclaimed and that the employee’s final paycheck is paid in accordance with State and Federal laws or regulations, etc.

7. All terminated employees will be paid in accordance with state and federal laws. Earned but unused vacation will be paid in accordance with the City’s "Vacation Policy".

8. Health insurance for a terminated employee will terminate on the fifteenth (15) or the last day of the month in which the termination becomes effective, unless otherwise noted in a written COBRA and/or continuation of health insurance (utilized upon retirement only) agreement. Long-term Disability Insurance and Life Insurance will terminate on the day in which the employee terminates. Human Resources is responsible for terminating all insurance and notifying the employee of his/her conversion rights.

9. Former employees who held a position in the Civil Service, who were laid off without cause or who resigned in good standing within the previous twelve (12) months, will be given preference after present full-time regular employees and will be ranked ahead of other applicants on the employment list if they obtain the same or equivalent final earned rating in the specific competitive examinations given for that vacancy.

10. Employees retiring from service with the City and drawing a pension immediately after termination of employment will be given three (3) options:

   1) Use all annual leave prior to the final date of resignation.

   2) Be paid a lump sum for all annual leave and continue health insurance coverage at the City’s cost for the length of the annual leave accrual total.

   3) Be paid a lump sum for all annual leave and discontinue health insurance. **Exception:** Option 2 may not be selected if retiree or spouse is eligible for Medicare or Medicaid or if coverage under another Group Health Plan is available.

Approval Date: 01/11/05
Revision Date: 04/10/12, 02/01/07
EMPLOYEE SEPARATION CHECK LIST

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name ___________________________</td>
<td>Social Security No. ____________</td>
<td></td>
</tr>
<tr>
<td>Position ________________________</td>
<td>Office __________________________</td>
<td></td>
</tr>
<tr>
<td>Accomplished</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>Sent Exit Questionnaire</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Last Day of Work</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Vacation Hours</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Sick Leave Hours</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Last Paid Day</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Notify:</td>
<td></td>
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<tr>
<td></td>
<td>__________________________</td>
<td></td>
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<tr>
<td></td>
<td>__________________________</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Pull Merit Increase Card</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Pull Employee Card</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Check Insurance Records</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Send Pension Distribution Form</td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>457 Deferred Compensation Withdrawal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(The 60 Day Provision)</td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>COBRA</td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Certificate of Group Health Plan Coverage</td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Credit Card returned to Fiscal Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Unpaid personal expenditures are deducted from final paycheck)</td>
<td></td>
</tr>
<tr>
<td>15.</td>
<td>If Moving, New address: __________________________</td>
<td></td>
</tr>
<tr>
<td></td>
<td>__________________________</td>
<td></td>
</tr>
<tr>
<td>16.</td>
<td>Other: Parking card returned</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Keys</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Beeper</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td></td>
</tr>
</tbody>
</table>

Please return this part of the exit checklist to Human Resources.

Approval Date: 08/22/97
Revision Date: 10/31/00, 04/12/99
EXIT INTERVIEW

DATE ______________________

NAME ______________________ DEPARTMENT ______________________

SUPERVISOR ______________________ DATE HIRED ________________

DATE SEPARATED ________________

TYPE OF TERMINATION: RESIGNATION _____ RETIREMENT _____ DISCHARGE____

OTHER __________________________

STATED REASON FOR SEPARATION:

RESIGNATION _____ DISCHARGE _____

_____ Physical Condition

_____ Ability

_____ Family

_____ Personality

_____ Returning to School

_____ Drive

_____ Secured Better Position

_____ Cooperation

_____ Going into Business for Self

_____ Dishonesty

_____ Disliked:

_____ Rules Violation

_____ Hours

_____ Absenteeism

_____ Supervisor

_____ Tardiness

_____ Type of Work

_____ Accident Prone

_____ Wages

_____ Other Reasons:

_____ Working Conditions

_____ dishonosty

_____ Other Reasons:

____________________________________

____________________________________

____________________________________

____________________________________

Complete when Employee has RESIGNED:

New Employer ______________________ Location ______________________

Nature of New Work _________________ Pay __________ Hours _________

Complete in DISCHARGE case:

When was employee notified? ________________________________

How was employee notified? ________________________________

EXIT INTERVIEW

What kind of work have you been doing for the City? ________________________________

____________________________________

____________________________________________________________________________

____________________________________

222
What kind of work did you like best? ______________________________________

____________________________________ Least? ________________________________

____________________________________ Why? ________________________________

FINANCIAL

How do you feel about your pay? _________________________________

How do you feel about your progress with the City? _________________

______________________________________________________________

SUPERVISION

How do you feel about your Supervisor? _________________________________

______________________________________________________________

Did you take any complaints to your Supervisor? Yes ____ No ____

If yes, how did he/she handle them? _________________________________

Have you had any troubles with your Supervisor? Yes ____ No ____

If yes, describe _____________________________________________

What did you like best about working for the City? _________________________________

____________________________________ Least? ________________________________

______________________________________________________________

Employee Signature ____________________________________

Interviewer Signature _________________________________

Interviewer’s Evaluation _________________________________

______________________________________________________________
THE FOLLOWING RELEASE IS OPTIONAL AND MAY BE SIGNED IF THE EXITING EMPLOYEE AUTHORIZES THE CITY OF BISMARCK TO RELEASE HIS/HER REFERENCE INFORMATION:

I authorize and request that my present employer (City of Bismarck) furnish information, to future references, about my employment record, including a statement of the reason for the termination of my employment, work performance, abilities and other qualities pertinent to my qualifications for employment.

I hereby release them from any and all liability for damages arising from furnishing the requested information.

____________________________________  ______________________
Employee Signature                     Date

Approval Date: 8/22/97
Revision Date: 5/10/99
WORKPLACE VIOLENCE

The City of Bismarck is concerned about the increased violence in society which has filtered into the workplace. Therefore, it is the policy of the City not to tolerate any acts or threats of violence by any City of Bismarck employee, former employee, or citizen against any other employee or citizen in or about the City's facilities or elsewhere at any time. The City of Bismarck also will not condone any acts or threats of violence by any person against City employees, citizens or visitors on City premises at any time especially while they are engaged in business with or on behalf of the City, on or off the City's premises.

In keeping with the spirit and intent of this policy, and to ensure that the City objectives are attained, it is the commitment of the City of Bismarck:

1. To provide a safe and healthful work environment, in accordance with the City's safety and health policy.

2. To take prompt remedial action up to and including immediate termination, against any employee who engages in any threatening behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures.

3. To take appropriate action when dealing with citizens, former employees, or visitors to the City's facilities who engage in such behavior. Such action may include notifying the police and prosecuting violators of this policy to maximum extent of the law.

4. To prohibit any unauthorized person from bringing firearms or other weapons into City buildings.

5. To establish viable security measures to ensure that the City's facilities are safe and secure to the maximum extent possible and to properly handle access to City facilities by the public, off-duty employees, and former employees.

6. To provide Department heads and supervisory staff with full authority to receive and investigate any reports of undesired activities concerning workplace security.

7. To provide training to all employees, who do not already receive such training, in the detection of potential problems, de-escalation techniques, and conflict resolution.

The City of Bismarck's Employee Assistance Program (EAP) supports this policy. Any employee who displays a tendency to engage in violent, abusive or threatening behavior, or who otherwise engages in behavior that the City of Bismarck, in its sole discretion, deems offensive or inappropriate will be referred to the Employee Assistance Program (EAP) for counseling or other appropriate treatment. Such employees will also be subject to disciplinary action, up to and including discharge. (Consult the Employee Assistance Program policy set forth in this handbook for more details on the City of Bismarck's Employee Assistance Program (EAP).

In addition, employees have a "duty to warn" their supervisors, security personnel, or Human Resources of any workplace activity they suspect is in violation of this policy or situations or
incidents that they observe or that they are aware of that involve other employees, former employees, customers, or visitors and that appear problematic. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence to the maximum possible extent. Reports of any improper activities will be made to the immediate Supervisor. The Supervisor will be responsible for the confidential handling of the report. The Supervisor will also assure that the Department head is advised of all potential workplace violence. The City of Bismarck will not condone any form of retaliation against any employee for making a report under this policy.

The City of Bismarck will not tolerate any acts of aggression or threatening, inappropriate or offensive behavior by any person not employed by the City. Any incidents will be reported to the appropriate authority or police to be investigated and prosecuted to the fullest extent of the law.

Approval Date: 01/28/97
Revision Date: 07/28/99
SECURITY

It is the policy of the City of Bismarck to provide for maximum security for the employees and City property.

Therefore, all employees are responsible for protecting the premises, equipment, records, files, fixtures, and supplies of the City of Bismarck. City equipment, files, records and/or supplies cannot be moved from offices and buildings unless prior approval has been given by the Supervisor.

If you have reason to believe that the security and safety of other employees, equipment, files, records, or supplies are at risk, you shall report this to your supervisor.

Approval Date: 01/28/97
Revision Date:
SUGGESTION PROGRAM (BEST PROGRAM)

This program is designed to stimulate employees to review work procedures, submit suggestions for improvements and to recognize and monetarily reward employees who submit suggestions which result in more efficient and more economical operations. These suggestions, if adopted, must result in measurable monetary savings for the City. All suggestions will be assigned a number by the BEST Plan Administrator to insure confidentiality.

