

1 **RESOLUTION NO. 8290**

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3 A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending
4 Article VIII of the City of Topeka Personnel Code, relating to Non-
5 Disciplinary Reductions in Force as set forth in Resolution No. 7758
6 as amended by Resolution No. 8235 and rescinding original said
7 sections.
8

9 WHEREAS, Resolution No. 7758 set forth the City’s Personnel Code; and

10 WHEREAS, Resolution No. 8235 amended Section 2 of Article VIII of the Code; and

11 WHEREAS, it is necessary to further amend Article VIII of the Personnel Code.

12 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
13 TOPEKA, KANSAS, that City of Topeka Personnel Code, Article VIII, Non-Disciplinary
14 Reductions in Force, is hereby amended to read as follows:

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

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

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

24 B. Order of Separation.

25 1. Temporary and part-time employees shall be the first affected by a
26 short term lay off.

- 27 2. The order of dismissal for regular, full-time employees shall be
28 determined by a combination of performance, work skills and
29 seniority.
- 30 a. Performance. Employees with the highest consistent
31 performance as compared to other employees over a
32 comparable period of time shall be retained, provided they can
33 perform the remaining available work based upon their
34 particular work skills. Performance shall be determined through
35 the following criteria:
- 36 i. The employee's last four (4) written performance
37 evaluations, if in existence. However, this shall not
38 include any evaluations given after any notice of lay off
39 ~~or within ninety (90) calendar days of such notice.~~
- 40 ii. The history of an employee's written disciplinary actions
41 during the past three (3) years.
- 42 iii. The employee's written record of attendance for the
43 past three (3) years, excluding FMLA leave.
- 44 b. Seniority. If two (2) candidates are equal with regard to
45 performance, seniority shall be used to determine the order of
46 separation. Seniority is measured as the length of continuous
47 unbroken service as a regular full-time employee of the City.
- 48 c. The Human Resources Director shall attempt to effectuate the
49 reassignment, transfer or demotion of an employee who is

50 faced with a lay off, provided that there are existing, vacant
51 positions for which the employee is qualified.

52 ~~d. The Human Resources Director shall establish by~~
53 ~~administrative rule and regulation a procedure for bumping.~~

54 C. Reemployment.

55 1. An employee who has been laid off shall have his or her name
56 entered on a reemployment eligibility list and shall be given first
57 consideration when a vacancy occurs in the same or similar position
58 the employee last held. An employee's name shall remain on a
59 reemployment eligibility list for six (6) months.

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

62 a. Expiration. If the time limit for recall from the reemployment
63 eligibility list expires, as detailed in the following schedule,
64 expires.

65 Time Limit For Recall As Determined By Length Of Service

<u>Year(s) Of Continuous</u>	<u>Maximum Time Allowed On</u>	
<u>Service (Employment)</u>	<u>Lay Off For Recall</u>	
<u>0 - 1 Year</u>	<u>0</u>	<u>Must be separated effective</u>
		<u>date of lay off</u>
<u>1 - 2 Years</u>	<u>4 Weeks</u>	
<u>2 - 3 Years</u>	<u>8 Weeks</u>	<u>Employees with 2 or more</u>
<u>3 - 4 Years</u>	<u>12 Weeks</u>	<u>years of service from last</u>
<u>4 - 5 Years</u>	<u>16 Weeks</u>	<u>date of employment, on lay</u>
<u>5 - 6 Years</u>	<u>20 Weeks</u>	<u>off status 8 consecutive</u>
<u>6 - 7 Years</u>	<u>24 Weeks</u>	<u>weeks or more, have the</u>
<u>7 - 8 Years</u>	<u>28 Weeks</u>	<u>option of requesting to be</u>
<u>8 - 9 Years</u>	<u>32 Weeks</u>	<u>separated and may receive</u>
<u>9 - 10 Years</u>	<u>36 Weeks</u>	<u>separation pay according to</u>

~~10 – 11 Years 40 Weeks the Separation Pay~~
~~11 – 12 Years 44 Weeks Schedule contained in this~~
~~12 Years and Over 48 Weeks Article.~~

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

- c. Forfeiture. Employees forfeit the right to recall if they:
- i. Refuse a job in a position that is not more than two (2) pay ranges below their position at the time of lay off.
 - ii. ~~Refuse~~ Fail to accept recall within five (5) days of notice.
 - iii. Fail to answer written inquiries from the City's Human Resources Director.
 - iv. Fail to advise the City of a change of address and/or telephone number.

D. Reinstatement.

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

2. Benefits.

a. Vacation. When employees on lay off are recalled within the

105 time limits provided in this policy, they will then recommence to
106 accrue and be entitled to vacation pay.

107 b. Sick leave. Any sick leave accumulated and not utilized at the
108 time of lay off will be reinstated at the time of recall.

109 c. Seniority. Employees retain seniority for the sole purpose that
110 they be able to resume earning leave time immediately upon
111 recall.

112 E. Notice.

113 1. Regular, full-time employees.

114 a. A department head shall give written notice to the employee
115 and the City Manager of any proposed lay off and the reasons
116 therefore at least five (5) working days prior to the separation,
117 provided the employee is being laid off through no fault of his
118 or her own.

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

121 2. Non full-time employees.

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

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

127 F. Employee Benefits During Lay Off.

- 128 1. Vacation time. An employee on lay off may elect to take any vacation
129 and/or compensatory time which the employee has accrued prior to
130 the lay off. Vacation time, however, does not accrue during the
131 separation. Payment for vacation time taken during the lay off may be
132 made by the City in equal increments on a pay period basis.
- 133 2. Group Insurance. An employee may elect to continue group
134 insurance for eighteen (18) months. Timely payment of premiums will
135 be the responsibility of the employee.
- 136 3. Other benefits. Additional benefits (holiday, health coverage,
137 retirement contribution or other insurance) will neither accrue nor be
138 paid during an employee's lay off.

