

# ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1018

AN ORDINANCE TO AMEND SECTION 34.02 OF THE LA VISTA MUNICIPAL CODE PERTAINING TO THE POSITION OF FIRE CHIEF, AND SECTIONS 37.01, 37.07, 37.09, 37.11, 37.12, 37.13, AND 37.39 REGARDING THE CIVIL SERVICE PROVISIONS PERTAINING TO THE POSITION OF FIRE CHIEF AND REGARDING OTHER CIVIL SERVICE PROVISIONS; TO REPEAL SECTIONS 34.02, 37.01, 37.07, 37.09, 37.11, 37.12, 37.13, AND 37.39 AS PREVIOUSLY ENACTED, TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Section 34.02 of the La Vista Municipal Code is amended to read as follows:

### **§ 34.02 FIRE CHIEF AND ASSISTANTS, DUTIES.**

(A) Prior to appointment of the Fire Chief by the Mayor and City Council, the City Administrator shall make a recommendation for appointment based upon an eligibility list established by the Civil Service Commission of the City. The City Administrator, with the recommendation of the Fire Chief, shall appoint the Assistant Chiefs and District Chief(s) to office. The Assistant Chiefs and District Chief(s) will serve two-year terms. The Fire Chief shall recommend to the City Administrator, based upon a majority vote of the Fire Department membership, qualified personnel to fill the positions of Fire Captain(s) and Rescue Captain(s), Rescue Lieutenant, Secretary, President and Utilization Funds Officer. The Fire Chief, subject to approval by the City Administrator, will designate as may be necessary other positions within the Department. Prior to designation, the qualifications and eligibility of candidates are subject to verification by the City Administrator. The Mayor and Council, by simple resolution, may waive the requirements for election by majority vote.

(B) Upon the written consent and directive of the City Council, the Fire Chief shall cause the repair, improvement or maintenance of Fire Department equipment and shall personally supervise and approve of the same. It shall be the duty of the Chief of the Fire Department, the Assistant Chief(s) or their designate(s) lawfully acting in his, her or their stead, in all cases of fire, and/or medical emergency, to take and have control of all members of the Fire Department and of all proper means for the extinguishment of fires, the protection of property, the administration of emergency medical assistance and the preservation of order at and in the vicinity of fire and rescue scenes and to secure the observance of all ordinances and regulations respecting fires. After engines and other apparatus have been withdrawn from any fire or rescue scene, he or she shall have charge of the premises and/or scene until it has been properly secured or assumed by proper authorities.

SECTION 2. Section 37.01 of the La Vista Municipal Code is amended to read as follows:

### **§ 37.01 POSITIONS CREATED; ELIMINATION.**

(A) This civil service chapter shall apply only to any paid full-time Fire Chief, and all present full-time police officers of the city, including any paid full-time Police Chief, and future appointees to such full-time positions. Full-time police officers shall mean police officers in positions which require certification by the Nebraska Law Enforcement Training Center, who have the power of arrest, who are paid regularly by the city and for whom law enforcement is a full-time career, but shall not include clerical, custodial or maintenance personnel. Paid full-time Fire Chief shall mean a duly appointed firefighter who is paid regularly by the city and for whom firefighting is a full-time career.

(B) All positions subject to the Civil Service Act shall be created or eliminated by the Mayor and Council.

(C) As used in this chapter, "Commission" means the Civil Service Commission created by § 37.30 of this Code.

SECTION 3. Section 37.07 of the La Vista Municipal Code is amended to read as follows:

### **§ 37.07 CITY ADMINISTRATOR, FIRE CHIEF AND CHIEF OF POLICE; ABSENCES AND THE LIKE.**

Except as provided otherwise in § 37.13 (C)(18), during the absence, incapacity, suspension or vacancy in office of the City Administrator, Fire Chief or the Chief of Police, the powers herein delegated by the Mayor and City Council to the City Administrator, Fire Chief and Chief of Police shall be assumed and performed by the Acting City Administrator, Acting Fire Chief and Acting

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Chief of Police, respectively, or by such other person as the Mayor and City Council shall designate to act in their stead.