All regular full-time employees and regular part-time employees are encouraged to submit their ideas. This does not include hourly employees or Department heads. The ideas may pertain to any operation or department which would benefit, if adopted. Ineligible subjects are those which pertain to routine maintenance such as repairing or replacing worn tools or equipment; ideas concerning City policy, promotions, employee benefits or managerial decisions; ideas already under active consideration by the City; and ideas which are considered as a part of the normal responsibility of the person's job assignment. See Appendix "A" for suggested topics.

Awards up to maximum value of $1,000.00 may be made to the employee who first suggests a new idea which is adopted and which results in a measurable monetary savings. See Appendix "B" for schedule of awards. For those ideas that are not measurable, the award will be based on how much, in the opinion of the BEST Committee, the idea saves in time, materials, contributes to quality and results in measurable cost savings. If the same idea is submitted by more than one (1) employee, the one bearing the earliest receipt date will be considered. If more than one (1) person submits an idea, which is permissible, the award will be divided equally between the employees listed on the form. All monetary awards are subject to applicable income tax laws.

All BEST ideas shall be submitted on the BEST form. Describe the existing operation or procedure which has the potential for improvement and resultant monetary savings. State your suggested recommendations for change, identifying the method, device, operation or area involved. Where appropriate, sketches should be used whenever they will clarify the BEST idea. Be sure to print and sign your name. You may wish to discuss your suggestion with your Supervisor for review prior to submission to the BEST Administrator in the Human Resources Department. All suggestions will be assigned a number and the name will be deleted prior to committee review. The date on which the BEST Administrator receives the form will determine the priority in the case of duplicate idea submissions. Upon completion, the form must be submitted to the BEST Administrator, who will forward one copy to the BEST Committee members.

If it is the belief of the employee that his/her idea has been misunderstood or that the reasons for rejection of an idea are not correct, he/she may immediately appeal, in writing, to the BEST Administrator explaining in detail why and how the judging committee may have failed to properly evaluate the suggestion. Decisions rendered by the BEST Committee on all matters relative to the BEST program are final. The City reserves the right to amend or terminate the BEST program at any time.

Approval Date: 01/28/97
Revision Date:
APPENDIX A (EXAMPLE OF IDEAS (BEST))

BEST

Examples of Eligible Plan Ideas which result in cost reductions in labor, material, equipment down time, etc.: 

- Substitute machine operation for hand operation.
- Reduce man-hours for operation.
- Reduce or eliminate material cost.
- Reduce or eliminate waste.
- Increase output per employee.
- Prevent breakage or prolong life of tools and equipment.
- Improve design or function of equipment.
- Change tools or equipment to reduce installation time.
- Combine forms.
- Combine operations to increase production (Except simple flexibility of schedule combining).
- Improve handling and storage.
- Increase service or quality of service without increase in cost.

NOTE:

This list is suggestive only and is not intended to be all-inclusive.

Approval Date: 01/28/97
Revision Date:
### APPENDIX B (SCHEDULE OF AWARDS (BEST))

#### BEST Schedule of Awards

<table>
<thead>
<tr>
<th>Dollar Amount Savings (over 1 yr. period)</th>
<th>Award Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>250 - 999</td>
<td>No monetary amount</td>
</tr>
<tr>
<td>1,000 - 19,999</td>
<td>$50.00 for 2,500.00 plus $5.00 per thousand.</td>
</tr>
<tr>
<td>10,000 - 99,000</td>
<td>$100.00 for 10,000.00 plus $5.00 per two thousand.</td>
</tr>
<tr>
<td>100,000 - 499,999</td>
<td>$400.00 for 100,000.00 plus $5.00 per five thousand.</td>
</tr>
<tr>
<td>500,000 and above</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

Plus all BEST award winners will receive an incentive award showing the year, the name of the program and the dollar amount of the savings. In addition, all BEST winners will be special guests along with their spouse at the Annual Employees' Service Awards Ceremony, where recognition awards will be made by the President of the Board of City Commissioners.
EMPLOYEE RECOGNITION GUIDELINES

1. PURPOSE

To recognize City employees for dedicated years of service to the citizens of Bismarck.

2. POLICY

The following guidelines apply to City of Bismarck Employees:

a. City of Bismarck employees will be recognized on the completion of 5, 10, 15, 20, 25, 30, 35, 40 and 45 years of regular full and regular part-time continuous years of service.

   • The employee having completed five (5) years of service will be awarded a certificate of appreciation and a $25.00 check (subject to taxes).

   • The employee having completed ten (10) years of service will be awarded a certificate of appreciation and a $35.00 check (subject to taxes).

   • The employee having completed fifteen (15) years of service will be awarded a certificate of appreciation and a $50.00 check (subject to taxes).

   • The employee having completed twenty (20) years of service will be awarded a certificate of appreciation and a $75.00 check (subject to taxes).

   • The employee having completed twenty-five (25) years of service will be awarded a certificate of appreciation and a $100.00 check (subject to taxes).

   • The employee having completed thirty (30) years of service will be awarded a certificate of appreciation and a $150.00 check (subject to taxes).

   • The employee having completed thirty-five (35) years or more of service will be awarded a certificate of appreciation and a $200.00 check (subject to taxes) every five (5) years.

b. The awards list will be compiled and certified from personnel records. This list establishes the basis for the awards and must show 5, 10, 15 20, 25, 30, 35, 40, etc., years of service by December 31. This list will be completed and certified by the Human Resources Department.

c. The employees being recognized will be invited to an afternoon reception, as well as their families and fellow employees. The awards will be presented by the President of the City Commission.

d. The employees being recognized will be listed with the media.
The following guidelines apply to City of Bismarck Employees for a Community Service Award.

a. A Community Service Award will be awarded annually if someone is determined to be eligible.

b. The employee will be nominated in writing by September 15, of each year, stating reasons for nomination, details of his service, etc.

c. The project must have a positive effect on the community.

d. The selection will be made by a three-person committee, appointed by the Department heads. The Committee will consist of one (1) Department head, one (1) Administrative employee and one (1) employee at large. This Committee shall serve a two-year term. It will be their responsibility to research all nominations and arrive at a decision regarding the award. The Committee's decision will be final.

e. The award will be a plaque with the name of the person, date, and type of award, etc., and not to exceed $30.00 in cost.

f. The award selection will be forwarded to Human Resources Department by November 1 of each year.

g. The award will be presented by the President of the Board of City Commission at the Employee Recognition Reception.

Lists of persons receiving awards will be published in the employee newsletter and listed with the media.

Approval Date: 01/28/97
Revision Date: 08/31/09; 04/12/99; 5/04
TELEPHONE USE

Employees are expected to learn the proper operation of the telephone system in their respective work areas. Employees should speak clearly and pleasantly into the mouthpiece and identify themselves when answering. If it is necessary to transfer a call, the party should be told to whom they are being transferred. If the caller must wait, put them "on hold" so conversations in the work area cannot be overheard. Return to the caller periodically so they do not feel forgotten.

All departments are expected to arrange coffee breaks and noon hours in such a way as to provide telephone service during the entire workday. Personal calls should be limited and brief. Friends should be discouraged from calling.

Un-reimbursed personal use is prohibited.

Approval Date: 01/28/97
Revision Date:
PARKING

In some locations, the City of Bismarck may provide parking for the employees. In other locations, it may be necessary for employees to park in locations other than on City property. Employees at some locations may be charged for parking privileges. The cost is determined by the fees charged and can be a payroll deduction.

Approval Date: 01/28/97
Revision Date:
EDUCATION AND TRAINING

It is the policy of the City of Bismarck to provide for the necessary training of its employees on a planned and continuous basis. The City of Bismarck’s Education and Training policy supports employees seeking to further their formal education. The program assists with tuition for career or job related courses taken at accredited: colleges, universities, business schools, technical and trade schools.

In addition to the training and information employees receive on the job, the City of Bismarck's continuing academic education program is intended to assist employees to attain optimum performance in their present or future roles within the City of Bismarck’s workforce. The program assists with tuition for career or job-related courses beneficial to the City of Bismarck. The following procedure shall apply to participation in graduate and undergraduate programs.

Eligibility

To be eligible to participate in the Education and Training program, an employee must be employed full-time. Employees on a leave of absence, working part-time, or in a seasonal fulltime or temporary position are ineligible.

Enrollments

A City Continuing Education Application must be completed and signed by the Department Director, and forwarded to Human Resources prior to enrolling in any continuing education program or class.

Course Selection

Courses are to be selected from the offerings of accredited colleges, universities, business schools and trade schools. Courses selected should be related to the employee’s present or future jobs and beneficial to the City of Bismarck.

Attendance at courses and homework must not interfere with scheduled work. No courses under this program may be completed while engaged for regular work.

Reimbursement will be limited to three (3) courses per calendar year. Reimbursement will be made up to one thousand dollars ($1000) per course.

Application Process

Eligible employees will complete the Continuing Education Application and submit to their department director prior to the course start date. The department director must approve or disapprove the request and submit to the Human Resource department for review and processing.
Continuing Education Applications for Undergraduate Graduate classes must be submitted to the Department Director prior to June 15 of the year before the course is to begin so that tuition reimbursement can be a part of the department’s budget process.

