

**HASTINGS CITY COUNCIL
WORKSESSION AGENDA**

**City of Hastings Utility Department
1228 North Denver Avenue
April 19, 2021
5:30 PM**

ROLL CALL:

PLEDGE OF ALLEGIANCE:

MOTION TO ADOPT CURRENT AGENDA for April 19, 2021 Worksession.

PUBLIC NOTICE - Official Notice of the Worksession was published in the Hastings Tribune on Friday, April 16, 2021. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is available. Also, a current copy of the Nebraska Open Meetings Act is posted and accessible to members of the public.

DISCUSSION ITEMS

1. Presentation on Hastings Vadose Zone Study - Dr. Daniel Snow, University of Nebraska-Lincoln.
2. Discussion of Ethics/Code of Conduct draft ordinance.
3. Discussion of City Building renovation.
4. Tour of Turbine Room.

ADJOURN:

The Mayor and City Council reserve the right to enter into an executive session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be indicated on the agenda.

It is the intention of the Mayor and City Council to take up the items on the agenda in sequential order. However, the Mayor and City Council reserve the right to take up matters in a different order to accommodate the schedules of the city council members, person having items on the agenda, and the public.

CHAPTER 2

ARTICLE I. – IN GENERAL.

Revised 3-17-20

Sec. 2-101. – Wards and precincts.

- (1) The City of Hastings is hereby divided into wards and precincts as shown on the map prepared for that purpose, which map is hereby designated as the Hastings Voting Precinct Map, 20__.
- (2) The original Hastings Voting Precinct Map, 20__, described hereinabove, together with any notation, reference and information shown thereon, is hereby incorporated in this ordinance by reference as though fully set forth herein, and shall be kept on file in the office of the City Clerk.

Sec. 2-102. – Departments of City Government.

City Government shall be divided generally into departments as follows:

- (1) Administration Department
- (2) Finance Department
- (3) Human Resources Department
- (4) Fire Department.
- (5) Police Department.
- (6) Parks and Recreation Department.
- (7) Engineering Department.
- (8) Development Services Department
- (9) Utility Department
- (10) Hastings Public Library
- (11) Hastings Museum
- (12) Information Technology Department

There are various functions operating within the foregoing departments who shall report directly to the department head under which the function is assigned. All department heads shall be appointed by the Mayor with the approval of the City Council and shall report directly to the City Administrator. The following positions of City Administrator, City Attorney, City Clerk, City Engineer, and Finance Director/City Treasurer shall hold that office until the end of the Mayor's term and until a successor is appointed and qualified, unless sooner removed by the Mayor with the consent of the City Council.

Sec. 2-103. Role of City Council Members.

Councilmembers shall respect and adhere to the Mayor-Council-Administrator form of the Hastings City government. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, Commissions, Boards and City Staff.

Sec. 2-104. Go Through City Administration.

Except as otherwise provided in the Hastings City Code, Councilmembers should not interfere with the administrative functions of the City or the professional duties of City Staff; nor should Councilmembers impair the ability of the Staff to implement Council decisions.

Before sending correspondence, Councilmembers should check with the City Administrator to see if an official City response has already been sent or is in progress.

Requests for additional Staff support—even in high priority or emergency situations—should be made to the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Sec. 2-105. Positive Workplace Environment.

Councilmembers shall support the maintenance of a positive and constructive workplace environment for City Employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City Employees in order to not create the perception in inappropriate direction to Staff.

Questions of City Staff and/or requests for additional background information should be directed to the City Administrator or City Attorney. The City Administrator should be copied on or informed of any request.

Request for follow-up or directions to Staff should be made only through the City Administrator or City Attorney when appropriate. When in doubt about what Staff contact is appropriate, Councilmembers should ask the City Administrator for direction. Materials supplied to a Councilmember in response to a request will be made available to all members of the Council so that all have equal access to information.

Councilmembers should never express concerns about the performance of a City Employee in public, to the employee directly, or the Employee's Manager. Comments about Staff performance should only be made to the City Administrator through private correspondence or conversation.

Sec. 2-106. Attendance.

