

# **ORDINANCE NUMBER 2.05-B**

## **PERSONNEL POLICY FOR THE CITY OF ROTHSAY, MINNESOTA**

### **An Ordinance Repealing Ordinance Number 2.05-A, And Adopting Ordinance Number 2.05-B**

THE CITY COUNCIL OF ROTHSAY, MINNESOTA ORDAINS:

SECTION 1. PURPOSE. It is the purpose of these policies to establish a uniform and equitable system of personnel administration for employees of the City of Rothsay. Their provisions do not establish terms and shall not be construed as contractual provisions. They are not intended to be all-inclusive or to cover every situation that may arise. These policies may be amended at any time at the sole discretion of the City Council and shall supersede all previous personnel policies. Revisions and amendments shall become effective upon approval by the Rothsay City Council.

SECTION 2. SCOPE. These policies apply to all employees of the city. Except where specifically noted, these policies do not apply to:

1. Elected officials
2. City Attorney
3. Members of city boards, commissions, and committees
4. Consultants and others rendering temporary professional services
5. Volunteer Firefighters

SECTION 3. APPOINTMENT PROCEDURE. Every appointment to municipal service shall be made by the City Council on the basis of merit and fitness for the position. The City of Rothsay is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Rothsay will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

SECTION 4. CODE OF CONDUCT. In accepting city employment, employees become representative of the city and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of the City of Rothsay. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of the city employee. To achieve this goal, employees must adhere to established policies, rules and procedures and follow the instruction of the City Council. The following are job requirements for every position at the City of Rothsay. All employees are expected to:

- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
- Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor.
- Maintain good attendance while meeting the goals set by the City Council.

The City of Rothsay observes and supports the Minnesota Clean Indoor Air Act. All city building and vehicles, in their entirety, shall be designated as tobacco free, meaning that smoking in any form (through the use of tobacco products such as pipes, cigars, and cigarettes) or vaping with e-cigarettes is prohibited while in a city facility or vehicle.

**SECTION 5. PROBATIONARY PERIOD.** The first six (6) months of employment of an employee shall be regarded as a probationary period to be utilized for observing the employee's work, for securing the most effective adjustments of the employee to his/her position, and for removing any employee whose performance does not meet the required work standards. Vacation and sick leave benefits shall accrue to the employee during the probationary period. If employment is terminated during an employee's probationary period, no sick leave, vacation, or other benefits shall be due him/her. Probationary employees shall not be entitled to leaves of absence. At the end of the six (6) month probationary period, the City Council will evaluate the probationary employee and state the future employment status of said employee.

**SECTION 6. COMPENSATION.** All employees of the City of Rothsay will be compensated according to the wages or salaries established bi-annually by the City Council; provided, however, that the City Council is entitled to change or modify any wages or salary of any employee at any time that it deems it necessary in the interest of good personnel administration. Any wage or salary so established shall represent the total remuneration for employment, but shall not be considered as reimbursement for official travel or other expenses which may be allowed for the conduct of official business. Unless approved by City Council, no employee shall receive pay from the City in addition to the salary authorized for any position or positions to which he/she has been appointed. This shall not operate to prevent employees from working in more than one (1) position when authorized by City Council.

Compensation for seasonal and temporary employees will be set by the City Council at the time of hire, or on an annual basis. Seasonal and temporary employees may be assigned to work a full-time or part-time schedule. Seasonal and temporary employees do not earn benefits or credit for seniority.

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. § 13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel policies. To that end, and in accordance with Minn. Stat. § 181.172, employers may not:

- Require nondisclosure by an employee of his or her wages as a condition of employment.
- Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wage.
- Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.
- Retaliate against an employee for asserting rights or remedies under Minn. Stat. § 181.172, subd. 3.

The city cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry.

As provided for in Minnesota law, all employees are required to participate in direct deposit. Employees are responsible for notifying the city clerk of any changes in status, including changes in address, phone number, names of beneficiaries, marital status, etc. Temporary or seasonal employees may be exempt from direct deposit. Wages and salaries in the form of paychecks or direct deposit will not be given to anyone other than the person for whom they were prepared, unless the person has a note signed by the employee authorizing the city to give the other person the check. Payment will be given to the spouse, or another appropriate immediate family member, in the case of a deceased employee.