SECTION 4. Section 37.09 of the La Vista Municipal Code is amended to read as follows:

## § 37.09 APPOINTMENTS AND PROMOTIONS.

All appointments to and promotions in the Police Department and any appointment to the position of Fire Chief shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation by the Commission. Appointments shall mean all means of selecting, appointing or employing any person to hold any position or employment subject to civil service. Promotion or demotion shall mean changing from one position to another, accompanied by a corresponding change in current rate of pay. Position shall mean an individual job which is designated by an official title indicative of the nature of the work.

SECTION 5. Section 37.11 of the La Vista Municipal Code is amended to read as follows:

## § 37.11 FILLING OF VACANT POSITIONS.

(A) *Considerations.* If the City Administrator fills a vacancy in a position subject to the Civil Service Act, he or she shall consider factors including, but not limited to:

(1) The multiple job skills recently or currently being performed by the applicant which are necessary for the position;

(2) The knowledge, skills, and abilities of the applicant which are necessary for the position;

(3) The performance appraisals of any applicant who is already employed in the department, including any recent or pending disciplinary actions involving the applicant;

(4) The employment policies and staffing needs of the department together with contracts, ordinances and statutes related thereto;

(5) Required federal, state, or local certifications or licenses necessary for the position;  
and

(6) The qualifications of the applicants who are already employed in the Police Department or who are already members of the Volunteer Fire Department and have successfully completed all parts of the examination for the position. No person shall be reinstated in or transferred, suspended or discharged from any such position or employment contrary to the Civil Service Act.

(Neb. RS 19-1829)

(B) *Procedure for filling vacant positions.* Whenever a position subject to this chapter becomes vacant, the City Administrator shall make requisition upon the Commission for the names and addresses of the persons eligible for appointment and may decline to fill such vacancy for an indefinite period. If the Commission certifies fewer than three names for each vacancy to the City Administrator, the City Administrator may appoint one of such persons to fill the vacancy, may decline to fill the vacancy, or may order that another examination be held by the Civil Service Commission.

(Neb. RS 19-1835(1) and (3))

(C) *Temporary appointments.* If a vacancy occurs and there is no eligible list for the position or if the Commission has not certified persons from the eligible list, a temporary appointment may be made by the City Administrator. Such temporary appointment shall not continue for a period longer than four months. No person shall receive more than one temporary appointment or serve more than four months as a temporary appointee in any one fiscal year.

SECTION 6. Section 37.12 of the La Vista Municipal Code is amended to read as follows:

## § 37.12 PROBATIONARY PERIOD.

(A) To enable the City Administrator to exercise a choice in the filling of positions, no appointment, employment, or promotion in any position in the civil service within the Police Department shall be deemed complete until after the expiration of a period of not less than six months nor more than one year after certification by the Nebraska Law Enforcement Training Center for Police Officers, as such probationary period may be provided in the rules of the Civil Service Commission, during which time the City Administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the Police Department. The City Administrator may

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appoint one of the other persons certified by the Commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment, or promotion for the probationary period provided and then the appointment, employment, or promotion shall be complete.

(B) To enable the City Administrator to exercise a choice in filling the Fire Chief position, no appointment, employment or promotion to the Fire Chief position shall be deemed complete until after the expiration of a period of not less than three months nor more than six months, as such probationary period may be provided in the rules of the Civil Service Commission, during which time the City Administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the Fire Department. The City Administrator may appoint one of the other persons certified by the Commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment, or promotion for the probationary period provided and the appointment, employment, or promotion shall be complete.

SECTION 7. Section 37.13 of the La Vista Municipal Code is amended to read as follows:

## § 37.13 DISCIPLINARY ACTIONS.

(A) *Tenure of employment.* The tenure of a person holding a position of employment subject to this chapter shall be only during good behavior.