**Reimbursement Process**

Reimbursements for Undergraduate courses are funded at the department level. Reimbursement for Graduate courses, are funded from the Human Resource Office. The City will reimburse the employee for tuition only, books and other fees will be paid by the employee. Employees receiving allowances from other sources such as the GI Bill, scholarships, grants or other forms of assistance, may participate in this program to the extent that approved costs exceed allowances from other sources.

Eligible employees will be reimbursed for approved tuition after successfully completing coursework and presenting the following:

- Verification that the employee received a grade of a "C" or better for undergraduate coursework or a "B" or better for graduate coursework.

- Submission of a paid receipts for tuition

Reimbursement will be processed through the accounts payable system and be included in the next monthly disbursement check cycle.

An employee who withdraws from a course or leaves employment with The City of Bismarck before completing a course will not be eligible for reimbursement.

An employee who voluntarily leaves the employment of the City after the date of the reimbursement check and within:

- one (1) year will refund 100% of the paid tuition to the City.
- two (2) years will refund 50% of the paid tuition to the City.
- three (3) years will refund 25% of the paid tuition to the City.
- four (4) years will not be required to refund the paid tuition.

This program may be suspended if budgeted funds are depleted prior to the end of the budget year.

Approval Date: 01/28/97
Revision Date: 01/10/17, 03/09/10, 04/22/02, 04/30/99, 05/12/98
COMPUTER USE AND ELECTRONICS COMMUNICATION POLICY

PURPOSE

To establish policy to ensure required computer, electronic communications, internet/intranet, local and wide area network resources operate at a high level and to insure the appropriate and acceptable use of technology equipment at the City of Bismarck (City).

POLICY

The City has established this policy with regard to the use of City issued computers and digital communications equipment (Devices) on systems provided by or made available by the City (the Systems). This policy applies to the use of City Devices to access the internet, the use of City programs and licensed software and to the disposition of emails, text messages or other electronic communications created, sent or received by City officials, employees or other persons granted access to the City’s Systems (the Users) or using City Devices. The City maintains an electronic mail system, access to the internet and a City network along with proprietary programs and licensed programs and provides cellular service and electronic equipment to utilize these systems. The System and the Devices are provided by the City to assist in the conduct of City business. It is important for all employees to understand that the City is subject to the North Dakota Open Records Law, the North Dakota Rules of Civil Procedure and the Federal Rules of Civil Procedure as they relate to electronic records discovery and, as such, all un-excepted records, including records or information contained on City owned computers, laptops, notebooks, tablets, PDAs, telephones or other electronic devices and all records regarding City business contained on personally owned devices, are subject to disclosure upon request of any citizen or upon receipt of a valid subpoena in the case of litigation. The City intends to honor the policies set forth below, but must reserve the right to change them at any time as may be required under the circumstances. Users shall not utilize the City’s System or Devices while engaging in any activity that is illegal under local, State, Federal or international law or in any manner that violates any policy of the City. This policy shall not apply to Police Officers engaged in official investigations.

General:

1. Computer users shall not intentionally develop or use programs or devices that harass other computer users or that infiltrate the System and/or damage the Systems or Devices.

2. Peer-to-Peer (P2P) file sharing applications are not permitted.

3. No User may utilize the Systems for personal gain. The Systems are the property of the City and may be used only for City purposes. All data on the Systems must be City work related.

4. Users shall not install software on City devices. All software installations, including free software, must be done by Information Technology Geographic Information System Division (IT/GIS) staff unless otherwise expressly approved by the
IT/GIS Manager. Any unlicensed software, personal software or software not approved by the IT/GIS Manager found on the City’s System may be deleted by IT/GIS without notice to the User.

5. Users shall not connect a non-City owned computer or other hardware to the City’s System without the express approval of the IT/GIS Manager. No User shall access any system with a non-City owned Device except for the City’s non-secure wireless internet system.

6. Users shall not alter the configuration of any network device or individual computer software or hardware without prior approval from the IT/GIS Manager.

7. Users shall not use the City System to gain unauthorized access to any other computer systems. Programs intended to gain access to unauthorized systems are prohibited.

8. Users (with the exception of IT/GIS for technical support reasons) shall not intentionally seek, provide, modify information or obtain copies of files, programs, keystrokes, or passwords belonging to another User without permission of that User.

9. No City Systems and Devices shall be used to create any offensive or disruptive messages. Among those which are considered offensive, are any messages which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone’s age, sexual orientation, religious or political beliefs, national origin, or disability.

10. The use of instant messaging programs, such as ICQ, AOL Instant Messenger, Microsoft Messenger, etc., are prohibited unless otherwise approved by IT/GIS.

11. The City Systems and Devices are City property. All messages composed, sent, or received on all City Systems are and remain the property of the City. They are not the private property of any employee.

12. The City Systems and Devices may not be used at any time to solicit or proselytize for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations. As per NDCC Section 16.1-10-02, City Systems and Devices may not be used for any political purpose.

Privacy and Security: All Users shall conform to the following to protect the integrity and security of the City’s System:

1. The City seeks to protect System based information from accidental or intentional unauthorized modification, misuse, destruction, disruption, or disclosure.

2. In order to protect the integrity of its System, the City has the right to monitor all System resources.

3. Users are responsible for the security of their password and account. Passwords should be changed as defined by current system security setting(s) and should not be
shared. Each User is responsible for all transactions made under the authorization of his or her account.

4. Users shall not make unauthorized attempts to circumvent data protection schemes or uncover security loopholes including creating and/or running software that are designed to identify security loopholes and/or decrypt secure data.

5. The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message. Further, the use of passwords for security does not guarantee confidentiality.

6. Notwithstanding the City's right to retrieve and read any electronic messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any electronic messages that are not sent to them. Any exception to this policy must receive prior approval by the Department head.

7. The City has the right to monitor any and all aspects of the System to determine if a User is utilizing the System in violation of this policy. Users are hereby notified that the City may use human or automated means to monitor use of its System. The contents of any electronic communications properly obtained for legitimate business purposes, may be disclosed within the City without the permission of the employee.

8. All electronic messages as well as other non-proprietary information in or on the City Devices and any information relating to City business stored on personally owned devices may be a public record and subject to disclosure or public access upon request and are subject to subpoena in litigation.

9. The City is subject to the North Dakota Open Records Law and, as such, all records not otherwise excepted are open to the public and are subject to disclosure upon request of any citizen. Records or information contained on any of the Devices in any form are generally open records.

10. The City Systems and Devices shall not be used to send (upload) or receive (download) copy-righted materials or trademarked materials without prior authorization from the copy-right or trademark holder.

11. As between individual Users, files controlled by an individual User are considered private, whether or not accessible by other Users. A User must obtain permission from the owner of a file to alter or copy a file that does not belong to him or her. The ability to read, alter or copy a file does not imply permission to read, alter or copy that file.

12. The ability to connect to other systems through the network does not imply the right to connect to these systems or to make use of these systems unless properly authorized by the owners of those systems. Each network or system has its own set of policies and procedures. Actions allowed on one (1) network may be forbidden on another network. It is the User's responsibility to obtain permission and to abide by the policies and procedures of these other networks.
13. The City may impose restrictions or limits on use of System resources. Deliberate acts which are wasteful of computing and/or network resources or which unfairly monopolize System resources to the exclusion of others are not permitted.

14. Any User who discovers a violation of this policy shall promptly notify his/her Department Head.

15. Any employee who violates this policy or uses the City System or Devices for purposes in violation of this policy shall be subject to discipline, up to and including termination.

16. The City shall not be liable for any User’s inappropriate use of the Systems or Devices, resources, violations of copyright restrictions or other laws, mistakes or negligence, and costs incurred. The City shall not be responsible for ensuring the availability of the City’s technology resources or the accuracy, appropriateness, or usability of any information found on the Internet.

17. All Users shall retain electronic records, whether created or maintained using the City’s Systems or Devices or using personal technology resources, in accordance with the State’s record retention policies or in accordance with the North Dakota Rules of Civil Procedure or the Federal Rules of Civil Procedure. Generally, all electronic records should be preserved once a party knows or should know that the information is likely to become relevant to pending or future litigation.

**Equipment and Software:**

All City Systems, Devices, proprietary software and licensed software are subject to the following:

1. All computers shall have installed and activated current anti-virus software provided by IT/GIS.

2. All equipment connected to the City Systems must be approved by IT/GIS. Users are to use the standard software provided by IT/GIS or other approved software for specialized applications. Users are not permitted to download applications, demos or upgrades without the approval and involvement of IT/GIS. Automatic updates required by some applications are acceptable.

3. All network server resources are backed up nightly, tapes are rotated on a 5-week schedule and one (1) nightly run is stored off-site. Nightly backups are stored for no more than five (5) weeks. Data stored on the local computer is not backed up and important data should not be stored locally. Users working on especially crucial information are encouraged to backup these projects to disks or CD's. Users are responsible for ensuring that the data stored on a local computer is backed up appropriately.