**SECTION 7. COMPENSATORY TIME.** The City of Rothsay has established a compensatory rate, to which, gives paid time off given to an employee instead of overtime pay in compensation for extra hours of work. To be eligible for Compensatory Time accrual, you must be considered a permanent, full-time employee. Compensatory Time will be accrued on a weekly basis, when hours exceed forty (40) hours per week, and will be calculated at a rate at one and one half (1 ½) hours per hours worked beyond forty (40) hours.

Current and future employees must adhere to compensatory regulations determined in this policy.

Employees currently accruing compensatory time may carry-over a maximum of forty (40) hours per year. Any additional compensatory time not used above forty (40) hours will be forfeited by January 1<sup>st</sup> of the following year.

SECTION 8. BENEFITS (HEALTH, DENTAL, AND LIFE INSURANCE). In accordance with federal health care reform laws and regulation, while avoiding penalties, the City of Rothsay will contribute a maximum of five hundred dollars (\$500.00) monthly toward group health, dental, and life insurance benefits for each eligible employee and his/her dependents. To be considered eligible, employees are expected to work thirty (30) or more hours per week or the equivalent of one hundred and thirty (130) hours or more per month.

SECTION 9. VACATION LEAVE.

Vacation Leave Schedule

<u>Yeas of Service</u>	<u>Annual Accrual</u>
Employment Date-One Year (0-1)	Five (5) Days
After One (1) Full year Starting January 1-Five Years	Ten (10) Days
Six (6) Years	Eleven (11) Days
Seven (7) Years	Twelve (12) Days
Eight (8) Years	Thirteen (13) Days
Nine (9) Years	Fourteen (14) Days
Ten (10) Years	Fifteen (15) Days
Eleven (11) ears	Sixteen (16) Days
Twelve (12) Years	Seventeen (17) Days
Thirteen (13) Years	Eighteen (18) Days
Fourteen (14) Years	Nineteen (19) Days
Fifteen Plus (15+) Years	Twenty (20) Days

Each permanent employees will earn vacation leave in accordance with the above schedule. Vacation leave may be used as it is earned, subject to approval by the City Council. A maximum carry-over of five (5) days per year, for a total of five (5) weeks will be allowed in any one year. Vacation leave is to be used only by the employee who accumulated it. It cannot be transferred to another employee. Vacation leave cannot be converted into cash payments except at termination, resignation, or retirement.

SECTION 10. SICK LEAVE. Sick leave with pay shall be granted to all probationary and permanent employees at a rate of one (1) working day for each calendar month of service or major fraction thereof, except that sick leave granted to probationary employees shall not be available for use until satisfactory completion of the initial probationary period. Sick leave accrued may not exceed eighty (80) working days.

Sick leave may be used as follows:

- When an employee is unable to perform work duties due to illness or disability (including pregnancy)
- For medical, dental or other care provider appointments.
- When an employee has been exposed to a contagious disease of such a nature that his/her presence at the work place could endanger the health of others.
- To care for the employee’s injured or ill children, including stepchildren or foster children, for such reasonable periods as the employee’s attendance with the child may be necessary.
- To take children, or other family members to a medical, dental or other care provider appointment.
- To care for an ill spouse, father, father-in-law, mother, mother-in-law, stepparent, grandparent, grandchild, sister, or brother.

Pursuant to Minn. Stat. § 181.9413, eligible employees may use up to one hundred and sixty (160) hours of sick leave in any Twelve (12) month period of absences due to an illness of or injury to the employee’s adult child, spouse, sibling, parent, grandparent, stepparent, parent-in-law (mother-in-law and father-in-law), and grandchild (includes step-grandchild, biological, adopted, or foster grandchild).

After accrued sick leave has been exhausted, vacation leave may be used upon approval of the City Council, to the extent the employee is entitled to such leave.

In order to be eligible for sick leave with pay, and employee must:

- Report promptly to the City Council with reason for absence.
- Keep the Council informed of his/her condition, if the absence is of more than three (3) days duration.
- Submit a physician's statement for any absence exceeding three (3) days, if required by the City Council.