139 G. Grievance. Lay offs and demotions necessitated by the conditions ~~given set~~
140 ~~forth~~ in Section 1A of this article shall not be subject to grievance ~~except to~~
141 ~~contest the order of reduction in force among affected employees.~~

142 Section 2. Permanent Reduction In Force: Severance Pay.

- 143 A. General. The purpose of the severance pay policy is to provide temporary
144 relief to employees who have lost their job through no fault of their own. Such
145 separation occurs for reasons such as but not limited to the following:
- 146 1. An employee is not recalled from lay off within the time limit set forth
147 in ~~C2a~~ Section 1 C1;
- 148 2. An employee voluntarily waives the right to recall, as described in
149 Section 1 C2b;
- 150 3. Work is eliminated and is not anticipated to be necessary in the

151 foreseeable future;

152 4. Work is reassigned to other employees; or

153 5. The qualifications for a position change.

154 ~~Employees who are eligible for recall shall not be eligible to receive~~
155 ~~severance pay.~~

156 B. Order of Separation.

157 1. Temporary and part-time employees shall be the first affected by a lay
158 off unless, in the judgment of the Human Resources Director, continued
159 employment of temporary and/or part-time employees is a more fiscally
160 responsible decision for the Department.

161 2. The order of dismissal for regular, full-time employees shall be
162 determined in accordance with Section 1 B.

163 B.C. Severance Pay.

164 1. Eligibility. Severance pay set forth herein is available only to
165 employees who meet all of the following eligibility requirements:

166 a. Employee's position has been eliminated pursuant to the
167 provisions of this Article, Sections 1 or 2 and the employee has
168 waived the right to recall from the reemployment eligibility list;

169 b. Employee has been employed with the City for one or more
170 continuous years;

171 c. Employee is not continuing to work for the City in a position of
172 equal or greater job classification; and

173 d. Employee has executed an agreement and complete release of

174 all claims against the City.

175 2. Amount.

176 a. Eligible employees hired after December 31, 2010, shall be
177 eligible to receive severance pay at the rate of one (1) week of salary
178 for every year of service, pro-rated to the nearest month, but in no
179 case less than four (4) weeks salary and in no case more than twenty-
180 six (26) weeks salary.

181 b. Eligible employees hired prior to January 1, 2011, shall be
182 eligible to receive severance pay ~~shall be compensated~~ according to
183 the following schedule:

184

<u>Length of Service</u>	<u>Separation Pay</u>
-0- Less than 1 Year	-0-
1 Year - Less than 10 Years	One (1) week's salary for each complete year of service, as of the date of separation
Over 10 Years	Two (2) weeks' salary for each complete year of service, as of the date of separation

185
186 However, in no case shall severance pay exceed one (1) year's
187 salary. Severance pay shall be calculated using the employee's
188 regular base hourly wage and shall not include any premium
189 payments for overtime, longevity and so on.

190 23. Disbursement Schedule. The City may elect to make severance

191 payments in equal increments on a pay period basis until the
192 employee receives all severance pay due. In such a case, the
193 payment will amount at least to the base pay of a regular bi-weekly
194 pay period.

195 GD. Other Benefits.

196 1. Vacation time. Following a non-disciplinary, permanent separation,
197 employees with six (6) months of service or more will be paid the
198 unused portion of vacation time accrued.

199 2. Unemployment Compensation. Whether employees can draw both
200 severance pay and unemployment compensation benefits will depend
201 on state laws.

202 DE. Forfeiture of Severance Pay.

203 1. Ineligibility. Employees who resign, voluntarily retire or are fired for
204 cause are not eligible to receive severance pay. Employees who are
205 eligible for recall shall not be eligible to receive severance pay.

206 ~~2. Relinquishment. The City may, at its discretion, provide outplacement~~
207 ~~counseling and assistance to employees who lose their job through no~~
208 ~~fault of their own. If such outplacement assistance results in an offer~~
209 ~~of employment or employment for separated employees, severance~~
210 ~~pay shall be waived.~~

211 F. Grievance. Lay offs and demotions necessitated by the conditions set forth in
212 Sections 1 and 2 of this Article shall not be subject to grievance.

213 Section 3. Administrative Leave. A department head and/or City Manager may

214 require an employee to take an administrative leave with pay. An administrative
215 leave is not considered a corrective or disciplinary action and is therefore not subject
216 to the grievance process. An administrative leave shall only be authorized for a
217 period not exceeding ten (10) consecutive work days. A department head must
218 receive approval from the City Manager prior to requiring an employee to take an
219 administrative leave. Approval shall only be given if the department head provides
220 evidence satisfactory to the City Manager justifying the action.

221 BE IT FURTHER RESOLVED that Article VIII of Resolution No. 7758 and Resolution
222 No. 8235 are hereby rescinded. All resolutions or rules, or portions thereof, inconsistent
223 with the provisions of this resolution are hereby rescinded or repealed. Should any section,
224 clause or phrase of this resolution be declared to be invalid, the same shall not affect the
225 validity of this resolution as a whole, or any part thereof, other than the part so declared to
226 be invalid.

227 ADOPTED and APPROVED by the City Council September 21, 2010.

228 CITY OF TOPEKA, KANSAS

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231 _____
232 William W. Bunten, Mayor
233

234 ATTEST:

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238 Brenda Younger, City Clerk