(B) *Causes for disciplinary action.* Any such person may be removed or discharged, suspended with or without pay, demoted, reduced in rank or deprived of vacation, benefits, compensation, or other privileges, except pension benefits, for any of the following reasons:

(1) Incompetence, inefficiency, or inattention to or dereliction of duty;

(2) Dishonesty, prejudicial conduct, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee or member of the Volunteer Fire Department, any act of omission or commission tending to injure the public service, any willful failure on the part of the employee to properly conduct himself or herself, or any willful violation of the Civil Service Act or the rules and regulations adopted pursuant to such act;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Drunkenness or the use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such an extent that the use interferes with the efficiency or mental or physical fitness of the employee or precludes the employee from properly performing the functions and duties of his or her position;

(5) Conviction of a felony or misdemeanor tending to injure the employee's ability to effectively perform the duties of his or her position; or

(6) Any other act or failure to act which, in the judgment of the Civil Service Commission, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.  
(Neb. RS 19-1832)

(C) *Disciplinary action procedure.*

(1) No employee in the civil service who shall have been permanently appointed or inducted into civil service under this chapter shall be removed, suspended, demoted or discharged, except for cause and then only upon the written accusation of the Police Chief, City Administrator or any citizen or taxpayer.

(2) (a) The written accusation shall set forth in general terms the alleged misconduct, charges or grounds for investigation against the employee. The written accusation shall be filed by the complainant or accuser with the Secretary of the Commission who shall cause a copy of such written accusation to be delivered within five working days after the filing:

1. To the Police Chief,

2. To the City Administrator, and

3. To the employee personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city.

(b) The Secretary of the Commission shall cause a return showing such delivery to be executed and filed in the Secretary's office.

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(3) The City Administrator shall have the authority to immediately suspend, with pay, an employee against whom such written accusation has been filed, pending reinstatement, removal, demotion, discharge or further suspension of the employee, with or without pay.

(4) (a) Prior to any decision by the City Administrator regarding a written accusation, the Police Chief shall, within 30 calendar days after receiving the written accusation from the Secretary of the Commission, investigate the alleged misconduct, charges or grounds against the employee. If the Police Chief's investigation reveals other misconduct, charges or grounds, the Police Chief shall supplement the written accusation to include the other misconduct, charges or grounds by filing a supplement to the written accusation with the Secretary of the Commission who shall cause a copy of such supplemental accusation to be delivered within five working days after the filing:

1. To the City Administrator, and

3. To the employee personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city.

(b) The Secretary of the Commission shall cause a return showing such delivery to be executed and filed in the Secretary's office.

(c) Within 30 calendar days after receiving the written accusation from the Secretary of the Commission, the Police Chief shall recommend in writing to the City Administrator that the alleged misconduct, charges or grounds set forth in the written accusation be deemed:

1. To be without merit,

2. To not warrant disciplinary action,

3. To warrant disciplinary action less severe than removal, demotion, discharge or suspension with or without pay, such as an oral or written reprimand, or

4. To warrant removal, demotion, discharge or suspension with or without pay.

(d) In the event that the Police Chief or the Fire Chief is the subject of a written accusation or is being disciplined, the City Administrator shall follow the same procedures as are followed by the Police Chief in disciplining employees under this chapter, except that the City Administrator shall not be required to submit a written recommendation for disciplinary action to himself or herself under the preceding subdivision (C)(4)(c).

(5) (a) The City Administrator shall decide to accept the recommendation of the Police Chief or shall decide that the alleged misconduct, charges or grounds for investigation against the employee set forth in the written accusation be deemed:

1. To be without merit,

2. To not warrant disciplinary action,

3. To warrant disciplinary action less severe than removal, demotion, discharge, or suspension with or without pay such as an oral or written reprimand, or

4. To warrant removal, demotion, discharge or suspension with or without pay.

(b) The City Administrator shall not decide to take any action which may result in a suspension without pay, a demotion resulting in a reduction in pay, or a discharge without first giving the affected employee notice of the charges against him or her, an explanation of the city's evidence and an opportunity to present reasons, either in person or in writing, why the proposed disciplinary action should not be implemented.