4. Users shall use the standard e-mail system provided by City for all e-mail communications.
5. The City may identify and block access to Internet sites containing any material deemed inappropriate in the workplace.

Definitions:

1. **Account.** All the information used to define a User to a network resource. This includes the name and password required for the User to log on, the groups in which the User’s account has membership, and the permissions the User has for using the System and accessing resources.

2. **Password.** Stored in each User’s account and encrypted. Each User generally has a unique user password and must type the password when logging on or accessing the System and its resources.

3. **Peer to Peer (P2P)** Peer-to-Peer applications are commonly used to share files between clients and can exhaust bandwidth and seriously degrade network performance. Peer-to-Peer applications might install themselves on a computer as a super node, directing volumes of Peer-to-Peer search traffic through the System, without the User’s knowledge. Peer-to-Peer applications magnify security risks by limiting the defenses of the User and by increasing the number of computer users that can connect to the User’s system.

4. **System and Devices.** The City’s entire communications and information system including all hardware and software. This includes, but is not limited to: host computers, file servers, application servers, fax servers, web servers, computers, standalone computers, laptops, tablets, notebooks, smart phones, software, data files, and all internal and external computer and communications networks (e.g., Internet, computer on-line services, value-added networks and e-mail systems), digital networks (e.g., data, video, audio, voice, and multimedia), routers, hubs, switches and telephone or data services that may be accessed directly or indirectly from or through the City’s System or Devices.

5. **Users.** All elected officials, appointees, employees, independent contractors, consultants, temporary workers, and other persons or entities who use the City’s System and are granted appropriate access.

Approval Date: 05/14/13
Revision Date:
COMPUTER SOFTWARE COPYING (PIRACY)

PURPOSE

The purpose of this policy is to establish a guideline pertaining to license agreements and copyrights of computer software.

PROCEDURE

It is the policy of the City of Bismarck to respect the intent of all license agreements and copyrights held by the computer software manufacturers, which generally prohibit multiple simultaneous usage and/or duplication (copying) of purchased computer software. Except for legitimate archival purposes, no unauthorized copying, duplication, or multiple use of computer software package except where expressly stated is allowed.

Approval Date: 01/28/97
Revision Date:
CREDIT CARD PURCHASING

1. **Purpose**

   The purpose of using the Credit Card Program is to purchase low-dollar, high-volume goods and services that are repetitive in nature. Any transactions made with the credit card may become the liability of the City of Bismarck. This manual is designed to outline procedures that will enhance accountability and safety of our assets. Credit cards should be treated with the same level of care that you would your own personal credit card. Cardholders are responsible for the use of their cards. Each department should designate a person to be the department's Purchasing Card Coordinator.

2. **Benefits**

   There are numerous benefits for purchasing goods and services with a credit card. This includes:
   
   a) Significant reduction in the volume of requisitions, purchase orders, and checks processed.
   b) Convenience of purchasing with express delivery of goods.
   c) Thirty (30) days of interest earned.
   d) Cost savings on reduced paperwork.

3. **Cardholders**

   Cards should only be issued to purchasing staff that routinely make purchases of supplies and material. Whenever possible the personnel with the authorization to approve expenditure and the Purchasing Card Coordinator should not have access to the credit card. The only person authorized to use the card is the person whose name is listed on the card. The card number should never be placed on file at any place of business and should be secured at all times. The liability protection does not apply to cards that are made available to multiple users and does not cover neglect or misuse of the card number.

   **USBANK VISA CREDIT CARD IS THE ONLY AUTHORIZED CREDIT CARD FOR THE CITY OF BISMARCK.**

4. **Obtaining a Credit Card**

   a) Contact fiscal services for applications.
   b) Complete and sign application for approval from City Administrator.
   c) Sign a written acknowledgement of employee/cardholder responsibilities.
   d) Sign a blanket authorization for unapproved expenditures to be deducted from the cardholder's paycheck.
   e) Attend a training session.
5. **Credit Card Rating**

The credit card transaction is the liability of the City of Bismarck and not the personal liability of the cardholder. The cardholder’s credit rating will not be affected. However, any misuse of the credit card is the responsibility of the cardholder, as stated in the agreement that is signed upon obtaining a credit card.

6. **Guidelines for Use of Credit Cards**

Credit cards are authorized for purchasing individual transactions up to and including $1,000.00 and credit limits will vary from $2,500.00 to $10,000.00 depending on the purchasing size of the department. Any increase in the credit limits would need the approval of the Director of Finance and any increase in the transaction limit would need the approval of the Department head on a case-by-case basis.

The credit card is to be used to purchase repetitive low-cost high volume items. Items **NOT** allowed to be purchased with the credit card unless a waiver is granted include:

- a) Gasoline/Fuel for company vehicles.
- b) Employee Travel - Lodging ONLY.
- c) Airline Tickets.
- d) Car Rental.

**Note:** Departments may request an annual waiver from the Director of Finance to remove the restriction on the purchase of the preceding item(s). The waiver will be specific to the cardholder and the item(s). When applicable, the cardholder will be required to state on the travel reimbursement voucher that a credit card waiver may apply to the trip. The waiver would authorize any inappropriate expenditure to be deducted from the cardholder’s payroll check.

Other Exclusions that are **STRICTLY** forbidden for which **NO WAIVER** is available:

- a) Cash Advances (ATM or other).
- b) Non-business/personal items.
- c) Payments made to the City of Bismarck.
- d) Employee Travel for Meals.
- e) Insurance.
- f) Alcoholic Beverages.
- g) Flowers/Gifts.
- h) Ammunition/Weapons.
- i) Leases.
- j) Legal Services.
- k) Tax Reportable Services (1099). Ex: Services to non-corporations in excess of $600.
- l) Gasoline/Fuel for personal vehicle.
- m) Entertainment/hospitality/food.
- n) Police under cover uniforms.
7. **Purchasing Procedure**

a) Receive prior approval to purchase materials with the credit card by filling out a requisition. The Supervisor will approve or disapprove the requisition and also give the requisition to the Manager to approve. Purchases may be made if approved.

b) Tell the vendor that the City is exempt from sales tax. The sales tax exempt number can be obtained from Fiscal Services.

c) All invoices must include proper description, quantity, and price. Invoices without proper documentation will not be accepted for payment and will be the responsibility of the cardholder.

d) If the goods are shipped, inform the vendor to ship the invoice with the purchase. Upon receipt of the item(s), compare order to invoice to ensure accurate billing and delivery.

e) If the goods are picked up, obtain itemized invoice indicating description, quantity, and price.

f) Have the vendor mark "Credit Card-Paid" on the invoice to avoid duplicate payments.

g) Maintain a record of the purchase on the purchasing card record that is located on the outside of the envelope and secure the invoice inside.

h) Turn purchasing card envelope with the invoices into the department's purchasing card coordinator on a monthly basis.

i) Either the Purchase Card Coordinator or cardholder will write the account numbers on the purchase card envelope.

j) Purchase Card Coordinator will reconcile invoices and purchase card records to the monthly credit card statement.

k) Department head will authorize expenditure by signing the purchase card envelope.

l) Send the purchase card envelope with the original invoices to Fiscal Services.
8. **Returns, Credits, and Disputed Items**

The cardholder is responsible to follow up on any returns, credits, or items in dispute. First the cardholder should try to research and resolve the conflict directly with the supplier. A majority of the problems will be resolved at this level. Maintain all returns, credits, and disputed items in a file. Following are procedures to handle returns, credits, and disputed items:

**Returns**

Any item returned to the vendor must be returned for credit. Cardholder must ask for a credit receipt. DO NOT ACCEPT CASH OR A CHECK for any items that were purchased with a credit card. Record the return on the purchase card envelope and make reference to the invoice that pertains to the credit. Use the same account number for the credit that was assigned to the original invoice.

**Credits**

Record the credit on the purchase card envelope and make reference to the invoice that pertains to the credit. Use the same account number for the credit that was assigned to the original invoice.

**Disputed Items**

If the cardholder cannot resolve the problem directly with the vendor, contact the Department head and fill out a disputed credit card transaction report. Immediately send the original disputed credit card transaction report to Fiscal Services to prevent payment on disputed items. Record the disputed item on the purchase card envelope and attach a copy of the disputed invoice to the purchase care envelope.

9. **Credit Card Security**

Cardholders should treat the credit card with the same level of care as they would their own personal credit card.

- Do not give your credit card to anyone else to use. The only one authorized to use the credit card is the cardholder whose name appears on the credit card. The cardholder is responsible for any transactions resulting from the use of the credit card.

- Do not leave your card number or any writing with the credit card number in any location that is accessible to others.

- Use only secure web sites when purchasing items over the Internet.

10. **Lost or Stolen Credit Cards**

Report any lost or stolen credit cards immediately to the Department head. Notify Fiscal Services to cancel the lost or stolen card. Fiscal Services will contact VISA immediately.
11. **Random Audits**

Fiscal services will conduct random audits on the transaction and use of credit cards to ensure the following:

- volume of purchases are reasonable,
- credit cards are being used for appropriate expenditures, and
- supporting documentation is complete.