Any employee who makes a false claim for sick leave will be subject to discipline up to and including termination. No sick leave benefits of any kind shall be granted upon termination or resignation of employment. Sick leave cannot be transferred from one employee to another. Earned sick leave has no cash value upon termination, resignation, or retirement.

**SECTION 11. LEAVE OF ABSENCE WITHOUT PAY.** Upon request of any employee, leave of absence without pay may be granted by the City Council, taking into consideration good conduct, length of employment, efficiency of the employee, and the general good of the employment. Such leave of absence shall not exceed a period of ninety (90) days, provided that the same may be extended beyond such period if the leave of absence is for continued disability or other good and sufficient reasons, but in no case shall exceed one (1) year, except when the employee is detailed for military service or is disabled for disability incurred while in the service of the City. No vacation or sick leave shall accrue during a period of leave of absence without pay.

Leave without pay hours will not count toward seniority and all accrued vacation leave must be used before an unpaid leave of absence will be approved.

To qualify for leave without pay, an employee need not have used all sick leave earned unless the leave is for medical reason. Leave without pay for purposes other than medical leave or work-related injuries will be at the convenience of the city.

Employees returning from a leave without pay for a reason other than qualified Parenting Leave of FMLA, will be guaranteed return to the original position only for absences of thirty (30) calendar days or less.

Employees receiving leave without pay in excess of thirty (30) calendar days, for reasons other than qualified Parenting Leave or FMLA, are not guaranteed return to their original position. If their original position or position of similar or lesser status is available, it may be offered at the discretion and subject to approval of the City Council.

In the case of jury duty or subpoena for witness in court, an employee shall receive an amount of compensation which is equal to the difference between the employee's regular pay and compensation paid for jury duty or witness fee.

**SECTION 12. MILITARY LEAVE.** State and federal laws provide protections and benefits to city employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of fifteen (15) days in any calendar year.

The leave of absence is only in the event the employee returns to employment with the city as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five (5) years. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

Eligibility for continuation of insurance coverage for employees on military leave beyond fifteen (15) days will follow the same procedures as for any employee on an unpaid leave of absence.

Employees will be granted up to ten (10) working days of unpaid leave whose immediate family member is a member of the United States armed forces who has been injured or killed while engaged in active service. The ten (10) days may be reduced if an employee elects to use appropriate accrued paid leave.

Unless the leave would unduly disrupt the operations of the city, employees whose immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national

emergency, will be granted an unpaid leave of absence, not to exceed one (1) day's duration in any calendar year, to attend a send-off or homecoming ceremony for the mobilized service member.

**SECTION 13. PARENTAL LEAVE.** Employees who work twenty (20) hours or more per week and have been employed more than one (1) year are entitled to take an unpaid leave of absence under the Parenting Leave Act of Minnesota. Female employees, for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions, as well as a biological or adoptive parent in conjunction with after the birth or adoption of a child, is eligible for up to twelve (12) weeks of unpaid leave and must begin within twelve (12) months of the birth or adoption of the child. In the case where the child must remain in the hospital longer than the mother, the leave must begin within twelve (12) months after the child leaves the hospital. Employee should provide reasonable notice, which is at least fourteen (14) days. If the leave must be taken in less than three (3) days, the employee should give as much notice as practicable.

The employee is entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave. Group insurance coverage will remain in effect during the leave.

**SECTION 14. FUNERAL LEAVE.** Employees will be permitted to use up to three (3) consecutive working days, with pay, as funeral leave upon the death of an immediate family member. This paid leave will not be deducted from the employee's vacation or sick leave balance.

The actual amount of time off, and funeral leave approved, will be determined by the City Council depending on individual circumstances such as closeness of the relative, arrangements to be made, distance to the funeral, etc.

**SECTION 15. HOLIDAYS AND REST PERIODS.** The city observes the following official holidays for all regular full-time and part-time employees:

New Year's Day	Columbus Day
Martin Luther King, Jr. Day	Veteran's Day
Presidents Day	Thanksgiving Day
Memorial Day	Friday following Thanksgiving
Juneteenth	Christmas Eve
Independence Day	Christmas Day
Labor Day	

When a holiday falls on a Sunday, the following Monday will be the "observed" holiday; and when the holiday falls on a Saturday, the preceding Friday will be the "observed" holiday, for city operations/facilities that are closed on holidays.

Employees will be compensated at a rate of time-and-one-half if required to work on a holiday. These will be hours worked on the "actual" holiday as opposed to the "observed" holiday. Employees wanting to observe holidays other than those officially observed by the city may request either vacation leave or unpaid leave for such time off.

All regular employees, when working under conditions where the use of a break period is practicable, shall be granted a fifteen (15) minute break period in each half of the employee's shift of each working day.

**SECTION 16. RESIGNATION.** Employees wishing to leave the city service in good standing must provide a written resignation notice to the City Council, at least fourteen (14) days before leaving. Unauthorized absences from work for a period of three (3) consecutive working days may be considered as resignation without proper notice. Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the city.

Severance pay to employees who leave the employ of the city in good standing by retirement or resignation will receive pay for one hundred percent (100%) of unused accrued vacation.

**SECTION 17. LAY-OFFS.** In the event it becomes necessary to reduce personnel due to shortage of work or funds, the abolition of a position, or because of change in organization, temporary employees and those serving a probationary period in affected job classes will be terminated from employment with the city before other employees in those job classes. Within these groups, the selection of employees to be retained, will be based on merit and ability, as determined

and approved by the City Council. When all other considerations are equal, the principle of seniority will be taken into consideration in layoffs and recall from layoffs.

**SECTION 18. SUSPENSION.** The City Council may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans, who have completed their initial probationary period, will not be suspended without pay in conjunction with a termination. The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file. If an allegation is proven false after an investigation, the relevant written documents will be removed from the employee's personnel file and he/she will receive any compensation due had the suspension not taken place.

**SECTION 19. DISMISSAL.** Subject to state law on Veteran/s Preference, any officer or employee subject to the provisions of this policy may be dismissed from the city service by the City Council. Evidence of the following shall be sufficient cause for dismissal:

- Incompetence or inefficiency in the performance of his/her duties.
- Violation of any lawful or official regulations, or order of failure to obey any lawful direction made and given by his/her superior officer or City Council, where such violation of failure to obey amounts to an act of insubordination or a breach of proper discipline, or has resulted, or reasonably might be expected to result, in loss or injury to the City or the public.
- Intoxication on duty
- Physical or mental defect which, in the judgement of the City Council, incapacitates the employee for the proper performance of the duties of his/her position. An examination by a licensed medical doctor may be required.
- Deliberate use of offensive behavior or language toward the public or City employees or officers.
- Carelessness and negligence in the handling or control of city property.
- Inducing or attempting to induce an officer or employee of the City of Rothsay to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or order.
- Taking any fee, gift, or other valuable item in the course of his/her work, or in connection with it from any citizen for his/her personal when such a gift, fee, or other item is given in the hope or expectation of receiving a favor or better treatment than that accorded other citizens.
- Proven dishonesty in the performance of his/her duties.
- Violation of the provisions of this policy.

**SECTION 20. RIGHT TO APPEAL.** In all cases of suspension and dismissal, except throughout and at the end of a probationary period, the reasons for such action must be presented in a dated, written statement to the employee affected. Upon the employee's dated, written statement to the City Council, filed within five (5) working days of receipt of the statement of reasons, an employee shall be granted a hearing before the City Council; said hearing to be held no later than ten (10) days from the date of filing of a request for hearing.

**SECTION 21. RETIREMENT/PERA.** The normal mandatory retirement age for all municipal employees shall be sixty-five (65) years of age. In special cases, work extensions to employees will be granted by the Council after the age of sixty-five (65) on a year-to-year basis, except that no employee shall work in any municipal position beyond the age of seventy (70) years. Extensions will be granted beyond the age of sixty-five (65) only when it is in the best interests of the city to do so. Extension requests will be dealt with on the basis of the facts in each individual case. Any employee requesting an extension shall demonstrate physical, mental, and emotional fitness to perform his/her work by way of yearly physical examinations. A copy of the report of said examination by the examining physician shall be presented to the City Council. The City Council shall discuss pertinent facts regarding work performance of the employee making the request of an extension of retirement age. These facts will be considered in determining disposition of his/her request. Employees desiring a work extension past the age of sixty-five (65) must submit the request in writing to the City Council not less than six (6) months prior to their sixty-fifth (65<sup>th</sup>) birthdate. In the absence of approved work extension, employees shall retire from employment no later than December 31<sup>st</sup> following their sixty-fifth (65<sup>th</sup>) birthdate.

The city participates in the Public Employees Retirement Association (PERA) to provide pension benefits for its eligible employees to help plan for a successful and secure retirement. Participation is mandatory for most employees, and contribution into PERA shall begin immediately. The city and employee contribute to PERA each pay period as determined by state law.

**SECTION 22. GRIEVANCE POLICY.** Any dispute between an employee and the city relative to the application, meaning or interpretation of these personnel policies will be settled in the following manner:

The employee must present the grievance in writing, stating the nature of the grievance, the date at which the incident allegedly occurred, the facts on which it is based, the provision or provisions of the personnel policies allegedly violated and the remedy requested, to the City Council within twenty-one (21) days after the alleged violation or dispute has occurred. The City Council will respond to the employee in writing within seven (7) calendar days. The decision of the City Council is final for all disputes.

If a grievance is not presented within the time limits set forth above, it will be considered “waived.” The time limit may be extended by mutual agreement of the City Council and the employee without prejudice to either party.

The following actions are not grievable:

- While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable, other performance evaluation data, including subjective assessments, are not.
- Pay increase or lack thereof; and
- Merit pay awards.

If the grievance relates to sexual harassment, this policy procedure shall not apply. The grievance procedure set out in the Sexual Harassment Section shall take precedence.

**SECTION 23. SEXUAL HARASSMENT.** The City of Rothsay is committed to creating and maintaining a work place free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964 and the Minnesota Human Rights Act. In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment.

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statue § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct of communication of a sexual nature, when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual’s employment; or
- Such conduct has the purpose or result of unreasonable interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

- Immediate supervisor;
- City Clerk/Treasurer;
- Mayor or city councilmember.

Any employee who makes a false complaint or provides false information during an investigation may be subject to disciplinary action, up to and including termination.

**SECTION 24. JOB RELATED INJURY OR ILLNESS.** If the nature of injury or illness requires immediate treatment, the employee is to go the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called. If the injury is not of an emergency nature,

but requires medical attention, the employee will report it to the supervisor and make arrangements for a medical appointment.

Both Minnesota workers' compensation laws and the state and federal Occupational Safety and Health Acts (OSHA) require that all on the job injuries and illnesses be reported as soon as possible by the employee, or on behalf of the injured or ill employees, to his/her supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms that may be necessary related to an injury or illness on the job.

SECTION 25. POLITICAL PARTY. No employee shall seek or accept election, nomination or appointment as an officer of a political club or organization which is taking an active part in a municipal political campaign, except on behalf of his/her own candidacy. Nor shall an employee serve as a member of a committee of such club or organization; nor seek signatures to any petition provided by law; nor act as a worker at the polls; nor distribute badges or pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election or for nomination to a municipal public office.

However, this section shall not be construed to prevent any employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his/her vote, or from seeking or accepting election, or appointment to public office.

Any employee who shall become a candidate for any elective public office, shall automatically receive a leave of absence without pay and shall not perform the duties connected with the position held by him/her until he/she is no longer a candidate. However, if the needs of the municipal service require, the vacancy created by his/her absence may be filled and his/her services will be terminated.

SECTION 26. TRAVEL EXPENSES. Time spent travelling to and from, as well as time spend attending a training session or conference, will be compensated in accordance with the federal Fair Labor Standards Act. Travel and other related training expenses will be reimbursed subject to the employee providing necessary receipts and appropriate documentation, and approval of the City Council. Employees who find it necessary to use their private automobiles for city travel will be reimbursed at the prevailing mileage rate as established by the City Council, not to exceed the allowable IRS rate.

SECTION 27. EFFECTIVE DATE. This ordinance shall be effective upon its adoption and publication in the official newspaper in accordance with law.

Adopted this 14<sup>th</sup> day September, 2022  
Date of Publication: September 19<sup>th</sup>, 2022.

Approved:

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Joseph Tillman, Mayor

(Seal)

Attest:

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Amanda Kuschel, City Clerk/Treasurer