(c) The decision of the City Administrator shall, if it results in suspension of more than five working days, a demotion resulting in a reduction in pay or a discharge, not be implemented until it has been approved by the City Council. The City Council may approve the decision of the City Administrator or modify it as the Council deems appropriate. Such approved or modified decision shall be deemed to be the decision of the Administrator for the purposes of this chapter. If Council approval is required, the City Administrator shall, within 20 working days after receiving the written recommendation of the Police Chief, file a copy of his or her decision with the City Clerk and request that the matter be reviewed by the City Council. Within 20 working days after receipt of the written recommendation of the Police Chief when City Council

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review is not required, and within 20 working days after the City Council's approval or modification when City Council approval is required, a copy of the City Administrator's decision shall be delivered:

1. To the Secretary of the Commission,
2. To the Police Chief, and

3. To the employee, personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city. The City Administrator shall cause a return showing such delivery or mailing to be executed and filed in the office of the Secretary of the Commission.

(6) Pursuant to Neb. RS 19-1833(3), any employee so removed, suspended, demoted, or discharged may, within ten calendar days after receiving written notice of the City Administrator's decision, as such decision has been approved or modified by the City Council if subject to City Council approval, file a written demand for an investigation and public hearing by the Civil Service Commission. The employee shall file the request for the hearing with the Secretary of the Commission within ten calendar days after the service of notice of the decision of the City Administrator. The failure to file such request within ten calendar days after the service of the notice of the decision of the City Administrator shall constitute a waiver of the employee's right to review by the Civil Service Commission, and the decision of the City Administrator, as approved or modified by the City Council if subject to City Council approval, shall become final.

(7) Within three calendar days after receipt of the employee's timely written demand for an investigation and public hearing, the City Administrator shall cause to be delivered to the employee or to the employee's residence and to the Secretary of the Civil Service Commission a notice containing:

(a) A statement of the charge(s);

(b) The names of the witnesses who will be called on behalf of the city and a general statement of the nature of their testimony;

(c) Copies of the documents to be offered by the city in support of the charge(s);

(8) Within six calendar days after the filing of the employee's timely written demand for an investigation and public hearing, or within three days following his/her receipt of the information required by subdivision(C)(7), whichever is later, the employee shall deliver copies of the following to both the City Administrator and the Secretary of the Civil Service Commission:

(a) A response to the statement of the charge(s);

(b) The names of witnesses who will be called on behalf of the employee and a general statement of the nature of their testimony; and

(c) Copies of the documents to be offered by the employee in response to the charge(s).

(9) Within nine calendar days after the employee's timely filing of the written demand for an investigation and public hearing or within two days following his/her receipt of the information required by subdivision(C)(8), whichever is later, the City Administrator shall cause to be delivered to the employee or to the employee's residence and to the Secretary of the Civil Service Commission a list of rebuttal evidence expected to be presented by the city at the hearing, including a list of rebuttal witnesses with a general statement of the substance of their testimony and a list of any documents expected to be introduced to rebut the employee's evidence.

(10) If any of the deadlines or time limits provided for in subdivisions (2), (4), (5), (7), (8), or (9) of this division (C) falls on a Saturday, Sunday or legal holiday observed by the city, then such deadline shall be extended to the next working day. Furthermore, such deadlines and time limits are directory and not jurisdictional, and the failure of either party to meet any of such deadlines and time limits shall not prevent or bar the imposition of appropriate disciplinary action, or result in the suspension, termination or abatement of any disciplinary proceeding or disciplinary action previously imposed.

(11) Upon receipt of an employee's timely written demand for an investigation and public hearing, the Commission shall conduct an investigation. The Commission shall be represented in such investigation by the City Attorney, if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for such investigation. The investigation shall be based upon a review of the materials filed by the City Administrator and by the employee with the Secretary of the Civil Service Commission, and shall be confined to the determination of whether the

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disciplinary action was made in good faith for cause, which shall mean that the action was not arbitrary or capricious and was not made for political or religious reasons. The Commission and its members may also review the submissions of the City Administrator and of the employee to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission.