12. **Failure to Comply with Procedures**

Any misuse or non-compliance with procedures may result in the following:

- Termination of all credit card privileges.
- Disciplinary actions, up to and including employee termination.
- Repayment of all transactions resulting in personal or other improper use of the credit card will be deducted from the cardholder's payroll.
- The City Administrator has the authority at any time to revoke a credit card due to non-compliance of the credit card policy.

13. **Termination of Employment or Transfer to Other Division**

Upon an employee's termination or transfer to another division, the terminating or transferring cardholder must return the credit card to his/her supervisor. The Supervisor should cut the credit card in half and return the card to Fiscal Services. Fiscal Services will cancel the card. Do no assign the card to any other personnel for use.

Approval Date: 08/17/01
Revision Date:
CHANGE ORDER POLICY

The Change Order process is established to provide approval authority for the various types of Change Orders and monetary amounts for capital improvement projects. All Change Orders are to be documented on a form designated by the Finance Director. All Change Orders must be within the approved project funding and the original scope of the project as authorized by the City Commission. All Change Orders will be filed with the Finance Department on a timely basis. The authorization levels for Change Orders are described as follows:

A. The City employee designated by the Department head as the Project Manager has final Change Order authority if the following amounts are not exceeded:
   - A single Change Order, whether cost or credit, up to $15,000.
   - A single contract pay item with a cost or credit up to $15,000.
   - An extension of time up to five (5) working days.

B. The Department head has final Change Order authority if the following amounts are not exceeded:
   - A single change order, whether cost or credit, up to $25,000.
   - A single contract pay item with a cost or credit up to $25,000.
   - An extension of time up to fifteen (15) working days.

C. The City Administrator has final Change Order authority if the following amounts are not exceeded:
   - A single change order, whether cost or credit, up to $50,000.
   - A single contract pay item with a cost or credit up to $50,000.
   - An extension of time exceeding fifteen (15) working days.

Change Orders authorized by the City Administrator will be placed on the City Commission Consent Agenda subsequent to the approval.

NDDOT contracts are subject to Section C items 1 and 2 only for the City’s share of the funding. Extensions of time are addressed in the contract provision for liquidated damages.

Change Orders that exceed Section C items 1, 2, 3, the scope of the project or authorized project funding must be submitted to the City Commission for approval.

Approval Date: 05/24/05
Revision Date:
ADMINISTRATIVE PROCEDURE  
CITY/COUNTY OFFICE BLDG EVACUATION PLAN  
221 N 5TH STREET

IN CASE OF FIRES OR FIRE ALARM

1. Sound fire alarm by pulling closest "Fire Alarm Pull".

2. Close office and stairwell doors upon leaving. Do not block exits open or render useless so others may still use them.

3. Evacuate building using assigned routes.

4. Assemble at the parking lot south of the Provident Life Building immediately. Those exiting the rear of the building should cross Thayer Avenue and then move to the parking lot.

5. If any individual is missing, notify your Office Coordinator.

Do not use the elevator under any circumstances!

REMEMBER: WALK, DO NOT RUN, REMAIN CALM

IN CASE OF TORNADO

When a Tornado Warning is given through the National Weather Service or the outdoor warning sirens sound, each Department head or designee will decide on a safe and appropriate course of action. Any employee who feels at risk must be allowed to take shelter in the "Tornado Shelter" located in the basement, east of the Tom Baker Room. If the tornado poses a threat to the building, in the opinion of the Department head or designee, all employees must take shelter in the "Tornado Shelter" when ordered to do so.

1. Move to center of building such as hallway. Avoid wide-open rooms and windows.

2. Proceed to "Tornado Shelter Room" east of the Tom Baker Room.

3. If the building sustains damage, you will be advised of the best way to avoid injury.
FLOOR COORDINATORS

Each Department head, or their designated assistant, will be the Office Coordinator and will be responsible in determining that all staff is safely out of the building.

1. Sound fire alarm (if not already sounding).
2. Call "911" to report fire, location, and extent of fire.
3. Assist in the evacuation of your area with special attention to handicapped persons.
4. Close all doors to isolate fire and protect other areas.
5. Go to designated meeting area and check on personnel.
6. Report missing individuals to Fire or Police personnel.
7. Give location and extent of fire to Fire Department personnel.
8. Know location of fire extinguishers and first aid equipment.
9. If you fight the fire yourself, assign a designee to your responsibilities/duties. Alerting building occupants (alarm activation) and phoning "911" must occur first. Once a decision is made to fight a fire, assure personal safety, including ability to exit the building.

Approval Date: 03/12/06
Revision Date: 
TRAVEL POLICY
CITY VEHICLE TRAVEL POLICY

PURPOSE

It shall be the policy of the City of Bismarck to allow the use of City owned or privately owned vehicles for travel out of the jurisdiction or State on City business with prior approval of the Department head or designee.

PROCEDURE

1. City vehicles may be used when available and practicable for out-of-town business. Reimbursement will be for actual documented expenditures.

2. Private vehicles may be used for travel out of town/state on City business. Reimbursement shall follow the business standard mileage rate issued by the Internal Revenue Service. When private vehicles are utilized where air travel could normally be utilized, the travel time shall be limited to one (1) day each way. Maximum reimbursement shall not exceed the cost of reasonable airfare fees.

3. When a City vehicle is available and a private vehicle is used, reimbursement will be for documented gasoline purchase only.

4. Non-City employees will not be allowed as passengers in City vehicles without prior approval of Department head or designee.

5. The use of rental vehicles will be allowed only with prior approval of Department head or designee.

6. Only drivers shall be authorized reimbursement for vehicle travel expense.

7. City vehicles may be used for City purposes only.

Travel in City of Employment

Private Vehicle

Necessary official travel by City employees within the assigned service area on most direct routes will be reimbursed at the business standard mileage rate issued by the Internal Revenue Service.
In addition, you will receive an additional amount on your paycheck at the end of each month based on the following formula. This formula will be re-calculated and approved annually.

<table>
<thead>
<tr>
<th>MILES</th>
<th>AMOUNT</th>
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<tbody>
<tr>
<td>1 - 500</td>
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<td>501 - 1,500</td>
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<td>1,501 - 3,000</td>
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<td>3,001 - 6,000</td>
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<td>6,001 - 9,000</td>
<td>45.00</td>
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<tr>
<td>9,001 -12,000</td>
<td>55.00</td>
</tr>
</tbody>
</table>

Mileage from a normal work station to a conference or meeting is reimbursable if an employee actually reports to work prior to attendance at the meeting. However, mileage for travel from an employee’s residence directly to the conference/meeting site is not reimbursable, since it is considered normal commuting travel.

**Commercial Air Travel**

Employees may be reimbursed for actual airfares paid for travel on official business. Employees may be reimbursed for actual fees for the first checked bag. A receipt is required. Reimbursement for additional baggage may be authorized in advance of the air travel by the department head for travel extending a week or unusual or extenuating circumstances that require additional baggage.

Charges to Travel Agents: While not specifically allowed by ordinance, the privilege of charging airline tickets through a travel agency is allowed. If a department allows employees to charge airfare to the City via a travel agency, the following control procedures must be utilized to assure internal control and proper payment and credit:

1. A purchase order must be completed in order to receive an additional 10-percent discount at the time of booking.

2. The travel agent should be advised of the proper City billing procedures and accurate address.

3. Employees must submit the last coupon of their ticket (white copy) and itinerary to their departmental personnel responsible for payment of bills.

4. The Department's Fiscal personnel shall match all travel agency charges to the ticket coupons to assure proper charges.

5. Unused tickets which have been charged to the City must be submitted to the department's Fiscal personnel or travel coordinator for refund, not directly to the travel agency. The Fiscal staff should make appropriate note of the return ticket prior to payment of the travel agency billing to assure proper credit.
Pre-payment of Airfare

Agencies may purchase airline tickets in advance of anticipated travel to take advantage of reduced or discounted fares. A pre-paid ticket must be received at the time payment is made to an airline or travel agency.

At the discretion of the Department head, employees may travel on the weekend if it results in savings.

Taxi Fares/Airport Parking

Employees may be reimbursed for actual taxi fares paid and cost of Airport parking paid while in travel status. All reasonable attempts should be made to minimize the cost of transportation. A receipt is required.

Lodging Receipts and Payments

Only receipts from bona fide lodging establishments should be accepted for reimbursement by the Departments. Receipts from relatives for the provision of lodging services will not be acceptable. The receipt must be the official receipt from the lodging establishment which details all charges and not a charge slip from a credit card system.

Bona fide lodging establishments include: hotels, motels, college dormitories, hospitals, military facilities, and similar institutions.

1. Lodging charges when accompanied by an individual not eligible for reimbursement: When accompanied on a City authorized trip by a spouse or traveling companion, the City employee must have the lodging establishment clearly certify the room rate for a single person and only that amount may be claimed.

2. Lodging charges--two (2) employees sharing lodging: If two (2) city employees are sharing lodging accommodations, the actual cost of the room must be split evenly and each must have a separate receipt.

   Example: Where a double rate is $50.00 and a single rate is $37.00, the City will reimburse only the actual cost to the travelers, or $25.00 each (not $37.00 each).

Reimbursement for Meals and Lodging

City of Bismarck provides for reimbursement of employee expenses for meals and lodging while an employee is away from his/her normal working and living residence.