No member shall be absent from the service of the City Council, unless the member is on leave, is sick, or unable to attend. If the Mayor or any Councilmember shall neglect or fail to attend five (5) consecutive meetings of the Council, unless the absences are documented by proof of illness or accident resulting in injury. Meetings of the Council include regular, work session or special meetings. A member missing five (5) consecutive meetings shall be deemed guilty of misconduct and their seat shall be declared vacant by the Council. The vacancy shall be filled by appointment by the Mayor or President of the City Council then acting as Mayor, by and with the consent of the City Council, as provided by State Statute.

ETHICS AND CODE OF CONDUCT

Sec 2.-107. Declaration of policy.

It is the policy of the City that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all City officials and employees is adopted.

This Ethics and Code of Conduct has four (4) purposes: (1) to encourage high ethical standards in official conduct by City officials and employees; (2) to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City; (3) to require disclosure by such officials and employees of private financial or other interests in matters affecting the City; and (4) to serve as a basis for disciplining those who fail to abide by its terms.

The provisions of this Chapter shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns or the conduct of candidates in such campaigns.

The City Council may adopt, amend, and rescind rules of procedure to carry out the provisions of this Chapter. Such rules shall be consistent with this Chapter and other applicable law.

Sec. 2-108. Definitions.

When used in the following sections of the City Code, the following terms shall have the following meanings:

Affected in the case of a person, entity or property means reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question. For instance, a person or entity owning real property, entering into a contract with the City, or seeking a permit or franchise is "affected" by votes or decisions such as zoning of the property, approval of the contract, or granting of the permit. "Affected" does not include those persons or entities who are subject to an indirect or secondary effect from official action. Creditors, independent contractors, or guarantors of a person "affected" by a vote or decision are not also deemed to be "affected" by virtue of their relationship with the affected person. The vote or decision need not be the only producing cause of the economic effect or consequence reasonably likely to result. In determining whether a person, entity or property is or was "affected by" a vote or decision, it shall not be necessary to prove the actual existence or occurrence of an economic effect or consequence if such effect or consequence would be reasonably expected to exist or occur. Additionally, a vote or decision to place a matter on a ballot is deemed to affect a person, entity or property to the same extent that the results of the election would affect the person, entity or property.

Business means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.

Business interest or business with which the individual is associated means a business: (1) in which the individual is a partner, director, officer; or (2) in which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth one thousand dollars (\$1,000) or more at fair market value or which represents more than a five (5) per cent equity interest, or is a stockholder of publicly traded stock worth ten thousand dollars (\$10,000) or more at fair market value or which represents more than ten (10) per cent equity interest. This definition does not include an individual retained or otherwise employed by a client when the employment creates a confidential professional relationship protected by law, unless that individual is a regularly salaried employee for whom the business withholds income tax or pays social security. A partnership or professional corporation whose officers, directors or employees occupy a confidential professional relationship protected by law is also not included. This definition shall not apply to publicly traded stock under a trading account if the official reports the name and address of the stockbroker.

City employee or employee means any person employed by the City of Hastings, but does not include independent contractors hired by the City.

City official or official, unless otherwise expressly defined, means the Mayor, members of the City Council, City Administrator, all department heads, whether such person is salaried, hired or elected, and all other persons holding appointed positions designated by the City Code, as it may be amended from time to time. City official also includes individuals appointed by the Mayor and City Council to all City commissions, committees, boards, task forces, or other City bodies unless specifically exempted from this Chapter by the City Council.

Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the City Council or other City board or commission, as well as the discussions or deliberations of the council, board or commission which can or may lead to a vote or formal action by that body. A "decision" of a City employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorizations for expenditures, and other non-ministerial acts.

Discretionary authority means the power to exercise any judgment in a decision or action.

Entity means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.

Interest in real property means an interest in real property involving either an equitable or legal ownership interest regardless of value.

Ministerial act means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.

Misconduct means a violation Nebraska statutes classified as a misdemeanor or felony or as specifically provided for in the Chapter.

Other interests. If a City official or employee with regard to a partnership, professional corporation or other entity's interest in a client, has personally acted within the preceding six (6) months in a professional or fiduciary capacity for the client.

Sec. 2-109. Standards of conduct.

(a) No City official or employee shall transact any business in their official capacity with any entity in which they have a business interest.

(b) No City official or employee shall formally appear before the body of which the official or employee is a member while acting as an advocate for themselves or any other person, group, or entity.

(c) No elected City official or employee shall represent, for compensation, any other private person, group or entity before any department, commission, board or committee of the City.