(12) The Commission shall schedule a public hearing to be held after the investigation and no less than ten nor more than 20 calendar days from the date of filing of the employee's written demand for an investigation and public hearing. The Commission shall notify the City Administrator and employee in writing at least three calendar days prior to the date of the hearing of the date, time and place of hearing. The Commission may be represented at such hearing by the City Attorney, if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for such hearing.

(13) The City Administrator shall be permitted to appear in person and by counsel and to present the case of the city. The City Administrator may present evidence by testimony, documents, and other exhibits and shall be permitted to cross-examine the employee's witnesses. At the hearing, the employee shall be permitted to appear in person and by counsel and to present his or her defense. The employee may present evidence by testimony, documents, and other exhibits and shall be permitted to cross-examine the witnesses called by the city.

(14) The Commission may affirm the action taken by the City Administrator, if such action is supported by a preponderance of the evidence. If the Commission finds that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or re-employment of the employee in the position or employment from which the employee was removed, suspended, demoted or discharged, which reinstatement shall, if the Commission in its discretion so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge.

(15) Upon the hearing, in lieu of affirming the removal, suspension, demotion or discharge, the Commission may modify the order of removal, suspension, demotion or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than ten calendar days after the hearing, the Commission shall certify its findings in writing to the employee and to the City Administrator who shall enforce them.

(16) Appeals from the decision of the Civil Service Commission may be taken to the District Court in the manner provided by law and upon the grounds allowable by law.

(17) A day shall be counted as a working day under subdivisions(C)(2), (4), and (5) only if both the person required to serve a document or thing or to perform an act, and the person or persons who are to receive service of the document or thing or to be the recipient or recipients of such action, are both actively on duty and working for the city within the corporate limits of the city on such day. For purposes of this division (C), both the City Council and the Civil Service Commission shall be deemed to be actively on duty and working for the city within the corporate limits of the city each day that is not a Saturday, Sunday, or legal holiday observed by the city.

(18) The Acting City Administrator may act for the City Administrator under this division (C) only if the office of City Administrator is vacant or if the City Administrator is and has been incapacitated due to illness, injury, or suspension for in excess of 14 calendar days. The Acting Chief of Police may act for the Chief of Police under this division (C) only if the office of Chief of Police is vacant or if the Chief of Police is and has been incapacitated due to illness, injury, or suspension for in excess of 14 calendar days.

SECTION 8. Section 37.39 of the La Vista Municipal Code is amended to read as follows:

## § 37.39 POWERS AND DUTIES.

(A) The Commission shall adopt and promulgate procedural rules and regulations which shall provide in detail the manner in which examinations may be held and shall provide for any other matters assigned to it by the City Administrator. At least one copy of the rules and regulations and any amendments shall be made available for examination and reproduction by members of the public. One copy of the rules and regulations and any amendments shall be given to each full-time police officer and to the Fire Chief.  
(Neb. RS 19-1830(2))

(B) The Commission shall provide that all tests shall be practical and consist only of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include but not be limited to tests

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of physical fitness and of manual skill and psychological testing.  
(Neb. RS 19-1830(3))

(C) By its rules and regulations, the Commission shall provide for a credit of 10% on any written examination in favor of all applicants for an appointment to an entry level position under civil service who, in time of war or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States and who have equaled or exceeded the minimum qualifying standards established by the City Administrator for such entry level position. The City Administrator shall define which positions are entry level positions qualifying for such credit.  
(Neb. RS 19-1830(4))

(D) The Commission may conduct an investigation concerning and report upon all matters regarding the enforcement and effect of the Civil Service Act and the rules and regulations prescribed hereunder.  
(Neb. RS 19-1830(5))

(E) The Commission may inspect all institutions, departments, positions and employments affected by the Civil Service Act to determine whether such act and all such rules and regulations are being obeyed. Such investigations may be conducted by the Commission or by any Commissioner designated by the Commission for that purpose. The Commission shall also make a like investigation on the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such an investigation. The City Attorney shall provide general legal counsel to the Commission in relation to such an investigation, unless the Mayor determines special counsel is necessary. If the Mayor determines special counsel is necessary, the Commission may be represented by special counsel appointed by the Commission in any such investigation. In the course of such an investigation, the Commission, designated Commissioner or Chief Examiner shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this state. The oaths administered and subpoenas issued shall have the same force and effect as the oaths administered by a District Judge in a judicial capacity and subpoenas issued by the District Courts of Nebraska. The failure of any person so subpoenaed to comply shall be deemed a violation of the Civil Service Act and shall be punishable as such. No investigation shall be made pursuant to this division (E) if there is a written accusation concerning the same subject matter against a person in the civil service. Such accusation shall be handled pursuant to § 37.13.  
(Neb. RS 19-1830(5))

(F) The Commission shall provide that all hearings and investigations before the Commission, designated Commissioner or Chief Examiner shall be governed by the Civil Service Act and the rules of practice and procedure to be adopted by the Commission. In the conduct thereof, they shall not be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission, except that no order, decision, rule or regulation made by any designated Commissioner conducting any hearing or investigation alone shall be of any force or effect unless it is concurred in by a majority of the appointed members of the Commission, including the vote of any Commissioner making the investigation.  
(Neb. RS 19-1830(6))

(G) The Commission shall establish and maintain a roster of officers and employees.  
(Neb. RS 19-1830(7))

(H) The Commission shall provide for, establish, and hold competitive tests to determine the relative qualifications of persons who seek employment in any position and, as a result thereof, establish eligible lists for the various positions.  
(Neb. RS 19-1830(8))

(I) The Commission shall make recommendations concerning a reduction in force policy to the Mayor and Council.  
(Neb. RS 19-1830(9))

(J) The Commission shall keep such records as may be necessary for the proper administration of the Civil Service Act.  
(Neb. RS 19-1830(11))

(K) The Commission, upon request of the City Administrator, shall establish and maintain a list of names and addresses, for a period of time established by the City Administrator, of those eligible for appointment to or promotion within the Department. Such list shall be established and maintained through the open competitive examinations required in § 37.09, with the time and date

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of any examination to be established by the City Administrator. Any person having satisfactorily passed the examination for any position shall be placed on the list of those eligible for appointment or promotion to such position.  
(Neb. RS 19-1835(2))

(L) The Commission, upon request of the City Administrator, shall certify the name of the persons who are the three highest on the eligible list, following the most recent examination, and whose qualifications have been validated by the Commission for a vacant position.  
(Neb. RS 19-1835(3) part)

(M) The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of the Civil Service Act and the rules of the Commission. The Commission shall be represented in such suits and all investigations pursuant to the Act by the City Attorney, unless the Mayor determines special counsel is necessary. If the Mayor determines special counsel is necessary, the Commission may be represented by special counsel appointed by it in any particular case.  
(Neb. RS 19-1839)

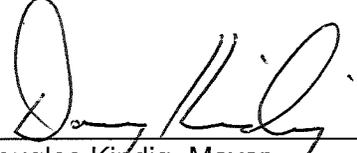
SECTION 9. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 10. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

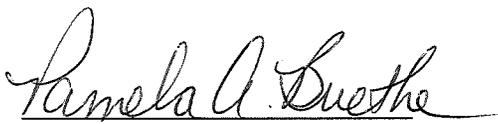
SECTION 11. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF JANUARY 2007.

CITY OF LA VISTA

  
Douglas Kindig, Mayor

ATTEST:

  
Pamela A. Buethe, CMC  
City Clerk

K:\APPS\CITYHALL\ORDINANCES\1018 Amend City Code Fire Chief 2