Claims may also be made for meals which are not included as part of a registration fee for a conference, seminar, or other meeting and for meals attended at the request of and on behalf of the City or any of its subdivisions, agencies, bureaus, boards, or commissions; however, if a
meal is included in a registration fee or airline fare, the applicable quarter allowance cannot be claimed for the meal.

Departments are urged to use restraint and common sense in authorizing this expense to prevent abuse of this provision.

The maximum expense allowance for each quarter of any twenty-four (24) hour period is as follows: (The policy provides that employees shall be reimbursed for the first quarter only if travel began before 7:00 a.m.). When using personal vehicle and traveling out of town, travel begins when the person traveling leaves their house. When using a City vehicle, travel begins when the person traveling starts his/her trip with the City vehicle. The expense allowance for each quarter is prescribed by NDCC 44-08-04. The current rates are:

### IN-STATE

- 1st quarter 6 AM to 12 Noon  
  (Only if travel begins before 7 AM)  $ 6.00  
- 2nd quarter 12 Noon to 6 PM  $ 9.00  
- 3rd quarter 6 PM to 12 Midnight  $ 15.00  
- 4th quarter 12 Midnight to 6 AM - (Actual lodging not to exceed $63.00, plus tax)

If the employee is unable to obtain the State rate (after requesting), the City will pay the actual cost of lodging. A receipt is required.

### OUT-OF-STATE EXPENSES

AS PER IRS PER DIEM RATE—CURRENT RATES FOUND (using Adobe Reader-pdf) ON CITY OF BISMARCK INTRANET (intranet.bismarck.org), IMPORTANT INFO, FINANCE, REIMBURSEMENT FORMS, PER DIEM 2008.

- 1st quarter 6 AM to 12 Noon  
  (Only if travel begins before 7 AM)  20%  
- 2nd quarter 12 Noon to 6 PM  30%  
- 3rd quarter 6 PM to 12 Midnight  50%  
- 4th quarter 12 Midnight to 6 AM - (Actual cost of lodging)

Verification of claims via receipt is not required for the first three (3) quarters but is required for lodging. Receipts are also required for taxi fares and for all other miscellaneous expenses.

**NOTE:** Before any allowance for any such mileage or travel expenses shall be made, the employee shall file with the City an itemized travel voucher showing mileage traveled, the purpose thereof, and such other information and documentation as may be prescribed. Statements such as to attend a meeting, etc., should not be accepted as sufficient documentation as purpose of travel.
If an employee is not claiming reimbursement for lodging, please state so in the space provided.

Reimbursement for telephone calls. When traveling, necessary City business phone calls will be reimbursed.
CLAIM FORM
CITY OF BISMARCK/SELF INSURANCE FUND

1. Name (property owner or injured person) _______________________________________
   Age ____ Address _____________________________________________________________
   Phone (   ) ___________ EIN/SSN ____________________

2. Date of incident _____________________________________________________________

3. Location/event (where incident occurred) ______________________________________

4. Property damaged __________________________________________________________
   Estimate ___________

5. Nature and extent of injuries _________________________________________________

6. Approximate amount of medical expenses _________________________________

7. Name of any City employee with knowledge of the incident:
   _______________________________________________________________________

8. Brief summary of how damage/injury occurred and contributing cause:
   _______________________________________________________________________
   _______________________________________________________________________

9. Witnesses:
   1. Name ____________________________ 2. Name ____________________________
      Address __________________________ Address __________________________
      Phone (   ) ___________ Phone (   ) ___________

10. On reverse side or on a separate sheet of paper, describe the incident in detail. Include
    verbatim statements of the person suffering injury or property damage, and witnesses. Ask
    key witnesses to write statements. Please state how you believe the City caused or
    contributed to the damage/injury. Attach copies of statements and other reports and
    forward to the Office of City Attorney.

11. Attach any documentation, estimates, records, pictures or other evidence that supports
    your claim that you wish they City to consider in deciding your claim.

12. The City will be reviewing the incident to determine whether it will offer payment to you for
    the loss.

13. Return to the Office of City Attorney, PO Box 5503, Bismarck ND  58506-5503.

14. By signing and returning this Claim Form, I understand that I am asking the City of
    Bismarck to consider my claim for reimbursement.

   _______________________________   ____________________
   Signature                        Date
FLEET SERVICES POLICY

It is the policy of the City of Bismarck to provide safe, dependable vehicles and equipment to City Employees for their use while performing the business of the City.

Purpose

The purpose of Fleet Services is to provide high quality service, maintenance, and repairs by centralizing management of vehicles and equipment, standardizing maintenance and repair practices, and providing vendors and manufacturers representatives a single point of contact for conducting business with the City of Bismarck for vehicles, equipment and related items.

Mission

The mission of Fleet Services is to provide safe, dependable vehicles and equipment to City employees and to conserve vehicle and equipment value through a program of inspection, periodic preventative maintenance, and repair.

Vehicle/Equipment Acquisition

Fleet Services will assist City Departments in the development of specifications, request bids, track delivery status, accept delivery on behalf of Departments, inspect and prep new vehicles and equipment, and secure new titles and license plates as needed saving time and money for management staff.

Repairs & Maintenance

All repairs and maintenance will be scheduled with and accomplished by Fleet Services. All parts, accessories, and added equipment will be requested through Fleet Services Parts and installed by Fleet Services staff. Departments will be notified of any evidence of equipment misuse/abuse or other violations of policy. Fleet Services will insure that all record-keeping pertaining to repairs, fueling and fleet asset management is maintained on a fleet management information system. Vendors, suppliers, and manufacturer's representatives of equipment, vehicles, and repair parts should be directed to Fleet Services.

Fuel Purchases

Fuel for vehicles and equipment will be purchased from Fleet Services. Unleaded gas and diesel fuel is available at the Public Works Building. Diesel fuel may be purchased at the baling facility at the Landfill. Both sites allow fueling twenty-four (24) hours a day, seven (7) days a week through an automated fuel dispensing system.

Vehicle/Equipment Disposal

Repair data, usage, repair cost, and other historical data will be made available to concerned departments as a tool to help make retention/disposal decisions. Fleet Services will make recommendations based on available fleet management data/records. Decisions to retain or dispose of vehicles and equipment will be made by the parent Department.
Utilization

To increase use of City-owned equipment, Fleet Services will establish rental rates for equipment and vehicles when used by other Departments. Departments are encouraged to rent City-owned equipment when the need for equipment arises.

Fleet Services Responsibilities

Fleet Services will:
- Only make repairs authorized by the customer at a competitive price.
- Recommend only necessary repairs.
- Use materials that are proven safe and recommended by the manufacturer.
- Provide estimates that are as accurate as possible when practical.

Customer Responsibilities

Customers of Fleet Services are expected to ensure that:
- Operators are trained and qualified to operate assigned vehicles/equipment.
- Operators perform daily pre-operational checks/maintenance prior to use.
- Equipment is cleaned and washed after use to prolong the life and provide for a professional appearance of Fleet assets.
- Needed repairs/defects are reported to Fleet Services immediately.
- Seat belt and smoking policies are followed.
- Fleet vehicles and equipment are used for official business only.
PROFESSIONAL SERVICES CONTRACTS POLICY

This policy establishes the process for departments to request City Commission approval for a change in professional services contracts. All changes to any professional services contract including any change in scope, timing, or amount require prior approval from the City Commission. Professional services contracts include consulting work, studies, environmental work, feasibility studies, corridor studies, land use studies and all architectural and engineering services.

Any proposed change to a contract requires a written agreement with the consultant and the City. A range or a not-to-be exceeded estimate of a dollar change must be received from the consultant for any change in price or amount from the original contract. The current contract Change Order form will be used to request the change. All contract change requests are to include a description of the change, the changed amount, the new contract amount, the original contract amount, and the funding source for the change (if applicable).

The reporting requirements for change in professional services contracts are provided as follows:

- A request is required for each individual change.
- A request is to be presented at the next regularly scheduled City Commission Meeting upon initial notification of the need for a change.
- All changes in the contract amount that are less than 10% of the original contract amount or not greater than $15,000.00 will be presented on the consent agenda.
- All change in the contract amount that exceed 10% of the original contract amount of $15,000.00 or greater, will be presented on the regular agenda.
- Any change to the original scope of the contract and/or contract period will be presented on the consent agenda, even though the change does not impact the contract amount.

All professional services contract changes must be authorized by the City Commission before the modified work is allowed to proceed and payments for the changed work can be processed. All professional services contract changes will be filed with the Finance Department on a timely basis.

State and Federal contracts will be excluded from the policy, except in those instances where the City procures the necessary professional services and uses City funds to pay for all or a portion of the required professional services for the contract.