(d) No City official or employee shall represent, directly or indirectly, any other private person, group or entity in any action or proceeding directly against the interests of the City, or in any litigation in which the City or any department, commission, or board or committee thereof is a named party; provided, however, nothing herein shall limit an official from representing a court appointed criminal defendant or representing a party to a civil action where the City is named a party by way of its holding a lien interest for a special assessment where the validity of the special assessment is not an issue; and provided further, that nothing herein shall limit the authority of the City Attorney and their staff to represent the City, its boards, commissions, committees and officers in the discharge of their duties.

(e) No City official or employee shall represent, directly or indirectly, any private person, group or entity in any action or proceeding in court which was instituted by a City official or employee in the course of official duties, except as provided in subsection (d) above.

(f) No City official shall represent any private person, group or entity in any action or proceeding in court which was instituted by or arising from a decision of a board, commission, committee, task force or other body on which the official serves.

(g) No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct.

(h) No City official or employee shall solicit or accept other employment to be performed or compensation to be received while still a City official or employee, if the employment or compensation could reasonably be expected to impair independence in judgment or performance of City duties.

(i) If a City official or employee accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official or employee might reasonably be expected to act, investigate, advise, or make a recommendation, the official or employee shall disclose that fact to the council, board or commission on which they serve or to their supervisor and shall take no further action on matters regarding the potential future employer.

(j) No City official or employee shall use their official position to secure a special privilege or exemption for themselves or others, or to secure confidential information for any purpose other than official responsibilities.

(k) No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(l) City officials and employees shall not exceed their authority or breach the law or ask others to do so and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or officially recognized confidentiality of their work.

(m) No City official or employee in the course of their official duties shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen in the same circumstances.

(n) Preferential consideration of the request or petition of any individual citizen or group of citizens shall not be given. No person shall receive special advantages beyond that which are available to any other citizen.

Sec. 2-110. Impairment.

An elected official shall not be under the influence of alcohol, ~~or~~ non-prescribed prescription drugs or illegal drugs while exercising their official duties.

A. If reasonable cause exists the elected official shall be asked to remove himself/herself from continuing with their official duties until the following requirements are met:

1. An elected official must substantiate with another elected official that there is reasonable cause to believe the elected official is under the influence of alcohol.
2. If confirmed as provided above the elected official shall be asked to submit to a preliminary breath test. Elected officials shall be trained in recognizing drug and alcohol use indicators and symptoms.
3. A decision to do a preliminary breath test must be based on physical, behavioral, or performance indicators while the elected official is exercising their official duties. Examples of this evidence include, but are not limited to repeated difficulties in performing official duties, repeating themselves, slurred speech, or lack of focus on the tasks at hand all of which may be coupled with a contemporaneous event that indicates possible drug or alcohol use.

- B. Action under this section against an elected official shall not be based solely on the elected officials behavior and appearance in the absence of an alcohol test.
- C. Prescription and over-the counter medications are not prohibited when taken in recommended dosage and/or according to a physician's direction or recommendation.
- D. If a preliminary breath test indicates the presence of alcohol having a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of their breath, the elected official shall not be allowed to continue performing their official duties at that event.
- E. Refusal to take the preliminary breath test shall be deemed a failed test by the elected official.
- F. An elected official violating this section may be subject to sanctions as set forth in this ordinance.

Sec. 2-111. Prohibition on conflict of interest.

A City official or employee may not participate in a vote or decision on a matter affecting a person, entity, or property in which the business which the official or employee is associated is involved. Where the interest of a City official or employee in the subject matter of a vote or decision is remote or incidental, the City official or employee may participate in the vote or decision and need not disclose the interest.

Remote interest means an interest of a person or entity, including a City official or employee, who would be affected in the same way as the general public. The interest of a council-member in the property tax rate, general City fees, City utility charges, or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the council member would be affected in common with the general public.

Incidental interest means an interest in a person, entity or property which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This Chapter does not establish dollar limits on the terms "insignificant value" and "de minimis," which shall have their usual meanings and be subject to interpretation on a case by case basis.

Sec. 2-112. Conflict of interest; disclosure.

(a) A City official shall disclose the existence of any business with which the official is associated involving a person, entity or property which would be affected by a vote or decision of the body of which the City official is a member or that he serves as a corporate officer or member of the board of directors of a nonprofit entity for which a vote or decision regarding funding by or through the City is being considered. City officials and employees of the City shall comply with applicable provisions of state law relative to conflicts of interest and generally regulating the conduct of public officials or employees.

(b) To comply with this section, any elected official who has a conflict of interest, as set forth in subparagraph (a) above, in any matter before the City Council, shall disclose such fact on the records of the City Council and refrain from participating in any discussion or voting thereon, provided that such exceptions shall be observed as is permitted by law. This provision shall apply if a council member has disqualified himself or herself from voting. In addition any elected official who has a conflict of interest shall complete Nebraska Accountability and Disclosure Commission Form C-2A and file the same with the City Clerk.

(c) To comply with this section, any member of any official board, commission or committee who has a conflict of interest as defined herein, in any matter before the board, commission or committee, of which they are a member, shall disclose such fact on the records of such board, commission or committee and refrain from participating in any discussion or voting thereon, provided that such exceptions shall be observed as are permitted by law.

(d) To comply with this section, a City employee shall notify in writing their supervisor of any substantial interest they may have in a person, entity or property which would be affected by an exercise

of discretionary authority by the City employee and a supervisor shall reassign the matter. In addition, any employee, who has a financial or other special interest in a matter before the City Council or any board, commission, or committee, and who participates in discussion with or gives an official opinion to the council or to such board, commission or committee relating to such matter, shall disclose on the records of the council or such board, commission or committee, as the case may be, the nature and extent of such interest.

Sec. 2-113. Interest of spouse.

(a) A spouse of a City official or employee involved in a business with which he or she is associated shall be deemed to apply to that official or employee for the purposes of sections 2-111 and 2-112 concerning disclosure.

(b) A City official or a City employee may not participate in a vote or decision affecting a business with which an individual is associated if that individual is related in the first or second degree of consanguinity or affinity. For the purposes of this section, "business with which the individual is associated" shall be defined in section 2-108.

Sec. 2-114. Misuse of official information.

(a) No City official or employee shall willfully and knowingly use confidential information for pecuniary gain to any other person confidential information acquired by them in the course of and by reason of their official duties, nor shall any public official or employee use any such information for the purpose of pecuniary gain.

(b) No former City official or former employee shall use any confidential information to which they had access by virtue of their official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City.

Sec. 2-115. Financial disclosure.

All City officials shall file with the City Clerk by the last Friday in March of each year, a public statement of financial information which shall cover the previous year which is defined as January 1 through December 31, as follows:

(1) Any business or business interest as defined by section 2-108 in which the official is associated, as well as the names and addresses of the clients or customers from whom the official received at least ten (10) per cent of his, her or its gross income during the reporting period.

(2) Any bonds issued by the City of Hastings having a value exceeding five thousand dollars (\$5,000.00). Said disclosure shall not require the amount of bonds so held by the official, only that said official holds bonds issued by the City of Hastings in excess of five thousand dollars (\$5,000.00).

(3) All boards of directors of which the official is a member and the offices or executive positions which the official holds in corporations, partnerships, limited partnerships, professional corporations or other entities, including non-business entities, stating for each the name of the entity and the position held. There shall be excluded from this item positions on corporations or other entities owned by the City of Hastings or created by the City Council.

Sec. 2-116. Financial disclosure by candidates.

(a) Nonincumbent candidates for election to City offices shall file a public statement of financial information as provided by section 2-115 with the City Clerk within five (5) days after filing for their respective offices for the year prior to the date of filing. Incumbent candidates for election to City offices shall file a public statement of financial information with the City Clerk within five (5) days after filing for their respective offices for the year prior to the date of filing; provided that if such financial statement for

the appropriate reporting period has already been filed pursuant to section 2-115, such incumbent candidate shall not be required to refile an identical statement.

(b) Incumbent and nonincumbent candidates for election to City offices shall file the same information as is required by City officials under this Chapter.

Sec. 2-117. Penalties.

Any violation of the provisions of sections 2-107 through 2-128 shall be subject to the general penalty section of this Code.

Sec. 2-118. Disposition of alleged violations; hearings.

In addition to the penalty set forth in section 2-118 for a violation of this Chapter, complaints and alleged violations of this Chapter shall be handled as follows:

(1) In the case of City employees, disciplinary action shall be maintained as provided in the City's personnel rules as the same may from time to time be amended.

(2) In the case of City officials, upon the complaint of any person filed with the City Clerk's office or on its own initiative, the City Council shall consider possible violations of this Chapter.

(a) A complaint alleging a violation of this Chapter must be filed with the City Clerk within one year from the commission of the action alleged as a violation, and not afterward.

(b) Not later than five (5) working days after the City Clerk receives a complaint, the City Clerk shall acknowledge the receipt of the complaint to the complainant, and provide a copy of the complaint to the City Administrator, the City attorney, and the City Council and the person complained against. Not later than ten (10) working days after receipt of a complaint, the City Council shall notify in writing the person who made the complaint and the person complained against of a date for a preliminary hearing.

(c) The City Council may consider possible violations of this Chapter on its own initiative. Within five (5) working days of the City Council's decision to consider a possible violation of this Chapter, the City Council shall draft a written complaint specifying the section(s) of this Chapter alleged to have been violated and shall file a copy with the City Clerk, and provide a copy to the City Administrator, the City attorney and the person complained against. Not later than ten (10) working days after the filing of the complaint with the City Clerk, the City Council shall notify in writing the person complained against of the date for the preliminary hearing.

(d) The hearing before the City Council may be either in public or in private. All hearings shall be in public, unless the person complained against shall notify the City Clerk in writing of his or her desire to have a private hearing at least seventy-two (72) hours prior to the time set for said hearing.

(3) Preliminary hearing.

(a) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this Chapter has occurred. The person filing a complaint, or the legal counsel for the City Council in cases considered upon the City Council's own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation

as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. Members of the City Council may question the complainant, legal counsel for the City Council, or the City official named in the complaint.

- (b) The City official named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The official may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the official agrees that a violation has occurred, they may so state and the City Council may consider the appropriate sanction or prosecution.
- (c) The complainant and the City official named in the complaint shall have the right of representation by counsel.
- (d) At the conclusion of the preliminary hearing, the City Council shall decide whether a final hearing should be held. If the City Council determines that there are reasonable grounds to believe that a violation of this Chapter has occurred, it shall schedule a final hearing.

If the City Council does not determine that there are reasonable grounds to believe that a violation of this Chapter has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.

- (e) The City Council, at any time during the preliminary hearing, may also dismiss a complaint if the complaint does not allege conduct which would be a violation of this Chapter. Before a complaint is dismissed for failure to allege a violation, the complainant or the legal counsel for the City Council shall be permitted one opportunity, within a period to be specified by the City Council, to revise and resubmit the complaint.
- (f) The complainant, legal counsel for the City Council, and the City official named in the complaint may ask the City Council at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled pursuant to the City Council's subpoena power granted under Section 16-406, N.R.S. 1943, as amended.

(4) Final hearing.

- (a) The final hearing shall be held as expeditiously as possible following the determination by the City Council that there are reasonable grounds to believe that a violation of this Chapter has occurred, but in no event shall it be held more than thirty (30) days after said determination. The City Council may grant one postponement, not to exceed fifteen (15) days each, upon the request of the City official named in the complaint or the complainant.
- (b) The issue at a final hearing shall be whether a violation of this Chapter has occurred. The City Council shall make its determination based on the preponderance of the credible evidence in the record. All witnesses shall make their statements under oath. If the City Council determines that a violation has occurred, it shall state its findings in writing, shall identify the particular section(s) of this Chapter which have been violated, and within five (5) working days shall

deliver a copy of the findings to the complainant, if any, the person named in the complaint and the City Clerk. Said findings shall constitute a public record for the purpose of access by the public.

Sec. 2-119. Oaths and requests for information.

If a complaint proceeds to a final hearing, the City Council may subpoena witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the City Council's duties or exercise of its powers, including its duties and powers of investigation. All hearings of the City Council under this Chapter shall be recorded by means of a mechanical recording device or by a certified court reporter.

Sec. 2-120. Sanctions.

(a) If the City Council determines that a violation of this Chapter has occurred, it shall proceed directly to determination of the appropriate sanction(s). The City Council may receive additional testimony or statements before considering sanctions, but is not required to do so. If the City official named in the complaint acted in reliance upon a public written opinion of the City attorney, the City Council shall consider that fact.

(b) If the City Council determines that a violation has occurred, it may impose the following sanctions:

- (1) A letter of notification shall be the appropriate sanction when the violation is clearly unintentional, or when the official's conduct complained of was made in reliance on a public written opinion of the City attorney. A letter of notification shall advise the official or employee to whom it is directed of any steps to be taken to avoid future violations. The City Council may direct a letter of notification to any official or employee covered by this Chapter.
- (2) A letter of admonition shall be the appropriate sanction in those cases in which the City Council finds that the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification. The City Council may admonish any official covered by this Chapter.
- (3) A reprimand shall be the appropriate sanction when the City Council finds that a violation has been committed intentionally or through disregard of this Chapter. The City Council may reprimand any official covered by this Chapter.
- (4) A letter of censure shall be the appropriate sanction when the City Council finds that a serious or repeated violation(s) of this Chapter has been committed intentionally or through culpable disregard of this Chapter by an elected City official. A letter of censure directed to an elected City official shall be transmitted to the City Clerk, and published in a newspaper of general circulation within the City.

Sec. 2-121. Officer defined.

For the purposes of sections 2-121 through 2-128 of this division, "officer" shall mean a member of any board or commission of the City which spends and administers its own funds, who is dealing with a contract made by such board or commission; or any elected City official.

Sec. 2-122. Officers' interest in contracts -- Prohibited.

Except as provided by Section 70-624.04, N.R.S., 1943, no officer may have an interest in any contract to which the City or anyone for its benefit, is a party. The existence of such an interest in any

contract renders the contract voidable by decree of a court of proper jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the City or any resident thereof, and must be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor or services furnished under the contract, to the extent the City has benefited thereby. This prohibition shall apply only when the officer or his or her parent, spouse or child has a business association as defined by Section 49-1408, N.R.S., 1943, as amended or will receive a direct pecuniary fee or commission as a result of the contract.

Sec. 2-123. Same -- Exceptions.

The provisions of section 2-122 shall not apply if the interested officer:

- (1) Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
- (2) Does not vote on the matter of granting the contract, except that if the number of members of the governmental body declaring an interest in the contract would prevent the governmental body, with all members present, from securing a quorum on the issue, then all members may vote on the matter;
- (3) Does not act for the City, which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

An officer who has no business association as defined in Section 49-1408, N.R.S., 1943, as amended with the business involved in the contract or will not receive a pecuniary fee, as prescribed in section 2-122, shall not be deemed to have an interest within the meaning of this Chapter.

Sec. 2-124. Certain transactions not considered contracts.

The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of the City by a financial institution shall not be considered a contract under sections 2-121 through 2-128 of this division. The ownership of less than five (5) per cent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

Sec. 2-125. Permitted contracts with officers not exempt from competitive bidding, etc., requirements.

(1) Notwithstanding the provisions of sections 2-121 through 2-128, if an officer's parent, spouse, or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(2) If an official has the authority to hire or supervise a relative they should comply with the nepotism provisions of the City of Hastings Employee Handbook.

Sec. 2-126. Competitive bidding.

Notwithstanding any other provision of this chapter, any contract entered into with an interested officer of the City shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City.

Sec. 2-127. Contract ledger to be maintained by City Clerk.

The City Clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (1) to (5) of this section about every contract entered into by the City in which an officer or employee of the City has an interest and for which disclosure is required under sections 49-14, 103.01, N.R.S. 1943, as amended, and as provided in section 2-122 of this Code and for which disclosure is made as provided in section 2-123 of this Code. Such information shall be kept in the ledger for five (5) years from the date of the officer or employee's last day in office or on the job, and shall include the following:

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer or employee in question;
- (3) Date that the contract was approved by the City;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

The information supplied related to the contract shall be provided to the clerk no later than ten (10) days after the contract has been signed by both parties. The ledger kept by the City Clerk shall be available for public inspection during normal working hours.

Sec. 2-128. Open account deemed a contract.

An open account established for the benefit of the City or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of Sections 49-14, 103.01 to 49-14, 103.06, N.R.S., 1943, as amended and, sections 2-121 through 2-128. The statement required to be filed pursuant to section 2-127 shall be filed within ten (10) days after such account is opened. Thereafter, the City Clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of Neb. Rev. Stat. §49-14, 103.01 to 49-14, 103.06, N.R.S., 1943, as amended, and sections 2-121 through 2-128.