Approval Date: 07/10/07
Revision Date:
PROFESSIONAL SERVICES CONTRACT CHANGE FORM

DEPARTMENT

Contract between the City of Bismarck and ________________________________

Purpose of Contract ________________________________

Contract Number ___________________ Project/Sub-Project Number ____________

Original Contract Amount ________________

Contract Change Amount ________________

Funding Source of Change Amount (if applicable) ______________________________

Change in Contract Timeline _____________________________________________

Change in Scope of Contract ____________________________________________

________________________________________________

Department Head Signature ___________________ Date ________________

COMMISSION APPROVAL

___ Change in contract amount less than 10% of the original contract amount or not
greater than $15,000.00 placed on the City Commission consent agenda

___ Change in contract amount that exceeds 10% of the original contract amount or
$15,000.00 or greater, placed on City Commission regular agenda

___ Change to original scope of contract and/or contract period placed on City Commission
consent agenda

City Commission Meeting Date __________________


TO ALL DEPARTMENTS: Please attach minutes of Commission approval and send to
Fiscal Services.
CONTRACT EXECUTION POLICY

The Contract Execution Policy is established to provide contract execution authority for various smaller routine contracts within the departments. Unless the City Commission shall direct otherwise for a specific contract or class of contracts or the contract requires a policy decision by the City Commission, Department heads shall have the authority to execute any routine contract on behalf of the City for any product or service if the following conditions are met:

- The expenditure is authorized in the department's approved budget; and
- The contract is for a total amount of $3,000.00 or less annually; and
- The contract has a term or potential term of no more than three (3) years.

All contracts must have a contract review form attached and be reviewed by the City Attorney, the Chief Financial Officer and the City Administrator prior to execution. All contracts in excess of $3,000.00 annually or for a term longer than three (3) years must be executed by the Mayor. All contracts resulting from a formal bidding process must be signed by the Mayor.

The Manager of the Bismarck Civic Center shall have the authority to enter into and execute contracts for the rental of the Civic Center if the following conditions are met:

- The term of the rental agreement is for a period of thirty (30) days or less.
- Form contracts approved by the City Attorney are used. Any changes in the form contracts must be approved by the City Attorney.
- The rental agreements follow a pricing policy or schedule approved by the City Commission.

Source: NDCC Section 40-01-06

Approval Date: 03/11/08
Revision Date:
TEMPORARY DISPLAYS

The City of Bismarck may allow temporary displays in City buildings. Displays considered may reflect a diversity of styles and may include mediums such as prints, sculptures, paintings, photographs, etc. Original items from North Dakota, regional and local sources are preferred. Selected items will be displayed temporarily for up to two years. The City building manager has sole discretion on determining the location of the display in the building, the source, the type and size of display, and the amount of items that will be allowed. Displays may consist of City owned, donated or loaned items or a combination. The department head who manages the building has final approval on what items will be displayed. Displays on or outside any City building or outside on any City property must be approved by the City Commission.

Approval Date: 01/26/10
Revision Date:
SAFE DRIVER POLICY

PURPOSE

The intent of this policy is to increase the safety of City of Bismarck employees and the public by administering a standard screening, training, and accountability program for all City employees required to drive City vehicles and/or equipment (or personal vehicles used for business related purposes).

The City of Bismarck employees represent our City’s most valuable asset. While vehicle accidents are unintended events, there are safety measures drivers can take to reduce the risk of a motor vehicle accident that may result in damage, injury, or death. Driving for the City is a responsibility and with that comes the expectation that our drivers operate vehicles in a safe and responsible manner. The Safe Driver Policy serves to promote these responsibilities; to identify procedures to ensure accountability and compliance; and to advise employees of their rights and responsibilities when driving on City business.

DRIVING POLICY STATEMENT

Driving for the City is a responsibility that requires City drivers be familiar with and adhere to local and state traffic laws (i.e. NDDOT “Rules of the Road” manual) and the policies and expectations that are outlined within the City’s Safe Driver Policy to authorize, educate, and monitor our City drivers. Such measures include:

- Periodic and Random Driver and/or Vehicular Record Checks
- Safe Driver Policy Training
- Defensive Driver Training
- Substance Abuse Screening Policy Training

RESPONSIBILITIES

1. City Employees
   All City employees (including managers and supervisors) have the responsibility to:
   - Be knowledgeable of local and state traffic laws (NDDOT “Rules of the Road” manual [http://www.dot.nd.gov/divisions/driverslicense/docs/rulesroad.pdf]) and the City’s Safe Driver Policy, in addition to having department authorization to operate a City vehicle
   - Possess a current and valid North Dakota Driver License of the proper class for the vehicle(s) being operated. If your license is restricted, suspended or revoked, it must be reported to your supervisor within the next working day.
   - Wear seat belts while operating or riding in City owned and/or private vehicles used for City business
   - Conduct vehicle inspections of City-owned vehicles according to department guidelines set forth for City fleet services care and practice continued general awareness of vehicle condition.
   - Report mechanical or electrical problems to immediate supervisor
   - Have adequate collision, personal injury, and property damage insurance coverage, as required by the State of North Dakota Vehicle Code, when driving a private vehicle used for City business
• Abide by the Smoke Free Policy for City-owned vehicles
• Be aware of high public visibility when driving City vehicles
• Prompt reporting of traffic violations, vehicle damage, vehicular accidents, near-miss incidents, and tickets issued while conducting City business and thorough completion of Vehicle Accident Report when appropriate (Appendix D: http://www.bismarck.org/DocumentView.aspx?DID=1619)
• Abide by post-accident Substance Abuse Policy testing requirements while conducting City business
• Make all appearances and pay any fines if you receive a citation
• Be familiar with and follow department specific driving policies and procedures

2. Managers and Supervisors
All Managers and Supervisors have additional responsibility to:
• Train employees on the Safe Driver Policy and any department specific procedures.
• Set a positive example and promote driver safety
• Complete documentation for reporting employee traffic violations, vehicle damage, near-miss incidents and vehicular accidents that occur while conducting City business and complete Supervisors Accident Investigation (Appendix E: http://www.bismarck.org/DocumentView.aspx?DID=1049)
• Keep consistent vehicular record checks and notify the Human Resources Department of any changes that may occur in an employee’s driving status
• Take corrective action whenever Safe Driver Policy is not in compliance
• Consult with Human Resources when questions or concerns are presented

3. Departments
All Departments have additional responsibility to:
• Administer the provisions of the City’s Safe Driver Policy
• Develop department specific safe driver procedures
• Request driver record checks for potential new hires of professional driver classifications and/or positions
• Monitor employees who drive for City business to ensure their adherence to the Safe Driving Policy and department specific procedures
• Appropriately withdraw from service any vehicle with mechanical problems
• Periodically withdraw vehicles from service for comprehensive inspection and scheduled vehicle maintenance
• Respond to public complaints regarding City vehicle operations and subsequent employee discipline, as appropriate
• Report any additions or changes of driving duties to the Human Resources Department when employee classifications may require updating
4. Human Resources Department
The Human Resources Department is responsible for:
- Updating the Safe Driver Policy
- Oversight of City Driving Privileges
- Substance Abuse Screening Policy Management
- Data collection and reporting to authorized representatives, as requested

DRIVER EDUCATION

Departments have the responsibility to train employees on the Safe Driver Policy and department-specific procedures. To enhance education and skill development, the City will offer regularly scheduled Defensive Driving Courses. Departments may schedule a course for employees or split a course with another department to fulfill the requisite slots. The City’s Learning Management System through Workforce Safety Insurance is also an online option for individual enrollment.

**North Dakota drivers who take a state-approved defensive driving course may also be eligible for a personal insurance discount. Be sure to contact your car insurance provider.**

The Safe Driver Policy requires employees who operate City or personal vehicles, for business purposes by driving at least once per month annually, to successfully complete one of the following:

1. Pre-Approved 4 hour Defensive Driving Course (DDC)
2. ND Emergency Vehicle Operator Course (EVOC)
3. Either of the following WSI, LMS online safety courses (all 10 must be completed):
   a. Large Vehicles
      i. Avoiding Rear End Collisions
      ii. Hazards of changing Lanes
      iii. Defensive Driving
      iv. Distracted Driver
      v. Extreme Driving Conditions
      vi. Hazards of Speeding
      vii. Road Rage
      viii. Safe Backing and Turning
      ix. Tailgating
      x. Driver Fatigue
   b. Small Vehicles
      i. Avoiding Rear End Collisions
      ii. Hazards of changing Lanes
      iii. Defensive Driving
      iv. Distracted Driver
      v. Extreme Driving Conditions
      vi. Hazards of Speeding
      vii. Road Rage
      viii. Safe Backing and Turning
      ix. Tailgating
      x. Driver Fatigue
The required Safe Driver Education requirements must be completed every third year or within the first year for new employees. Please contact the Human Resources Department if you have any questions regarding any other driver safety training courses that may be pre-approved.

**DRIVING PRIVILEGES**

The City is concerned that all employees who have City driving privileges operate vehicles in a safe and responsible manner. Please be advised that any violations may result in suspension or revocation of your City driving privileges. If driving is an essential function within your job assignment, revocation or suspension of your City driving privileges may result in disciplinary action up to, and including, dismissal from City employment.

**APPENDIXES**

Appendix A – Daily/Prior-to-Use Vehicle Safety Inspection Sheet *(SAMPLE)*

Appendix B – Weekly/Prior-to-Use Vehicle Safety Inspection Sheet *(SAMPLE)*

Appendix C – Quarterly Inspection Report *(SAMPLE)*

Appendix D – Vehicle Accident Report

Appendix E – Supervisors Accident Investigation

Approval Date: 11/22/11
Revision Date:
Safe Driver Policy Acknowledgement

This is to verify that I have received a copy of the Safe Driver Policy informing me of the City of Bismarck policy and my rights and obligations under that policy. This includes operating City vehicles in a safe and responsible manner and giving notice to the City of Bismarck Human Resources Department of changes affecting my driving status.

__________________________________________
Signature

__________________________________________
Printed Name

__________________________________________
Date
USE OF ELECTRONIC DEVICE WHILE DRIVING POLICY

Accident statistics show that the use of electronic devices while driving distracts a driver’s attention from traffic conditions. To promote driver safety and to help reduce the possibility of vehicle accidents in connection with electronic device use, the City adopts this following Use of Electronic Device While Driving Policy applicable to all employees and volunteers:

- Any employee may not place, receive calls or otherwise use an electronic device to talk, text, view, access the internet or otherwise access information stored in or accessible on or through an electronic device at any time while driving a vehicle for City business in or on any area open for public travel.

- “City business” includes any travel in a City owned vehicle and any travel in an employee owned vehicle between the employee’s work site and external work locations or meeting sites while acting on behalf of the City or being paid by the City.

- Use of an electronic device while an employee is driving, whether or not an accident occurs, is a violation of this policy. Use of an electronic device while driving in violation of this policy will result in a written warning for the first violation and discipline up to and including dismissal for further violations of this policy. An employee driving in violation of this policy who is involved in an accident resulting in personal injury or property damage to another may be subject to personal liability.

- An employee receiving a cell phone call while driving should either safely pull over and park as permitted and answer the call or allow the call to go to the cell phone’s voicemail feature for later retrieval.

- This policy applies to both hand-held and hands-free cell phones.

- For the purposes of this policy “electronic device” includes any electronic device or portable apparatus that involves user interaction. This includes, but is not limited to, cell phones, laptops, tablets, notebooks, handheld GPS systems, MP3 players, cameras, pagers and personal digital assistants (PDAs).

- This policy shall not apply to calls initiated in response to or while driving to an emergency situation.

- This policy shall not apply to police officers, or to two-way radio communications.

Approval Date: 06/25/13
Revision Date:
NURSING MOTHER BREAKS POLICY

In accordance with the Patient Protection and Affordable Care Act amendment of the Fair Labor Standards Act, the City of Bismarck employees will be given reasonable paid break time to express breast milk for a nursing child for one year after the child’s birth. Employees are provided a flexible schedule for breast feeding or pumping breast milk for the child. The time should not exceed normal time allowed for lunch and breaks. However if additional time is necessary, annual leave must be used or the employee can use a flex schedule to come in early or stay late to make up the time. Flexible schedules must be approved by the supervisor prior to implementation.

At a minimum, a place other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, will be made available to employees who are nursing to express breast milk. It is the responsibility of the employee to request the need of these facilities and to coordinate break schedules in advance with their supervisor. A convenient and safe water source and sink will be made available for washing hands and breastfeeding pumping equipment. Employees that are nursing are encouraged to refrigerate expressed milk through the use of coolers or other forms of refrigeration.

City facilities that are able to provide greater resources are free to enhance these minimal guidelines.

Approval Date:  11/12/2013
Revision Date:  12/29/2016
FOOD AND BEVERAGE PURCHASE POLICY

As a general rule the use of department funds for the purchase of food and beverages is not allowable for activities involving routine, day-to-day work activities and meetings. In limited situations there are exceptions and this is intended to provide guidance.

Emergency Operations:
During emergency operations of significant duration (i.e. greater than 4 hours), employees may need to be provided with food and beverages in order to maintain their stamina and to rehabilitate. Examples might include a working fire, chemical spill, emergency operations center activation, Bomb or SWAT team activation, etc. When these situations occur and the employees are not allowed to leave the operation for lunch or break, the Salvation Army and the Red Cross will be requested to provide such logistical support in emergency operations. If the logistical support is not provided, it is permissible for the department and/or the city emergency manager, with the department head’s approval, to procure the necessary amount of food and beverages for the working period.

Operations Training and Exercises:
When an operations training or exercise session is sponsored by the department and there are non-city employee participants, it is permissible for the department to provide snacks and beverages. A lunch break either on-site or off-site is typically worked into the schedule and participants are responsible for their own lunch. Funding for the sessions described above shall be approved by the department head and allowed no more frequently than once each quarter. The Salvation Army and the Red Cross may be requested to provide such logistical support in training and exercise sessions.

Working Committees, Candidate Assessments, Consultants, Public Safety Citizen Academy, etc.:
When a committee, candidate assessment, City project consultant, public safety citizen academy or other similar working group is established, the department may provide snacks and beverages. A box lunch may be provided at the work-site when work must continue through the noon-hour. All meetings shall be scheduled to minimize inclusion of meals.

Purchasing Information:
A city credit card cannot be used for the purchase of food and/or beverages referenced in this policy under any circumstance. The purchase(s) should be conducted through an invoice or reimbursement.

Approval Date: 02/23/16
Revision Date:
PUBLIC SAFETY HONOR GUARD POLICY

The City of Bismarck may provide representation at funeral services across the state for deceased public safety employees which may involve travel to an out of city location.

The following guidelines have been established for The City of Bismarck’s public safety departments while showing support for other North Dakota cities that have experienced the death of a public safety staff member.

1. Attendance will be limited to a point that ensures that those attending the function will not jeopardize the necessary response level for city emergency operations. Department heads and supervisors may need to restrict those attending the services so as to maintain adequate staffing for emergency response.

2. If the department assigns people to attend the funeral or memorial event those assigned will be attending on city time and will be eligible for normal travel expense reimbursement per the travel expense policy.

3. Personnel who are scheduled to work and are not assigned to attend the funeral or memorial event may attend provided they receive approval to be absent from work. Personnel who are on a scheduled day off may also attend; however, in either case anyone not assigned to attend will not be compensated for their time, travel or per diem expenses.

4. Those attending a funeral or memorial event may wear their dress uniforms if allowed to do so by the department head.

5. Personnel operating city vehicles or equipment must be on the department’s active payroll and be assigned to attend the funeral or memorial event. Operators may, at their option request travel reimbursement.

Approval Date: 04/26/2016
Revision Date:
EMPLOYEE RETIREMENT CELEBRATION POLICY

**Purpose:**
It is recognized that celebrations honoring retiring employees are a valid means of employee recognition and add value to the organization. At the same time, City of Bismarck employees are accountable to the public for the appropriate use of city funds. The following procedures below will apply to all retirement celebrations utilizing city funds.

**Procedures:**
Department head approval is required in all cases prior to scheduling and expending department funds for an employee retirement celebration. Each department head may allow employees to attend City of Bismarck employee retirement celebrations held during work hours provided all departments maintain adequate staffing to conduct normal business. Employee retirement celebrations shall be held in appropriate public venues. It is permissible, subject to availability, to use city department funds to purchase a retirement celebration cake, non-alcoholic beverages, cups, plates, napkins, utensils, and plaque. The total expenditure of city funds cannot exceed $100.00. Employee personal funds may be used to supplement employee retirement celebrations. No funds may be solicited or received from contractors, vendors or customers for such celebrations.

**Minimum Eligibility:**
Employees must meet the minimum retirement eligibility requirements for their respective retirement pension plan and have been employed with the City of Bismarck for a minimum of 5 consecutive years.

Approval Date: 06/28/16
Revision Date:
VOLUNTARY RAPID DAMAGE ASSESSMENT PROGRAM

Rapid Damage Assessment (RDA) is conducted following a disaster (ie: tornado event) to enhance incident or “scene size-up” for purposes of assisting Incident Command (Fire/Police/EMS/Public Works) in identifying the highest response priorities for the assignment of resources.

Employees who agree to participate in the voluntary Rapid Damage Assessment Elective Duty shall participate in an initial two-hour training session, and occasional refresher training sessions, during working hours and are paid as part of their regular duties.

Employees conducting assessments following actual emergency/disaster events will receive appropriate wages, including overtime, based on actual hours worked. An employee is considered working when the employee is activated to assist. Activation may occur via CenCom’s emergency notification system (Code Red), or via a direct verbal or written request (ex: text or e-mail) from Bismarck Fire, Police, Engineering, Public Works, or Emergency Management authorities as described in the Rapid Damage Assessment plan. Employees will also receive notice to deactivate and terminate assessment activities. The same communications systems and methods implemented during the activation and assessment processes will be used to deactivate.

The employee’s time to check in and to provide information regarding their location and availability status, whether during a drill or an emergency, shall not be considered working time and shall be considered as volunteer or de minimis time, unless the drill or emergency occurs during the regular working hours of the employee.

Employees participating in the Voluntary Rapid Damage Assessment Program must be willing to utilize a privately owned smartphone, tablet, or computer. City owned devices may be utilized if the applicable department provides for them and if the use is approved by the department head. The city does not provide devices for the sole purpose of Rapid Damage Assessment activities.

Employees participating in the Voluntary Rapid Damage Assessment Program must be willing to utilize privately owned transportation to conduct assessments, with no expectation of reimbursement for fuel or damages. Bismarck will allow for the use of its city owned vehicles where possible and practical.

Approval Date: 10/23/2018
Revision Date: