

**HASTINGS CITY COUNCIL
WORKSESSION AGENDA**

**Hastings Airport - Terminal Building
3300 West 12th Street
May 17, 2021
5:30 PM**

ROLL CALL:

PLEDGE OF ALLEGIANCE:

MOTION TO ADOPT CURRENT AGENDA for May 17, 2021 Worksession.

PUBLIC NOTICE - Official Notice of the Worksession was published in the Hastings Tribune on Friday, May 14, 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. Discussion of final draft of City of Hastings Employee Handbook.
2. Discussion of cell phone policy.
3. Discussion of purchasing ordinance.
4. Presentation and tour of Hastings Airport Facility.

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.



City of Hastings

Employee Handbook

Adopted October 14, 2019

Final Revised Draft – April 28, 2021



EMPLOYEE HANDBOOK

CITY OF HASTINGS NEBRASKA PERSONNEL RULES

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CITY OF HASTINGS NEBRASKA PERSONNEL RULES

ARTICLE I - General Provisions

Purpose of rules

It is the purpose of these rules to set forth the principles, powers and procedures to be followed by the City of Hastings in the administration of personnel. Personnel administration in all aspects shall be based on the principles of merit and equal opportunity employment. It is the policy of the City that it will not discriminate against individuals in employment or provision of services because of race, national origin, age, gender, sexual orientation, religious or political opinions or affiliations, marital status, veteran status, physical or mental handicap, or family status. The personnel management system of the City of Hastings, of which these rules are a part, is designed to bring to the City a high degree of understanding, cooperation, efficiency and unity through systematic, uniform application of modern personnel practices. The objectives of these rules include the following:

- (1) to inform employees of their rights and obligations in relation to their employer;
- (2) to inform department heads and other supervisors of their obligations toward and their rights to assign and instruct subordinate employees;
- (3) to insure compliance with applicable laws;
- (4) to promote and increase efficiency, responsiveness to the public, and economy to the City;
- (5) to provide fair and equal opportunity for qualified persons to enter and progress in their employment with the City based on merit and fitness as ascertained through fair and practical personnel rules and regulations;
- (6) to enhance the attractiveness of a career with the City and encourage employees to give their best efforts to the City and the public.

Adoption of rules

These rules shall be approved by the Mayor and City Council, whereupon any conflicting rules, regulations, policies and procedures previously adopted shall be superseded to the extent of the conflict, except for the Police Department and Fire and Rescue Department's General Orders and Standard Operating Procedures or anything that is required by State or Federal Law.

Definitions

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section.

- (1) Appointing Authority. The term "appointing authority" means the officer or any person having legal authority to make appointments to positions.
- (2) Appointment. The term "appointment" means the designation of an applicant for a position who meets the qualifications for the position they are being appointed to.
- (3) Benefits. The term "benefits" includes vacation, Sick Leave, holidays, and health insurance, but shall not include retirement benefits. The right of employees to retirement benefits or pensions shall be governed under Chapter 4 of the Hastings City Code.

(4) Demotion/Reduction. The term "demotion" means the movement of an employee from a position to a different position having a lower maximum salary rate as set forth in the current City Salary Schedule. **Demoted employees are subjected to the six-month probationary period.**

(5) Department. The term "department" means a major operating functional unit of City government.

(6) Department Head. The term "department head" means the officially appointed head of any department.

(7) Employee. The term "employee" means persons appointed to a position with the City.

(8) Full-time Employee. The term "full-time employee" means an employee who has been appointed to a position in the City Service that requires a minimum of 40 hours per week (2,080 hours in a fiscal year).

(9) Grievance. The term "grievance" shall mean a complaint by an employee alleging a violation of City ordinances, personnel rules, disciplinary actions, or any other condition of employment on the part of one or more representatives of the City.

(10) Immediate Family. For the purpose of these rules, the term "immediate family" is defined to be spouse, child, parent, sibling, grandparent and grandchild, including in-law and step or one-half relationships.

(11) Intern. The term "intern" means an employee appointed where the employment is expected to be limited to a length of time not to exceed six (6) months and is tied to an area of study with an accredited educational institution.

(12) Moral Turpitude. The term "moral turpitude" means conduct that is considered contrary to community standards of justice, honesty, or good morals, such as conduct which has an inherent quality of baseness, vileness, or depravity with respect to a person's duty to another person or to society in general.

(13) Overtime. The term "overtime" generally means authorized time worked in excess of 40 hours in a seven day period as defined by the Fair Labor Standards Act.

(14) Part-time Employee. The term "part-time employee" means an employee who works **an average of** less than 30 hours per week (1,560 hours in a fiscal year). No part-time employee may work over 1,560 hours per year **maximum**.

(15) Pay Period. The term "pay period" means payroll payments normally made to employees on a bi-weekly basis.

(16) Pay Scale. The term "pay scale" means the 8-step progression of salary attached to the position to which the employee is employed.

(17) Probationary Period. The term "probationary period" means a working **six-month** test period during which an employee, newly appointed from an eligible list, is required to demonstrate **their** fitness for a position to which said employee is appointed by actual performance of the duties of the position.

(18) Promotion. The term "promotion" means the movement of an employee from a position to another position having a higher maximum salary rate as set forth in the current City Salary Schedule. **Employees who are promoted are subject to the six-month probationary period.**

(19) **Reclassification. The term "reclassification" means the movement of an employee to another**

position, which may be the result of a re-organization, or due to the specific nature of the position. Employees who change positions due to a reclassification are not subject to a six-month probationary period.

(20) Seasonal Employee. The term "seasonal employee" means an employee appointed where employment is expected to be of a seasonal nature and it is expected that the services of such persons will be no longer necessary at the close of the season for which they have been appointed.

(21) Shift Worker. The term "shift worker" means an employee who is consistently scheduled to work outside of a Monday through Friday schedule, at a facility that operates 24 hours a day, seven days a week, 365 days a year, and excludes employees who work at the Library, Museum and Landfill.

(22) Step pay. Step pay refers to the eight (8) steps of pay associated with the City of Hastings salary schedule.

(23) Supervisor. The term "supervisor" means any person responsible for directing the work of others, as well as evaluating them. The term "supervisor" may include positions titled as Department Heads, Directors, Superintendents, Supervisors, Crew Chief, etc., as defined by the department.

(24) Temporary Employee. The term "temporary employee" means an employee appointed to a position for a specific purpose and limited length of time not to exceed three (3) months.

(25) Transfer. The term "transfer" means the movement of an employee from one position to another position of the same class or another class having the same maximum salary rate involving the performance of similar duties and requiring essentially the same basic qualifications.

(26) Vacancy. The term "vacancy" means a duly created position which is not occupied and for which funds have been provided.

(27) Veteran. The term "veteran" means: (a) A person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); or (b) The spouse of a veteran who has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs;

(28) Work Day or Working Day. The term "work day or working day" means the period of time during which a department is open for business or a 24-hour period within which an employee is scheduled to work. A typical work day is 8 hours for most employees except for those employees defined as shift workers.

(29) Work Week. The term "work week" means the number of hours regularly scheduled to be worked starting on Sunday and ending on the following Saturday. A typical work week is 40 hours for most employees except for those employees defined as shift workers.

Applicability

All City employees, other than those employees covered under Chapter 3 of the Hastings City Code, shall be governed by and subject to the provisions of these rules. Excluded are all elected officials, persons appointed to advisory and administrative boards and commissions.

Discrimination prohibited

Discrimination against any person in recruitment, selection, appointment, classification, compensation, duty assignment, work schedule, working conditions, leave authorization, training, promotion, discipline,

retention, or any other aspect of personnel management because of political or religious opinions or affiliations or because of race, national origin, age, gender, sexual orientation, religious or political opinions or affiliations, marital status, veteran status, physical or mental handicap, or family status is prohibited. Discrimination on the basis of age, sex or disability is prohibited except where specific age, sex or physical requirements constitute statutory or other bona fide occupational qualifications necessary for proper and efficient administration.

Conflict with collective bargaining agreement

In the case of conflict between the terms of these rules and the provisions of a valid negotiated collective bargaining agreement, the terms of the agreement shall govern as it relates to those employees in the particular collective bargaining unit.

Powers and duties -- Mayor and City Council.

The Mayor and City Council shall have the following duties:

- (1) To provide for the compensation of employees.
- (2) To create all places of employment and positions.
- (3) To adopt Personnel Rules for employees and make amendments thereto from time-to-time.

Powers and duties -- Department Heads and Directors.

Department heads and Directors shall have the following duties:

- (1) To appoint employees in their departments other than police and fire.
- (2) Police and Fire department heads shall recommend the appointment of employees in their respective departments to the City Administrator.
- (3) To make any reasonable written rules and regulations concerning employees and employment in their departments consistent with these personnel rules. Any such written rules shall be dated and provided to all employees in the department involved.
- (4) To exercise all disciplinary powers allotted to them including, but not limited to the following, subject however to the appeal process and grievance procedure provided in these rules.
 - (a) Verbal reprimand.
 - (b) Written reprimand.
 - (c) Transfer.
 - (d) Demotion.
 - (e) Suspension.
 - (f) Discharge.
- (5) To do written evaluations of employees in a systematic fashion on an annual basis and as otherwise required.
- (6) To respond to written grievances.

Power of Superintendents and Supervisors

Superintendents and Supervisors shall have the following duties:

- (1) To exercise all disciplinary powers allotted to them including, but not limited to the following, subject however to the appeal process and grievance procedure provided in these rules.
 - a. Verbal reprimand.
 - b. Written reprimand.
 - c. Recommend Transfer.
 - d. Recommend Demotion.
 - e. Recommend Suspension.
 - f. Recommend Discharge.
- (2) To do written evaluations of employees in a systematic fashion on an annual basis and as otherwise required.
- (3) To respond to written grievances.

Duties of all officers and employees.

It shall be the duty of all officers and employees of the City to aid, in all proper ways, the carrying out of the provisions of these rules.

ARTICLE II. Employment Classification

Current Employment classifications retained

Position classifications known as job descriptions, now in effect, shall remain in effect until they have been reviewed and revised as part of the evaluation process.

Position Classifications

Position classifications shall specify the following:

- (1) Minimum requirements to be eligible for probationary appointment including, but not limited to, education, training, residence, experience, knowledge, skills, abilities, physical and mental fitness, licenses and certification, and minimum passing examination scores, if applicable.
- (2) Minimum requirements to be eligible for regular appointment.
- (3) Position essential job functions.
- (4) Whether or not a position:
 - (a) involves regular/full-time employment;
 - (b) involves regular part-time employment;
 - (c) involves seasonal employment;
 - (d) involves temporary employment;
 - (e) Involves a response time requirement. Employees who are in positions that require a response time, must meet the response time requirement by the end of their probationary period.

Position Classification plan -- Use of titles

The Position Title shall be the official title of every position for the purpose of personnel actions and shall be used on all payrolls, budget estimates, and official records and reports relating to the position.

Age requirement

- (1) All applicants for positions with the City shall not be less than 15 years of age or as otherwise in compliance with state or federal regulations for specific positions.
- (2) All applicants for entrance level commissioned positions in the Police and Fire Departments shall be not less than twenty-one (21) years of age for police positions and eighteen (18) years of age for fire positions.
- (3) No person shall be rehired as a regular full-time or part-time employee by the City who has retired from City of Hastings employment except when it is in the best interests of the City, the retiree may be re-employed on a seasonal, part-time, or contract basis for a specified period of time upon the request of the appointing authority and approval of the City Administrator.

Position Classification - Amendment

Any City employee may initiate a request to have their position/job description reviewed. The Director of Human Resources shall make the necessary investigation of any such request as well as make position classification studies when appropriate. If the Human Resource Director finds that substantial changes in organizational structure, position creation, position duties, or other pertinent conditions make necessary the position classification to be amended, he/she shall recommend such amendment to the City Administrator. The City Administrator shall review and decide upon such recommendations.

Position Classification – Position allocations

The Director of Human Resources shall be charged with the responsibility for administering the position classification so that it will reflect the true situation in respect to each position/job description.

- (1) New Positions. Whenever a department head desires to add a position, a notice of such proposed action together with a description of the new position shall be submitted to the Director of Human Resources who shall review the description of the new position and submit the description of the new position and their recommendation concerning whether the position should be authorized to the City Administrator. The City Administrator shall review the recommendation and either approve or deny the position and shall notify the Director of Human Resources and department head of their decision.
- (2) Reallocation/Reorganization. Whenever a department head desires to make any permanent and substantial change in the duties or responsibilities of a position within their department, the proposed change shall be submitted in writing to the Director of Human Resources. The Director shall investigate and make a recommendation of the reallocation or reorganization to the City Administrator. The City Administrator shall decide upon the reallocation or reorganization and notify the Director of Human Resources and the department head. The Director of Human Resources may, upon their own initiative or at the request of a department head or an employee, study the duties of any position or positions to review reallocations or reorganizations and make recommendations to the City Administrator for reallocation or reorganization.
- (3) Effect of Reallocation/Reorganization. An employee occupying a position which has been reallocated or reorganized shall continue in the position only if they possess the qualifications requisite for such a position. In any case, where an incumbent employee is ineligible to continue in the position and is not transferred, promoted, or demoted, the layoff provisions of these rules shall apply.

ARTICLE III. Compensation and Leaves

Compensation

The Mayor and City Council shall establish compensation ranges at least annually for all employees based on comparability as set forth in Chapter 48 of the Nebraska Revised Statutes as the same may be from time to time amended.

Wages

(1) When an employee is promoted to a position having a higher pay scale, their rate of pay shall be determined as follows:

(a) If the current salary received in the lower position's pay scale is below the minimum step of the new higher position's pay scale for the position to which they are promoted, their rate of pay shall be increased to the minimum of the new higher position's pay scale.

(b) If the current salary received in the lower pay scale falls within the pay scale and below the maximum pay step for the position class to which they are promoted, their pay shall be set at the step that gives the employee at least a \$.50 increase in pay, except no promotion shall exceed Step 8 of the new position. Promoted employees shall be subject to a six-month probationary period in their new position. The promoted employee's anniversary date for future step increases shall be the date of their promotion to their new position.

(2) When an employee is demoted, their rate of pay shall be determined as follows:

(a) If the current salary received in the higher position's pay scale is more than the maximum of the pay scale of the position to which they are demoted, their salary shall be reduced to the maximum rate of the lower position's pay scale.

(b) If the current salary received falls within the pay scale of the lower position to which they are demoted, their rate of pay shall remain unchanged.

(3) When an employee transfers between positions, having the same pay scale, their rate of pay shall remain unchanged.

(4) The reallocation/reorganization of a position shall affect an employee holding the position the following will apply:

(a) When a position is reallocated or reorganized to a position with a higher pay scale, the provisions governing rate of pay on promotion shall be used to set the salary of the incumbent.

(b) When a position is reallocated or reorganized to another classification of the same pay scale, the salary of the incumbent shall remain unchanged.

(1) When a position is reallocated or reorganized to a classification with a lower pay scale, the provisions governing the rate of pay for a demotion shall be used to set the salary of the incumbent.

(5) Notwithstanding the foregoing, the City Council may, upon the recommendation of the City Administrator, establish the salary of any promoted, transferred, or reallocated/reorganized employee to a step higher than that provided in subsections (1), (3), and (4) above.

Step pay increase

(1) A step pay increase is positive recognition of increased effectiveness in performing the duties of a position. If an employee's value in a position continually increases as evidenced by greater production, improved judgment, and increased initiative, recognition may be made by means of an increase in pay.

(2) Step pay increases shall be reviewed at the time of each employee's annual performance evaluation. The employee's performance evaluation shall be considered as one of the factors used by the appointing authority in determining whether a step pay increase should be granted or not.

(3) The date on which an employee shall be considered eligible for a one (1) step proficiency pay increase shall be determined as follows:

(a) The employee shall complete twelve (12) consecutive months at their current step in order to be eligible for the next higher step.

(b) If the employee has been promoted to a position having a higher pay grade, their date of eligibility shall be the effective date of promotion.

(c) Any deviation requested by a department head from this procedure shall require approval of the City Administrator.

(4) In order to provide an orderly method of granting pay increases, each position shall be assigned pay ranges. The pay ranges shall consist of a series of steps, each of which identifies the dollar amount to be used in determining a step pay increase. When receiving a step pay increase, an employee's pay rate shall move from their current step of the pay range to the next higher step until the employee has reached the maximum step for that position; provided, however that each employee has met the time requirements specified above and has received a positive performance evaluation.

(5) Notwithstanding the foregoing, the City Administrator may, upon the request of a department head, establish the salary of any promoted, transferred, or reallocated employee to a step higher than that provided in subsections (1), (3) and (4) above.

Vacation Leave

(1) All full-time employees and those part-time employees who qualify shall be entitled to vacation leave. Seasonal and temporary employees shall not be entitled to vacation leave.

(2) **Vacation accrual begins on the date of hire.** Vacation leave shall accrue to full-time employees based on years of service. The rate of accrual for full-time employees is as follows:

(a) Employees with less than five years of service shall accrue vacation leave at a rate of 6 2/3 hours each month (80 hours per year).

(b) Employees with at least five years of service, but less than 15 years of service, shall accrue vacation leave at a rate of 10 hours each month (120 hours per year).

(c) Employees with fifteen years of service or more, through the duration of their employment, shall accrue vacation leave at a rate of 13 1/3 hours each month (160 hours per year).

(3) See section on part-time employees to determine vacation leave available to part-time employees.

(4) Accrued vacation leave shall be used by employees in the form of paid vacation. No employee shall be paid for unused/forfeited vacation leave over their maximum vacation leave carryover amount.

(5) An employee can only use the amount of vacation leave that they have accrued.

(6) An employee may carryover up to two times their annual allowance for vacation leave based on their number of years of employment, except for **City** Department heads. **City** Department heads may accrue up to 1,060 hours of vacation. **Accrual of vacation stops once an employee hits the maximum allowed.** The City Administrator may, upon the written request of the employee and with the recommendation of that employee's department head, extend the period within which any

accumulated vacation leave over the maximum carryover must be taken when it appears that the employee will not be able to take the accumulated vacation leave within the prescribed time limit due to work-related circumstances beyond the employee's control.

(7) Each employee shall apply to their **supervisor or his/her designee** for use of vacation leave. The **supervisor** shall give consideration to each employee's vacation leave request. Scheduling vacation leave, except when based on seniority shall be based on a first come, first served basis. Each **supervisor** shall make a reasonable effort to accommodate employee vacation leave requests while taking into account the staffing requirements of their department.

(8) The minimum period of vacation leave shall be 15 minutes.

(9) An employee who transfers from one department to another shall retain their accrued vacation leave.

(10) Any employee who has accrued vacation leave shall be entitled to payment for their accrued vacation leave that they are eligible for at the rate of pay they are receiving at the time of their separation or retirement.

(11) Vacation leave shall be accrued for any month in which an employee is in pay status for more than half of that month. Employees starting their employment on or after the 16th of the month, or who terminate their employment on or before the 15th of the month, shall not be eligible to accrue vacation leave for that month.

Sick Leave

(1) Sick Leave with pay shall be provided to employees for the purpose of providing an economic cushion, and the accumulation of Sick Leave shall be allowed for the purpose of enabling an employee to be protected economically in the event of a major illness or lengthy absence from employment for a medical reason.

(2) All full-time employees shall be entitled to Sick Leave. Full-time employees shall accrue Sick Leave at the rate of eight (8) hours per month of employment. Employees may accrue up to one thousand sixty (1,060) hours of Sick Leave. Seasonal and temporary employees shall not be entitled to Sick Leave.

(3) See section on part-time employees to determine Sick Leave available to part-time employees.

(4) Sick Leave shall be accrued for any month in which an employee is in pay status for more than half of that month. Employees starting their employment on or after the 16th of the month or who terminate their employment on or before the 15th of the month shall not be eligible to accrue Sick Leave for that month.

(5) An employee may use Sick Leave hours for sickness or injury; for physical, mental, dental or optical examination or treatment. Additionally, an employee may use Sick Leave when it is medically necessary for the employee to be with an immediate family member. **Sick leave also may be used for day care needs, or when school is not in session.**

(6) An employee who is absent shall inform their immediate supervisor of their use of Sick Leave and the reason therefore as soon as possible.

(7) The supervisor will notify Human Resources regarding an absence of an employee of three (3) days or more, which could trigger an FMLA event. A doctor's note may be required by the supervisor or Human Resources, prior to returning to work.

(8) Compensation for Sick Leave shall be made during the pay period it is taken at the same rate of pay the employee would otherwise be entitled to at their current rate of pay and work schedule without the

(9) inclusion of any overtime factor. Use of Sick Leave shall not be counted as time/hours worked for the purpose of determining overtime.

(10) At no time shall an employee be allowed more Sick Leave than they have accumulated; however, an employee may use vacation leave, if they have a balance of vacation leave, or apply for leave without pay. Either or both may be authorized by their department head when an employee has exhausted their Sick Leave. The City does not allow an employee to donate Sick Leave to other employees.

(11) An employee on Sick Leave, due to illness or injury of **themselves or** an immediate family member of the employee, may be required to produce a doctor's statement, if requested to do so by the Director of Human Resources or the employee's department head.

(12) The use of Sick Leave with pay is a privilege. Abuse of Sick Leave can result in disciplinary action.

(13) Employees injured on the job who are eligible to receive worker's compensation disability payments will receive full pay from the City for the duration of their injury. Upon receiving payment from the worker's compensation carrier, any and all checks will be signed over and turned in to the Finance Department. Employee benefits will continue to be deducted from the City paycheck the employee is receiving.

(14) If you are injured at work, you will be paid for any time away from work for the first doctor appointment. You will also be paid through the end of your regular work day or shift, if you are unable to complete your work day or shift on the date of injury or after the first doctor appointment.

(15) For any subsequent doctor/physical therapy appointments, you must cover time off with leave time, until you have no leave time remaining. At that point, time without pay will be used. In addition, you may use flex time so you do not have to use leave time for scheduled doctor/therapy appointments. You are encouraged to schedule appointments at times that cause the least interference with your work day or shift, such as early mornings, lunch times, or at the end of the work day or shift. If you require a substantial amount of time away from work to receive medical care, the City's worker's compensation insurance carrier will be notified and be involved in considering the appropriate treatment for your injury that will result in minimal time away from work.

(16) The minimum period of Sick Leave shall be 15 minutes.

(17) An employee who transfers from one department to another shall retain their accrued Sick Leave.

(18) Employee illness or incapacity arising from pregnancy or maternity shall be treated for leave purposes as an illness or incapacity due to other causes. An employee shall expend accrued Sick Leave while such employee is unable to perform her duties because of such pregnancy, as verified by a physician's statement. Prior to the seventh month of pregnancy, the employee shall provide her supervisor with a statement from her physician indicating the due date. When the employee again is able to perform her duties, she shall obtain a physician's certification of her fitness to return to work. Said certificate shall be given to the Human Resources office.

(19) As set forth above employees are not be allowed to accumulate more than one thousand sixty (1,060) hours of Sick Leave. On the second pay day of January in each year, all employees who are not members of a collective bargaining unit, and who have accumulated more than one thousand sixty (1,060) hours of Sick Leave shall be paid for twenty-five percent (25%) of any unused accrued Sick Leave over and above the one thousand sixty (1,060) hours which may be carried over to the next calendar

year. Every employee who is a member of a collective bargaining unit shall be paid annually for unused accrued Sick Leave in the manner and to the extent provided in their collective bargaining agreement.

(20) Upon termination of employment, an employee who has been employed by the City shall be compensated for their accumulated Sick Leave as follows:

(a) If employed for a period of not less than ten (10) continuous years, but not more than twenty (20) continuous years, the employee shall be paid twenty-five percent (25%) of the employee's accumulated Sick Leave.

(b) If employed for a period of twenty (20) continuous years or more the employee shall be paid fifty percent (50%) of the employee's accumulated Sick Leave.

(c) In the event an employee dies while employed by the City, the employee's estate or heirs at law shall receive payment for fifty percent (50%) of the deceased employee's accumulated Sick Leave as of the time of their death, regardless of their number of years of service.

Employees may not take time off without pay if they have paid time off options available.

Time Records for Hourly Employees

Hourly paid employees' time must accurately be recorded for all hours worked. Hourly paid employees will receive overtime pay in accordance with the City's Overtime Policy, federal law, and applicable state laws.

Pay for Hourly Employees (Non-shift workers)

All City positions directly connected to the utility functions of electrical production and distribution, gas distribution, and water, sewer, and wastewater services would be calculated on the basis of overtime being applied over 8 hours worked in a day. Actual time worked, vacation time, and holidays would be counted as time worked.

Overtime

Overtime for all City positions not directly connected to the foregoing utility functions would have overtime calculated on the basis of 40 hours in a seven-day work week. Actual time worked, vacation time, and holidays would be counted as time worked.

If you are eligible for holiday pay and work on a scheduled holiday, you will receive time and one-half for normal shift hours worked, in addition to your holiday pay. (Refer to Holiday Pay section, if applicable.)

Employees are not to do any work prior to the shift start, or after the shift ends, without permission from the supervisor. You must have permission, or notify your supervisor, so time can be properly approved and recorded. Failure to comply with this rule can also subject employees to discipline. In general, employees should not be in their work hours prior to the start of their shift.

Falsification of a time record is a breach of City policy and grounds for disciplinary action up to and including termination.

In the event an emergency occurs during an employee's regular day hours which causes the employee to work past the end of their normal working day, the employee will be entitled to overtime pay for the hours worked past the end of their normal working day.

If an emergency occurs outside of an employee's normal work day, see section on Guaranteed Two-Hour Call-In Pay.

Comp Time

Employees may choose to take their hours worked in excess of 40 in a work week (8 hours in a day for utility operation departments), in the form of comp time, rather than overtime. This must be agreed to by both the employee and their supervisor. Comp time is accumulated at one and one-half hours for every hour worked in excess of 40 in a work week (8 hours in a day for utility operation departments). The maximum number of comp time hours that may be accrued is 96 hours. All overtime hours worked, whether planned or emergency, may be taken as comp time, as long as both employee and supervisor approve.

Guaranteed Two Hour Call-In Pay

Employees who are called in outside regular working hours will be guaranteed at least two hours of Call-In pay. If Call-In occurs within 2 hours of the start time of the employee's normal work day, the employee shall be paid overtime for the time worked up until the start of the employee's normal work day.

If an employee is called out again before the two-hour period has expired, the hours worked are not subject to additional call-in pay.

Hours worked for emergencies/call outs that extend through the lunch hour, or past normal working hours will be paid as overtime, or comp time, as long as both employee and supervisor approve. Supervisors are encouraged to be flexible with work hours when employees work through lunch hours.

Employees will be paid time and one-half for all hours.

Temporary Rate Adjustment

If an employee with supervisory responsibilities is absent from work for a minimum of 15 consecutive working days (or 120 hours) for medical reasons, another employee may be appointed temporarily to assume their responsibilities. The employee who is appointed will receive pay equal to the next step of their position if they are not currently at step 8. If they are at step 8 they will receive a 5% temporary increase to their wage. This will be retroactive back to the first day of the absence and will remain in effect until the supervisory employee returns.

Pay for Salaried Employees

Salaried employees are expected to work a minimum of 40 hours each work week. A salaried employee who is absent from work for a full day (minimum of 8 hours) is required to take leave unless the absence is pre-approved by their supervisor. A salaried employee who has worked a reduced or intermittent work schedule under the Family Medical Leave Act (FMLA) shall have their salary converted to an hourly rate during the time they are on an intermittent or reduced-workweek. A salaried employee who has exhausted all their accrued leave and who is absent from work shall have their salary converted to an hourly rate and paid only for actual time worked.

Stand-by Pay

Stand-by pay shall be at the discretion of each department head. Due to the diversity of services provided citizens by the City of Hastings, Department heads shall implement a stand-by employee system by electing one of the two following methods. Department Heads shall notify the Director of Human Resources and City Administrator of their selected method or of any change to the selected method. The two methods are: (1) if an employee has a duty truck responsibility and/or department phone responsibility, the employee will be paid one (1) hour of regular pay for each 24-hour day they have the truck/phone responsibility. Stand-by pay under this method does not count toward overtime pay. An employee may request one hour of comp time for every 24 hours, instead of one hour of regular pay. (2)

The implementation of a call list whereby the department head has set up the priority and progression of how the call list is organized and operates. An employee on the call list who responds shall be eligible for Guaranteed Two Hour Call-in Pay.

For snow removal purposes, employees will be paid if they are on stand-by, following the stand-by pay guidelines, and will operate on a volunteer basis, providing there is adequate staff to cover the City's needs.

Working Hour Guidelines

Upon completion of sixteen (16) consecutive hours worked, or 16 hours in any 24 hour period, the employee shall be entitled to an eight (8) hour rest period. The sixteen (16) hours is a guideline and may be extended depending on work circumstances, although twenty-four (24) consecutive hours will not be exceeded. If the rest period falls within regular work day hours, the employee shall be paid for those hours at their regular rate of pay. Rest period hours will count towards an employee's 40 hour work week. On call duties may also be switched to another available employee when appropriate to not interfere with a rest period.

Meetings and Training

All time spent in work-related meetings is compensable and must be recorded.

As a general rule, all time spent at training programs is compensable unless all four of the following criteria are met:

- (1) Attendance is outside the employee's regular working hours;
- (2) Attendance is voluntary;
- (3) The course or meeting is not directly related to the employee's job; and
- (4) Employee does not perform any productive work during attendance.

Any questions concerning compensable time should be directed to the Human Resources Department.

Travel time Pay

(1) Travel to and from home. Employees' time spent traveling from their homes to their workplace before the start of the workday or traveling from their workplace to their homes after the workday is over is not compensable.

(2) Travel from one workplace to another during the same workday. An employee traveling from one workplace to another during the same workday is counted as hours worked. This would include time spent traveling from a central meeting place to a final work location.

As an example if an employee is required to meet at a central meeting place and then dispatched or sent to a worksite, the employee would count as time worked the time traveling from the central meeting place or to the worksite. The same would be true for an employee traveling between two or more worksites during the same workday. An employee may not count as time worked the time spent for time traveling home from a worksite after the workday is over if the employee is not required to return to the central meeting place.

(3) Travel to another City on one-day assignments. An employee traveling to another City in the same workday may count as time worked the time spent traveling to another City.

(4) Travel that keeps an employee away from home overnight. An employee who is required to travel away from their home and that travel spans more than one workday shall be able to count the actual time spent traveling as time worked.

Mileage Reimbursement

Employees traveling in their personal vehicles for authorized or approved training or other events shall be paid mileage based on the then applicable mileage reimbursement rate approved by the Internal Revenue Service. Employees are encouraged to use a City vehicle if available instead of their personal vehicle for authorized or approved travel. Employees are also encouraged to carpool if more than one employee is attending an authorized or approved training or event; provided, however only the driver if their personal vehicle is used would be entitled to mileage reimbursement.

Meal Reimbursement

(1) Employees who travel and return home the same day shall not be reimbursed for meals while traveling.

(2) Employees who travel and stay overnight before returning home shall be reimbursed for meals based upon the federal General Service Administration's (GSA) per diem rates then currently in effect for the location the employee travels to. These per diem rates can be ascertained by going to the GSA website at <https://www.gsa.gov/travel/plan-book/per-diem-rates/mie-breakdown>. The GSA adjusts the rates each calendar year. The rate for each meal is the maximum that will be allowed, and charges for alcoholic beverages will not be reimbursed. If your trip includes meals that are already paid for by the City (such as through a registration fee for a conference), you will not be entitled to reimbursement for those meals. If an employee's travel last more than one overnight stay, the maximum amount for meals that will be reimbursed is calculated at 75 percent **of the maximum reimbursement for each meal**, for the first and last day of travel.

Education Reimbursement

Employees who are interested in furthering their education may be eligible for tuition, books and fee reimbursement at 100 percent. All full time employees are eligible at the end of their probationary period; classes must be taken on an employee's own time at an accredited college or university, and must be relevant to their current, or a potential, job within the City. A grade of "C" or higher must be obtained in order to qualify for reimbursement. There is an annual cap of 12 credit hours with a maximum of six hours per semester; however, this may not apply to non-traditional cohort programs and an exception may be made for them. All reimbursements are subject to funds budgeted. An employee must work for the City for two years from the date of their last reimbursement or else they must pay back 100% of all amounts reimbursed; military active duty extends the two-year period. An employee should receive approval from their supervisor prior to signing up for the program/class to ensure funds have been budgeted.

Donation of Time

The City does not allow an employee to donate Sick Leave, vacation or comp time to other employees.

Funeral Leave

(1) When an employee is absent from work because of the necessity of arranging for and/or attending the funeral of a member of his immediate family, they shall be allowed up to 24 hours paid leave, provided that:

- a. The employee is on the active payroll on the date of the death of the member of their immediate family;

- b. The employee notifies their immediate supervisor of the purpose of their absence as soon as practical.
- c. Leave may be extended beyond the 24-hour leave period where the employee attends the funeral at a location where the reasonable time for travel extends the absence beyond the day of such funeral;
- d. If the employee requests additional time off, and the employee's department head approves such request, leave in excess of three days may be charged against the employee's Sick Leave.

(2) An employee who serves as a pallbearer for a service not covered under funeral leave, may take up to four (4) hours of Sick Leave with pay.

Holidays

(1) The following days are hereby declared holidays for all City employees, except those covered by collective bargaining agreements, and as otherwise provided: New Year's Day, Dr. Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving, ½ day Christmas Eve, Christmas Day, and 3 days floating holidays. The following special rules apply:

- a. Solid Waste, Museum, Library, and Utility departments may substitute one or more floating holidays for designated holidays to accommodate their hours of operation.
- b. A holiday for a shift worker shall be paid on the basis of 8 hours unless otherwise provided in these personnel rules.
- c. Holidays for employees covered by a collective bargaining agreement shall be covered in their collective bargaining agreement.
- d. Anyone who works during the November and December holidays may bank floating holiday hours. These may be carried over until April 1 of the following calendar year. If their work schedule does not allow an employee to use these hours by April 1, these hours will be paid out.

(2) When a holiday is on a Saturday, employees shall be given the immediately preceding Friday off. When a holiday is on a Sunday, employees shall be given the immediately following Monday off. When Christmas Day is on a Monday, employees shall be given the ½ day Christmas Eve holiday on the preceding Friday. Provided that the Solid Waste, Museum, Library, and Utility departments may substitute one or more floating holidays for designated holidays to accommodate their hours of operation.

(3) Full-time employees shall be paid for holidays. Seasonal and temporary employees shall not be paid for holidays.

(4) See the section on part-time employees to determine what the holiday provisions are for part-time employees.

(5) Eligible employees who are shift workers, and who work the actual holiday, shall receive that shift's pay computed at time and one-half for working the holiday, in addition to eight hours of holiday pay. Those shift workers who do not work on the holiday shall receive an additional eight (8) hours pay at straight time.

(6) An employee shall forfeit his right to payment for any holiday if they are on leave without pay on the last regular working day preceding such holiday or on the next regular working day following such holiday.

Jury duty pay

Any employee who is summoned to serve on a jury is entitled to their regular pay in addition to any pay received for jury service.

Military leave

The City complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA) All employees who are members of the National Guard, Army Reserve, Air Force Reserve, Naval Reserve, Marine Reserve, and Coast Guard Reserve, shall be entitled to a leave of absence from their respective duties, without loss of pay, on all days during which they are employed with or without pay under the orders or authorization of respective competent military authority while in the active service of the state or of the United States. Military leave shall not exceed fifteen (15) working days in any one calendar year. Military leave shall be in addition to the employee's regular annual leave.

Article IV. Family Medical Leave

INTENT – FAMILY AND MEDICAL LEAVE

The City of Hastings understands the importance of family issues to today's work force. The City also recognizes that more of its employees than ever before face conflicting demands of family obligations and work. Because employees may find it necessary to take leave from their jobs for a temporary period to address certain family responsibilities or their own serious health conditions, and in order to comply with Family and Medical Leave Act (FMLA), the City of Hastings hereby establishes its family and medical leave procedures.

Definitions

- a. "Family member" is defined in the FMLA and the procedures to include the employee's spouse, son, daughter or parent (but not a parent "in-law"). A "son" or "daughter" is any child under 18 who is the biological child of the employee, who is adopted by the employee, is the stepchild, legal ward or foster child of the employee, or whom the employee supervises on a day-to-day basis and for whom the employee is financially responsible. A "son" or "daughter" is also a child over 18 who is incapable of self-care because of a mental or physical disability. A parent is any individual who assumed day-to-day and financial responsibility for employee when the employee was a child. The City will not permit leave under this procedure to care for individuals who are not "family members," unless state law requires otherwise.
- b. "Serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves a period of incapacity or treatment following in-patient care in a hospital, hospice, or residential medical care facility; a period of incapacity requiring more than three days' absence from work and continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated would likely result in incapacity of more than three days; or continuing treatment by or under the supervision of a health care provider of a chronic or long-term condition or disability that is incurable; or pre-natal care.
- c. A "health care provider" is any doctor of medicine or osteopathy, podiatrist, optometrist, and nurse practitioner, or nurse midwife performing within the scope of their practice as defined

under state law. Christian Science practitioners and Chiropractors are health care providers to the extent defined under regulations issued by the U.S. Department of Labor.

General

A. Covered Leave

The City of Hastings will grant an eligible employee family and medical leave for up to 12 work weeks during a 12-month period, if the procedures are followed and leave is requested for any of the following reasons:

1. The birth or adoption of a child, or the foster care placement of a child;
2. To care for a "family member" of the employee if that individual has a serious health condition;
or
3. A serious health condition of the employee that renders the employee unable to perform his or her job functions.

Employees are limited to a maximum of 12 weeks' leave for any combination of 1, 2, or 3 listed above. If leave is for birth, adoption, or foster care placement, the leave must be completed within 12 months of the date of birth or placement.

B. Eligibility

(1) Minimum Eligibility Requirements

- (a) An employee is eligible if the employee has been employed for at least 12 months (or 52 weeks) by the City and has worked at least 1,250 hours during the 12-month period to the time leave would begin under this procedure. The City will make the determination at the time of the leave request.
- (b) Hours are calculated based upon actual hours that the employee worked, including over-time.
- (c) The City will use its records of hours worked for all hourly employees. In the case of exempt employees, the City will assume that any employee employed full-time for seven and one-half months and/or meets the 1,250-hours requirement. Exempt employees who have 12 months' prior service, but less than seven and one-half month's fulltime continuous service at the time leave is requested, should include documentation of hours worked with their request.

(2) Leave for Serious Health Conditions

Employees should recognize that this procedure and FMLA are only intended to cover serious health conditions--generally those which involve three or more days of incapacity from work or school, or chronic, long-term, incurable conditions. Employees who wish to take leave to care for family members with non-serious health conditions are not covered by this policy. Employees can use their vacation or medical leave for non-serious health conditions, subject to all restrictions in those procedures, including scheduling and increments of leave.

(a) The 12-Month Period

The period used will be a "rolling" 12-month period measured forward from the date an employee uses FMLA leave.

(b) Spousal Exception

If a husband and wife both work for the City of Hastings , and are eligible for leave, they are only entitled to a combined 12 work weeks of leave taken for birth, adoption, foster care, and to care for a parent. The 12 weeks will be calculated in the same manner as leave for an individual employee.

(c) Intermittent Leave

An employee taking leave for personal illness or to care for a sick family member need not take such leave continuously and may take it on an intermittent basis, or by reducing the employee's scheduled work hours, if the employee provides certification from the health care provider caring for the employee and/or family member that leave must be taken in that manner. If leave is not taken continuously, it will be deducted from the employee's entitlement to leave, i.e., 12 weeks during a 12-month period.

(d) Part-time Leave for Birth, Adoption, or Foster Care Placement Requests for intermittent or reduced schedule (part-time) leave after the birth, adoption, or foster care placement of a child will not be considered.

C. Military Family Leave

There are two types of Military Family Leave available.

1. Qualifying exigency leave. Employees meeting the eligibility requirements described above may be entitled to use up to 12 weeks of their Basic FMLA Leave for a qualifying exigency while the employee's spouse, son, daughter, or parent (the military member or member) is on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty).

For Regular Armed Forces members, "covered active duty or call to covered active duty status" means duty during the deployment of the member with the Armed Forces to a foreign country (outside of the United States, the District of Columbia, or any territory or possession of the United States, including international waters).

For a member of the Reserve components of the Armed Forces (members of the National Guard and Reserves), "covered active duty or call to covered active duty status" means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.

Qualifying exigencies may include:

- Short-notice deployment (seven or less calendar days)
- Attending certain military events and related activities
- Childcare or school activities
- Addressing certain financial and legal arrangements
- Periods of rest and recuperation for the military member (up to 15 calendar days of leave, dependent on orders)
- Attending certain counseling sessions

- Attending post-deployment activities (available for up to 90 days after the termination of the covered military member's covered active duty status, and to address issues arising from death of military member)
- Attending to parental care needs arising from covered active duty or call to duty (arrange for alternative care for a parent of a military member, provide urgent or immediate care, admit or transfer to a care facility, or attend non-routine caregiver meetings with care facility staff)
- Other activities arising out of the military member's covered active duty or call to active duty and agreed upon by the City and the employee.

2. Leave to care for a covered service member. There is also a special leave entitlement that permits employees who meet the eligibility requirements for FMLA leave to take up to 26 weeks of leave during a single 12-month period if the employee is the spouse, son, daughter, parent, or next of kin caring for a covered military service member or veteran recovering from a serious injury or illness, as defined by FMLA's regulations.

For a current member of the Armed Forces, including a member of the National Guard or Reserves, the member must be undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness.

For a covered veteran, he or she must be undergoing medical treatment, recuperation or therapy for a serious injury or illness. *Covered veteran* means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

An eligible employee must begin leave to care for a covered veteran within five years of the veteran's active duty service, but the single 12-month period may extend beyond the five-year period.

Military Family Leave due to qualifying exigencies may also be taken on an intermittent basis.

D. Procedures for Requesting Leave

All requests for family or medical leave should ordinarily be initiated by contacting your immediate supervisor and the Human Resources Department. This will assist in working out appropriate schedules. If you have any questions about FMLA leave, or your supervisor's response, please contact the Human Resources Department.

(1) Foreseeable Leaves

- (a) If the need for family or medical leave is foreseeable, the employee must provide notice to the City of **not less than 30 days**. Leave will be denied unless there is a reasonable excuse for the delay. If leave is denied for lack of notice, the employee may designate leave to start 30 days after notice is given.
- (b) Failure to report to work when FMLA leave has been denied will be treated as an unexcused absence.

(2) Scheduling

If the leave is for the planned medical treatment of the employee or a family member, or requires intermittent or reduced schedule leave, employees may be required by their supervisor to arrange

a particular schedule or to reschedule appointments or treatments, subject to the consent of the health care provider.

(3) Unforeseeable Leaves

If the need for family or medical leave is not foreseeable, notice must be given by the employee as soon as possible and practicable. Employees are expected to promptly notify their supervisor as soon as they learn of the need for leave. If the employee's supervisor is unavailable, contact the next highest supervisor or the Human Resource Department. Except in the case of medical emergencies, employees are expected to call to advise their supervisor as soon as they know of the need for leave and the expected duration of the leave. In emergencies, the employee or a family member should contact the City and give the same information and a number where they can be reached. Requests for leave should then be submitted in writing as soon as practicable. [Absent good cause or medical emergencies, written requests for leave should be submitted within three (3) business days after oral request is made.]

(4) Additional Information

After receiving a request for leave, the City will provide additional information regarding the procedures for obtaining leave, including any additional documents that may be required.

(5) Proof

(a) Medical Certification

The City may require proof of necessity for family or medical leave by a health care provider on forms provided by the City. The information required shall include:

- i. The date on which the serious health condition commenced;
- ii. The probable duration of the condition;
- iii. Appropriate sufficient medical facts within the knowledge of the health care provider that would entitle the employee to take family or medical leave;
- iv. An estimate of the amount of time that the employee is needed to care for a family member; and
- v. In cases of medical leave, an explanation of the extent to which the employee is unable to perform the function of the employee's position.

(6) Second Opinions

The City has the option of requiring the employee to get a second opinion from an independent medical provider selected by the City. The City will pay for the second opinion. If the two opinions conflict, the conflict may be resolved by a third opinion by a provider agreed to by the City and the employee which shall be considered final and binding. The City will pay for the third opinion.

(a) Leave is Contingent on Eligibility

All employee requests for FMLA leave are contingent upon a determination by the City that the employee is eligible for FMLA leave. This includes a determination of eligibility and provision of medical certification. Leave is also contingent on any second or third opinions that may be required. Because these procedures may take time, it is possible that a final determination may **not** be made until after the employee is on leave or has returned to work.

(b) Transfer to Alternative Position

- i. In all cases of intermittent and reduced schedule leaves, the employer reserves the right to require the employee to transfer to another position that better accommodates the employee's need for leave and/or the employer's operations. This decision is in the sole discretion of the City.
- ii. The City reserves the right to transfer an employee to another position whenever an employee's use of leave for one or more qualifying reasons is so frequent and intermittent that it is impossible to predict and schedule for coverage.

(c) Confidentiality

- i. The City will keep confidential all information relating to requests for family or medical leave. This information will be used only to make decisions in regard to the provisions of this procedure. Supervisors must submit all records to the Human Resources Department and will not retain any copies in their files.

E. Substitution of Sick Leave, Personal Leave, and Vacation Time

(1) Substitution

FMLA leave will be unpaid except to the extent that an employee has accumulated paid leave. All accumulated, paid leave must be used prior to the employee taking unpaid leave.

When an employee has exhausted all paid leave, all remaining FMLA leave will be unpaid.

F. Benefits

(1) Health Benefits

During the leave, the City will maintain the employee's coverage for health benefits as follows: The employee is required to continue to pay employee's portion of any health insurance premiums normally deducted from employee's paycheck, by tendering a check payable and forwarding it to the Finance Department if they are on unpaid leave. If they are using accumulated paid leave, it will be deducted from their pay in the usual manner. If the employee fails to make the required payments for health coverage within 30 days of the date that such payments are due, health coverage will be discontinued.

(2) Other Benefits

Other benefits normally provided to an employee shall be provided to the employee only if permitted by the plan document governing the provision of benefits, in accordance with the provisions of the written document, and the employee makes any required co-payments. In accordance with existing City policies on unpaid leave, employees will not earn any medical or vacation leave, while on unpaid FMLA leave. Employees on an intermittent or reduced-schedule leave will continue to earn vacation.

(3) Reinstatement

The City has the right, upon the employee's return from leave, to refuse to reinstate any benefit or condition of employment that has been discontinued for the City's employees.

G. Reinstatement

(1) General

An employee taking leave under this policy will be returned to the employee's same position or to an equivalent position, at the election of the City unless the employee would have been terminated in the absence of any leave (e.g., layoff, downsizing, or termination of a temporary job). Taking of leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period, except that if the employee is unable to use vacation time because of policy restriction, the City has the option of setting a new deadline for use of accrued vacation.

(2) Key Employee Exception

If an employee has gross pay that is within the top 10 percent of the City's employees, the City reserves the right not to restore the employee to his or her prior position with the City if the City will suffer substantial and grievous harm because of the restoration. At the time that leave is granted under this procedure, the City will inform the employee that the employee is within the top 10 percent and also explain the possible consequence that restoration may be denied.

If the City determines during the employee's leave that the employee is not to be restored to employment, the employee shall be notified immediately and given the opportunity to immediately return from leave and be restored to his or her position. If the employee does not return from leave, the employee can petition for reinstatement at the end of the leave period and will be notified, by certified mail, whether the employee will not be restored because doing so would cause the City substantial and grievous harm.

(3) Periodic Reporting

Employees on leave are required to report every two weeks on their status and intent to return. During leave, the City also may require that an employee recertify the medical condition that caused the employee to take leave when the City obtains information that casts doubt on the continuing validity of the employee's original certification, when the employee requests an extension of leave or when circumstances have changed.

(4) COBRA

When an employee notifies the City that they are not returning from leave, the City shall terminate the employee's health benefits and they shall no longer have a right to restoration to the same or equivalent position. The employee shall be entitled to continuation of health benefits only in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") and the provisions of the health plan provided, however, that any period of continued health benefits shall commence from the day leave commenced.

(5) Repayment of Premiums

Employees who return to work will meet with the Finance Department to work out an appropriate repayment schedule for any employee premiums or co-payments made by the City during leave which occurred during this leave.

Upon receiving notice that the employee is not returning to employment with the City, or should the employee simply fail to return or return to employment with the City for less than 30 days after leave has ended, the employee shall owe the City the cost of any benefits provided during leave. No such amount shall be owed if there is a recurrence or onset of a serious health condition, or in the opinion of the City, there is a change of circumstances beyond the employee's control. The benefits of a key

employee who is not restored shall not be terminated prior to the end of leave and the employee shall not be responsible to the City for such benefits other than the normal employee contribution.

If an employee does not return to work under circumstances where repayment can be required, the employee must repay all premiums within 30 days after receiving notice from the City of the amount owed. After that time, the matter will be turned over to collections as a debt, which could result in legal action.

(6) Failure to Return to Work

Employees who fail to return to work after FMLA leave is completed shall be treated as having voluntarily terminated their employment.

H. Other General Provisions

(1) Administration

The City Administrator in consultation with the Director of Human Resources shall be the exclusive interpreter of its terms. All provisions of this procedure shall be interpreted consistent with the Family and Medical Leave Act of 1993.

(2) Changes

The City reserves the right to modify or terminate this procedure at any time.

(3) No Employment Rights

This procedure does not create any employment rights to any individual other than specifically stated in this procedure.

(4) Limitations

Except as otherwise stated, this policy is not intended to create any rights greater than that conferred on employees by the Family and Medical Leave Act of 1993.

(5) Rights and Obligations

Employees and the City have various rights and obligations under FMLA. For further information, contact the Human Resources Department.

ARTICLE V. Health Insurance

Health insurance

Health insurance may be provided by the City to full-time employees and those part-time employees who qualify. The coverage shall be of the type, and subject to such terms and requirements, as the City Council shall determine from time to time. The City Council may also provide that employees pay a part of the cost of the premiums for said health insurance. See the section on part-time employees to determine what the health insurance provisions are for part-time employees.

Part-time employees; benefits

(1) Part-time employees who work at least 1,560 hours, but less than 2,080 hours per calendar year shall be entitled to benefits beginning one (1) year after commencing employment with the City according to the following schedule:

- A. Part-time employees who work at least 1,560 hours, but less than 2,080 hours per calendar year, shall be entitled to seventy-five (75%) of those benefits to which full-time employees are entitled; provided, that if a part-time employee works at least 1,560 hours per calendar year he/she shall be entitled to receive health insurance coverage.
- B. Part-time employees shall earn benefits as provided above for each full calendar year of service, and shall not earn benefits for any calendar year or part of a calendar year in which they work fewer than 1,560 hours.

ARTICLE VI. Working Conditions

Leave of absence

- (1) An employee who is on a leave of absence without pay shall, during the first thirty (30) days thereof:
 - (a) remain covered by any health, accident and life insurance in the same manner as immediately prior to their leave of absence;
 - (b) not receive holiday pay for any holiday which falls during their time of leave of absence;
 - (c) continue to accrue vacation and Sick Leave of their leave of absence; and
 - (d) maintain their seniority.
- (2) After an employee is on a leave of absence without pay for more than thirty (30) days, the coverage of that employee under the City's health, accident and life insurance programs at the City's expense shall cease at the end of the calendar month; however, the employee may continue participating in the City's health, accident and life insurance programs at their own expense until their return to work.

Transfers

Transfers shall be considered when they are in the best interest of the City and/or employee. An employee must meet the minimum qualifications for the position the employee is being considered for transfer to. All full-time and probationary employees are eligible to transfer or be transferred. All benefits for which the employee is eligible shall be transferred with the employee.

There shall be three types of transfer:

- (1) Voluntary: The employee and both the department head and the City Administrator approve of the voluntary transfer.
- (2) Disciplinary: Both department heads and the City Administrator shall approve of a disciplinary transfer. Employee approval is not required. The employee shall be informed of the reason for the transfer, at the time the transfer is made.
- (3) Administrative: Both department heads and the City Administrator shall approve of an administrative transfer. Employee approval is not required. The employee shall be informed of the reason for the transfer, at the time the transfer is made.

Nepotism

- (1) The purpose of this section is to define the City's policy regarding the employment of immediate family working for the City in the same or different departments or divisions.
- (2) The City shall permit the employment of immediate family of employees or a member of the employee's immediate family as long as such employment does not create actual conflicts of

interest. The City will use sound judgment in the placement of qualified relatives in accordance with the following guidelines:

- a. An immediate family member shall be permitted to work in the same department or division, provided no direct reporting or supervisor-to-subordinate relationship exists. Further, no immediate family member is permitted to work within "the chain of command" when the immediate family member's work responsibilities, salary, hours, career progress, benefits, or other terms and conditions of employment could be influenced by their direct supervisor.
- b. Supervisors may have no direct influence over the wages, hours, benefits, career progress and other terms and conditions of employment of the their immediate family members.
- c. Employees who marry while employed at the City, or become part of the same household are treated in accordance with this section.

(3) Any exceptions to this policy must be approved by the City Administrator.

Layoffs

An employee may be laid off from any department because of curtailment of expenditures, reduction in force, or other similar reason. The order of employees affected by a layoff shall be determined as follows:

- (1) The first employee to be laid off in a department shall be the employee who was last appointed to or placed in the particular position which the reduction is to be made, except when the needs of the department require that layoffs be determined by the nature of the work. The determination of whether a particular employee was the last one appointed to or placed in the position shall be determined by comparing the employee's appointment to that of other employees in the position on the basis of seniority. Seniority is defined as the length of continuous service from the date of original appointment, less any days the employee may have been suspended.
- (2) No full-time employee shall be laid off from any position while a temporary employee is still employed in the same position in the department.
- (3) Layoffs shall not be considered disciplinary actions.

Resignation/Retirement

In order to resign an employee must meet the following conditions in order to be considered to be in "good standing":

- (1) Employees other than department heads must give the appointing authority or City Administrator written notice at least fourteen (14) calendar days prior to resignation unless the appointing authority or City Administrator agrees to a shorter period. A notice of resignation form is available from the Human Resources office for the written notice. Failure to do so may, at the discretion of the appointing authority or City Administrator, be reason for treating the resignation as a dismissal and the refusal of subsequent good post-employment references. In the case of dismissal, the action may be made effective immediately or the employee may be given up to two (2) weeks' notice at the discretion of the appointing authority or City Administrator.
- (2) Department heads are required to give written notice of at least thirty (30) calendar days. The City Administrator may choose to waive this.

(3) The employee must turn in all keys, uniforms, City identification, equipment, etc. upon request, which were provided by the City as part of employment before their last day of employment.

(4) The employee shall provide a forwarding address for future correspondence.

In order to retire an employee shall be subject to the following:

(1) Give a minimum of thirty (30) days written notice to the appointing authority or City Administrator prior to the effective date of retirement.

(2) The employee must have reached the age of 55 with 20 years of service to the City; or reached the age of 60 with 10 years of service to the City; or reached the age of 65 with five years of service to the City to be considered as retiring. Retiring employees shall receive an award from the City, equal to the amount of \$150. The department from which the employee is retiring may spend up to \$100 for refreshments, etc., if the retiree wants to have a reception. However, the maximum retirement award is \$150 regardless of whether the retiree wishes to have a reception or not.

(3) The effective date shall be the last day worked, unless otherwise agreed, or as required by state or federal law. Employment may not be extended by using leave benefits.

(4) At the time of resignation, retirement or death, the following benefits apply:

a. All unused accrued vacation leave shall be paid out.

b. Group term life insurance shall remain in effect, except in the case of death, until the last day of the month in which the employee's last day of employment occurs.

c. Health insurance shall remain in effect until the last day of the month in which the employee's last day of employment occurs. The employee may be eligible for COBRA continuation coverage as prescribed by Federal law.

d. Accrued compensatory leave shall be paid to employees who have accumulated compensatory time approved by their appointing authority.

e. Accrued holiday hours shall be paid to employees who have accumulated holiday hours. If a holiday occurs the day immediately following the employee's last date of employment, the employee is not eligible for holiday pay.

f. Sick Leave shall be paid accordance with the provisions set forth in the section entitled Sick Leave.

In either the event of resignation or retirement all leave times available to the employee as of the effective date shall be paid to the employee as a lump sum as either part of their last paycheck or as a separate check paid contemporaneously with the employee's final paycheck, and shall not serve to extend the effective date.

Long Term Disability

Long term disability insurance is provided to employees of the City of Hastings, who work at least 30 hours per week, at no cost to the employee. The waiting period in order to be eligible for long term disability is 90 days. Please contact Human Resources if you have questions.

Reemployment

Except as otherwise provided, any former employee who is re-employed within two years shall be treated as a new employee. A rehired employee shall be given credit for time served in their previous employment with the City for the accrual rate of vacation leave. City employees laid off as a result of a

reduction in force shall, if reemployed within two years after their layoff, have their benefits reinstated as they were at the time of their layoff.

Physical or mental examination

A department head may at any time, for reasonable cause, require an employee to be examined by a physician or mental health professional for the purpose of determining the employee's ability to perform their required duties. Such examination if required by a department head shall be at the City's expense.

Work week

The general work week shall be forty (40) hours per week for full-time employees, except as otherwise provided. Normal working hours shall be from 8 a.m. to 5 p.m., Monday through Friday, except as otherwise provided. Other regular working hours may be established by department rules.

Break

Employees are entitled to a fifteen (15) minute break during every four (4) hours worked. Exercise of this provision is subject to departmental rules and regulations. A lunch break is defined as at least 30 minutes where an employee is totally released from their job duties.

Use of Tobacco Products and Vaping

The use of tobacco products and vaping is not allowed inside any City building, vehicle or equipment, except in designated break areas.

Outside employment

(1) No full-time employee shall undertake any employment or activity for financial gain outside of his City employment which is, or can be interpreted to be, inconsistent with or detrimental to their position with the City.

(2) Any full-time employee desiring to engage in outside employment or activity for financial gain shall request approval from their department head. The department head may approve or deny the request.

A department head shall not withhold approval without reasonable cause. This form shall be placed in the employee's personnel file.

Political activities prohibited

No employee shall engage in political activities during their work day, while on official duties, or while wearing a required uniform.

Solicitation prohibited

No employee shall sell goods or services for themselves or any organization to which they belong, while engaged in official duties. Order forms may be left in community areas, such as break rooms.

ARTICLE VII. Records, Applications, Examinations, Lists, and Appointments

Confidentiality of personnel records

All applicant and employee records other than public information shall be withheld from the public. Request for verification of employment or reference checks for future employment should all be directed through the Human Resources Department.

Employees may be used as personal references for their fellow employees only if they are asked.

Personnel records

All reports by a department head with respect to an employee within their department shall become a part of that employee's personnel file maintained in the Human Resources Department. A copy of any such report shall be delivered or mailed to the employee by the Human Resources Department within ten (10) working days after it is placed in their file.

ARTICLE VIII. Discipline

Causes of discipline.

Any action which reflects discredit upon the City, or which is a direct hindrance to the effective performance of City services, or which violates a departmental or personnel rule or regulation shall be cause for disciplinary action. Such causes for disciplinary action include, but are not limited to the following:

- (1) Has been adjudged guilty of a felony or of a misdemeanor involving moral turpitude.
- (2) Habitual use of alcohol or other intoxicating beverages or the use of controlled substances, that affect an employee's job performance.
- (3) Using or be under the influence of a controlled substance or alcohol or other intoxicating beverage while on duty.
- (4) Failure to report the use of any prescription only drug that may alter an employee's physical or cognitive abilities while on duty.
- (5) That the employee is guilty of improper political activity as defined in these rules.
- (6) Offensive conduct or language toward the public or toward City officers or employees.
- (7) Has been guilty of insubordination to their supervisor or has been guilty of any conduct unbecoming to an officer or employee of the City, either on or off duty.
- (8) Incompetence, inefficiency, or inattention to or dereliction of duty.
- (9) Damage to or negligence in the care and handling of City property.
- (10) Violation of any lawful and reasonable directive made or given by their superior, where such violation or failure to obey amounts to an act of insubordination or a serious breach of discipline; or results, or might reasonably have been expected to result, in loss or injury to the City, or to the public.
- (11) Commission of acts or omissions unbecoming an office or position held, which render their reprimand, suspension, demotion, or dismissal necessary or desirable for the economical or efficient conduct of the business of the City.
- (12) Has induced or attempted to induce any officer or employee of the City to commit an illegal act, to act in violation of any lawful and reasonable department or official regulation or order, or has participated therein.
- (13) Solicitation or receipt from any person, participation in any fee, gift, or other valuable thing that is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
- (14) Use or attempted use of personal or political influence or bribery to secure an advantage in an

examination or promotion, leave of absence, transfer, change of pay or character of work.

- (15) Absence from duty without leave contrary to these rules, or failure to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and cancelled by the proper authority.
- (16) Failure to use seatbelts while traveling in a City vehicle or for City business.
- (17) Using a cell phone while driving a City vehicle or while driving on City business; provided, however an employee may use a hands-free feature. To comply, an employee must have their cell phone located where they are able to initiate, answer, or terminate a call by touching a single button. The employee must be in the seated driving position and properly restrained by a seat belt. Employees are not in compliance if they unsafely reach for a cell phone, even if they intend to use the hands-free function.
- (18) Willful violation of any of the provisions of these rules.

Verbal reprimand

Except in such cases where a written reprimand is issued, a supervisor or department head shall discipline employees under their direction by verbal reprimand for any and all causes for discipline; said verbal reprimand shall consist of verbal statements that include a specification of how an employee's conduct deviates from proper conduct. Except in cases where it may not be feasible to do so, all verbal reprimands should be done in private. Verbal reprimands should not be confused by supervisors as teachable moments.

Written reprimand

A department head may reprimand any employee in their department for cause. Such written reprimands shall include a specification of how an employee's conduct deviates from proper conduct. Such reprimand shall be in writing and addressed and presented to the employee who shall initial receipt for the document. A signed copy shall be delivered to the Human Resources Department for inclusion in the employee's personnel file. Written reprimands shall be removed from an employee's personnel file 12 months after inclusion if no further disciplinary action involving the employee has occurred.

Suspension

A department head may suspend an employee with or without pay for cause for a period up to thirty (30) calendar days, which may be extended by the department head for good cause shown. The department head shall notify the employee in writing. Such notice shall include the reasons for and the duration of the suspension. The employee shall initial receipt for the document. A signed copy shall be delivered to the Human Resources Department for inclusion in the employee's personnel file.

An employee who is on suspension without pay shall accrue no vacation, Sick Leave, or seniority rights with respect to promotion and proficiency pay increases for any portion of the entire period of leave or suspension.

After an employee is on suspension without pay for more than thirty (30) days, coverage of that employee under the City's health, accident and life insurance programs at the City's expense shall cease at the end of that calendar month; however, the employee may continue participating in the City's health, accident and life insurance programs at their own expense until he/she returns to work.

Disciplinary demotion

A department head may demote an employee for cause. No disciplinary demotion shall be made unless the employee to be demoted is suitable for employment in the position with a lower pay scale or if employee in the lower pay scale would be laid off by reason of the action. The department head shall notify the employee of the disciplinary demotion in writing with a copy given to the Human Resources office to be placed in the employee's personnel file. The employee shall initial receipt of the document.

Discharge/Termination

(1) A department head who wishes to dismiss an employee under their supervision or jurisdiction for cause, shall first review with Director of Human Resources and the City Attorney before proceeding to speak with the employee.

(2) An employee who has a completed their probationary period, shall be discharged only upon being served with a written form, stating cause of discharge.

(a) A copy of the discharge form shall be filed with the Human Resources office.

(b) The discharge form shall contain the name, address, and position of the employee as well as a brief statement of the reason for discharge.

(3) Appeal. A discharged employee shall have 14 calendar days from the date of such notice to file an appeal with the Director of Human Resources.

Hearings

(1) If a discharged employee makes a written request for a hearing, the Director of Human Resources shall notify the discharged employee and the department head involved of the time and place of the hearing on such charges before the Appeals Board. The Appeals Board will be made up of employees who have volunteered and completed training provided by the Human Resources Department. No such hearing shall be held less than 14 calendar days after serving or mailing the notice of the time and place of such hearing by the Director of Human Resources, unless this time is waived by both discharged employee and the department head.

(2) The City Administrator shall serve as the chairperson of the Appeal Board.

(3) The Appeal Board shall be made up of a department head chosen by the department head involved, an employee chosen by the discharged employee, and one other department head and employee chosen by the Director of Human Resources.

(4) The Director of Human Resources and City Attorney shall determine the procedure to be used by the Appeals Board in its hearing on the discharge of the employee, and

(5) The Appeals Board after the conclusion of the hearing shall:

(a) confirm the discharge; or

(b) order that the employee be reinstated to the position formerly held, with back pay, if applicable.

(6) In the course of such hearing, the employee shall be given an opportunity to produce witnesses and be heard in their own defense and to be represented by counsel. The finding of the Appeals Board shall be certified in writing to the discharged employee and department head, who shall implement the Appeals Board's decision. A stenographic or electronic record of all proceedings at the hearing shall be made and retained by the Human Resources Department in the event of further appeal. The decision of the Appeals Board is final unless overturned by a court of law.

ARTICLE IX. Issue Resolution

Open Door Policy for Issue Resolution

The accumulation of unspoken or unanswered complaints can result in frustration and dissatisfaction and could harm what otherwise could be a pleasant working relationship. Employees who do not wish to utilize the grievance process, are encouraged to utilize the open door policy in order to resolve issues.

If an issue arises, it is to everyone's benefit to assure a prompt and fair resolution. That is the purpose of the following "Open Door" procedures, which you should feel free to use without fear of reprisal or penalty in any way.

If you have an issue, you should review the matter with your supervisor or team as soon as possible. It is part of the supervisor's responsibility to help you and your team address issues.

If you and your supervisor do not reach a solution, you may request a meeting with the Staff person to whom your supervisor reports.

If you do not feel the issue has been properly resolved by your immediate supervisor and/or next level/s of management, you should ask for an appointment with a representative of Human Resources. Occasions can also arise when you have issues that are difficult to discuss with your immediate supervisor. If this occurs, you may make an appointment with a representative of Human Resources.

If your issue still has not been resolved to your satisfaction, you or the Human Resources Department can contact your department head for an appointment.

We believe that your immediate supervisor is best- equipped to handle most of your issues. However, feel free to consult with any member of the management team you feel comfortable with.

Grievance Policy

It is the policy of the City to treat all employees equitably and fairly in matters affecting their employment. Each employee will be provided ample opportunity to understand and to achieve mutually satisfactory resolutions of matters which they allege are violations of rules, regulations, or any other condition of employment. Each employee has the right to present a grievance with the expectation of attention being paid to the matter and without fear of adverse personnel action. This article shall apply to all employees who do not have collective bargaining agreements that otherwise specify grievance procedures.

Grievance - Definition

See definition of "grievance" in the Definitions section in Article I. of these rules.

Grievance procedure

(1) Any employee who has a grievance concerning a condition of employment shall discuss that grievance with their immediate supervisor within five (5) working days of the commission or omission of the act or acts upon which the grievance is based. Supervisors shall respond to the grievance verbally. Supervisors shall make a record of all such verbal discussions of grievances upon the date of their occurrence which shall specify the employee, the act or acts discussed, and the date of the verbal discussion.

(2) If a verbal discussion between an employee and his immediate supervisor does not resolve the grievance, the employee may within five (5) working days submit a written grievance to their immediate supervisor's supervisor. The written grievance shall include:

- (a) The exact nature of the grievance.
- (b) The act or acts of commission or omission.
- (c) The exact date of the act or acts of commission or omission.
- (d) The identity of the party or parties who claim to have a grievance.
- (e) The identity of the party or parties alleged to have caused or who are involved in the grievance.
- (f) The specific provision of the City ordinances, personnel rules or other conditions of employment that is alleged to have been violated.
- (g) The remedy that is sought.

Within five (5) working days after receiving such written grievance, the immediate supervisor's supervisor shall furnish the employee with a written reply to the written grievance.

(3) If the written reply by the immediate supervisor's supervisor does not resolve the grievance, the employee may, within five (5) working days of receiving the written response, submit the written grievance to their appointing authority. The appointing authority shall furnish the employee, within five (5) working days of receiving the written grievance, a written response to the written grievance.

(4) If the written reply by the appointing authority does not resolve the grievance, the employee may submit, within five (5) working days of receiving the written response, the written grievance to the Appeals Board. The Appeals Board shall be comprised of individuals selected in the same manner as the Appeals Board for a disciplinary action with the Director of Human Resources being the chairperson of the Board of Appeals. The Appeals Board shall hold a hearing, within ten (10) working days of the submission of the written grievance, with all documentation and witnesses being present. Within five (5) working days of the hearing, the Appeals Board shall provide all parties to the grievance with a written reply. Appointing authorities and supervisors shall be bound by the decision of the Appeals Board unless overturned by a court of law.

(5) Representation

Legal representation is always a right of parties to the grievance procedure. Any party may make a change in representation at any time, however, such a change shall not change the time periods for carrying out the actions required by the grievance procedure.

Failure to adhere to time periods

Failure of the employee to present a grievance within the time periods specified in the grievance procedure shall automatically dismiss the specific grievance. Failure of a representative of the City to adhere to the time periods required by the grievance procedure shall allow the employee submitting the grievance to proceed to the next step in the grievance procedure as if the City representative had acted on the last day of the allotted time period.

ARTICLE X. Sexual Harassment and General Harassment

Intent

It is the policy of the City that there be no discrimination against any employee or applicant for employment with the City of Hastings on the basis of their sex, or for any reason. The City of Hastings considers harassment by any employee to be serious misconduct which shall result in disciplinary action. All personnel are encouraged to maintain confidentiality about complaints in order to protect

the parties involved, and information should not be shared with anyone other than those involved in the investigation.

The City of Hastings is committed to a work environment in which all individuals are treated with respect and dignity. This includes a workplace free from any form of harassment.

Harassment is defined as any unwelcome behavior directed at a person or group because of their sex, race, religion, age, disability, sexual preference, or national origin. In general, examples of harassment include:

- racial slurs or negative stereotyping.
- threatening, intimidating, or hostile acts.
- assault or unacceptable physical contact.
- written or graphic material that denigrates or shows hostility toward an individual or group.
- retaliation against an employee for bringing up an issue of alleged harassment.

Harassment, both sexual and otherwise, by or directed toward any employee or prospective employee is expressly prohibited. Violation of this policy shall result in disciplinary action.

Definitions

For the purposes of this Article, the following definitions shall apply, and to the extent that they conflict with any definitions found elsewhere in this code, including Hastings City Code Section 3-108, the following shall prevail herein:

- (1) "Complaint" is defined as a written allegation of harassment, sexual or otherwise, specifically detailing the conduct upon which the allegation is based, and which is dated, and signed by the person making the allegation.
- (2) "Disciplinary Action" is defined as any appropriate discipline, including verbal reprimand, written reprimand, counseling, suspension, reassignment, demotion or termination.
- (3) "Employee" is defined as all persons employed by the City of Hastings, including all employees of the City of Hastings, and shall include all department heads, all part-time, regular part-time, regular full-time, seasonal, and temporary employees, whether or not they be parties to or subject to a collective bargaining agreement.
- (4) "Investigator" is defined as the person who shall conduct the investigation of any complaint. The investigator shall be the Director of Human Resources. If the complaint involves the Director of Human Resources, the investigator shall be the City Administrator, who shall have the authority to investigate the complaint, or designate an individual to conduct the investigation.
- (5) "Sexual Harassment" is defined as being an unwelcome sexual advance, a request for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Complaint procedure

(1) An employee or a citizen who believes they have been harassed may submit a written complaint with any one of the following:

- (a) immediate supervisor
- (b) department head
- (c) Director of Human Resources
- (d) City Administrator

(2) The person to whom a written complaint is submitted shall deliver the original written complaint to the Human Resources Director, retain a copy, and deliver copies to the appropriate investigator, and to the City Attorney.

Investigation

(1) The investigator shall interview the complainant and any named parties mentioned in the complaint. The investigator shall make a record of all interviews, which shall include:

- (a) the date(s) of any discussion(s);
- (b) the details of the incident(s) which led to the complaint being filed;
- (c) the date(s) the incident(s) occurred;
- (d) the identity of the party or parties alleged to have engaged in sexual or general harassment; and
- (e) the identity of the aggrieved party.

(2) The investigator shall expediently investigate all complaints of sexual or general harassment. Department heads and supervisors shall make available any employee for interviews, and present any documents required in the investigation.

(3) The complainant shall be kept informed of the status of the investigation.

Investigation; findings

Upon completion of the investigation, the investigator shall prepare a report of the findings of the investigation, deliver it to the appointing authority of the employee against whom the complaint was filed and to the Director of Human Resources. The report shall include a recommendation on appropriate action, which may consist of disciplinary action, counseling, reassignment of work, or a determination that no action is required. Copies of the report shall be provided to the complainant and the person about whom the complaint is made. The Investigator shall conduct a follow-up review with the complainant within sixty (60) calendar days in order to make sure that the problem has been remedied.

Disciplinary action

After reviewing the findings of the investigation, the appointing authority of the employee against whom the complaint was filed shall take the appropriate action to resolve the complaint. Such action may include disciplinary action, counseling, reassignment of work, or a determination that no action is required. Written notification of the action shall be provided to the disciplined employee.

Appeal procedure

Appeals of action taken under the provisions of this Article shall be submitted directly to the Appeals Board, which shall be comprised of individuals following the same procedure for selecting an Appeals Board for an employee disciplinary action. Any appeal shall be submitted in writing within five (5) working days of notification of action taken. The Appeals Board shall hold a hearing within ten (10) working days of the submission of the written appeal. The Appeals Board shall provide the complainant and the party against whom the complaint was filed at least five (5) days' written notice of the time and place of the hearing. Within five (5) working days after the hearing, the Appeals Board shall provide all parties to the appeal with a written decision. The complainant and the party against whom the complaint was filed shall be bound by the decision of the Appeals Board unless overturned by a court of law.

Appeal hearings

Appeal hearings shall be closed to the public unless the person against whom the complaint has been filed requests that the hearing be held in open session.

False complaints

No employee shall intentionally prepare and execute a false complaint of general of sexual harassment. Any employee who does so shall be subject to disciplinary action.

ARTICLE XI. Policies

Equal Employment Opportunity (EEO)

It is the continuing policy of The City of Hastings to abide by applicable laws and regulations and to provide equal employment opportunities to qualified individuals regardless of race, color, religion, sex, national origin, age, disabilities, veteran or disabled veteran status, and/or citizenship status.

The exception is citizenship status which is required to comply with law, regulations, or federal executive order; or by federal, state, or local government contract; or which the Attorney General of the United States determines to be essential for an employer to do business with an agency or department of the federal, state or local government.

Returning without Limitations

If you return to work after a disability, prolonged illness, or leave of absence, and are fully able to do the position you left, you will be assigned to the job or position classification, department and shift you were on when you left. If for any reason you cannot be assigned to your former job, you will be reassigned according to the reduction in force procedure, and in compliance with FMLA, if applicable.

Returning with Temporary Limitations

- (1) **Work related injuries** - An employee returning to work as a result of a workers compensation injury shall provide documentation to their immediate supervisor from their medical or mental health provider outlining their potential return to work, including any restrictions placed upon the employee for their return. The supervisor must provide the documentation to the City Clerk's office prior to allowing the employee to engage in any work activities.
- (2) **Nonwork related injuries or other medical or mental conditions** Employees desiring to return to work under this section shall return to their regular position with the City subject to any restrictions placed on the employee by their medical or mental health provider. The employee shall provide their

medical or mental health provider with a copy of their job description outlining the essential job functions and physical requirements of their position so that the medical or mental provider can determine whether the employee can return to work with or without any restrictions on the employee upon their return. The supervisor shall review the restrictions to determine whether the employee is able to do their job with the restrictions. If the supervisor determines the employee is able to perform the essential function of their job with the restriction, a doctor's note outlining the restrictions shall be given to Human Resources prior to the employee being allowed to engage in any work activities. If the supervisor determines the employee is unable to do their essential job functions, the supervisor shall notify Human Resources of their determination and the employee shall not be allowed to return to work until there would be a significant change in or the elimination of the restrictions by the employee's medical or mental health provider. Any employee unable to return to their position without restrictions for a period of 90 days shall be referred to the City's long-term disability insurance carrier.

- (3) **Work Comp Injuries.** If you are able to return to work, but with temporary limitations determined by a physician, every effort will be made to find a job you can do within your prescribed limits. Productive work must already be available and must not be created to satisfy these temporary limitations, also known as restricted duty.

An attempt will be made to find a job within your department; however, the City reserves the right to assign you to a job in another department that you can do within your prescribed limitations.

There may be situations where no work can be found within your limitations. In those cases you may supplement your worker's compensation with paid leave until your condition allows appropriate work to be found or your paid leave is exhausted.

Returning with Permanent Limitations

If you are able to return to work, but with permanent limitations determined by a physician, every effort shall be made to find a job you can do within your prescribed limits. To determine the new position, the reduction in workforce procedure is followed. Positions are evaluated to determine your ability to perform job requirements. During this evaluation, every effort shall be made to comply with the Americans with Disabilities (ADA) Act. (See next section on ADA.)

The level of pay upon return follows the same procedure in place for rehiring employees.

Productive work must already be available and must not be created to satisfy limitations. There may be situations where no work can be found within your limitations. In this case you will remain on Sick Leave and follow procedures for determining if you are eligible for long-term disability and or benefits from Social Security.

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) makes it unlawful to discriminate against qualified individuals with (or perceived as having) physical or mental disabilities.

To be protected under the ADA, individuals must have a record of, or be regarded as having a substantial impairment. A substantial impairment is one that significantly limits or restricts a major life activity. Major life activities include hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working.

Individuals with a disability must be able to satisfy job requirements for educational background, employment experiences, skills, licenses, and any other qualification standards that are job related.

The employee must also be able to perform tasks essential to the job, with or without reasonable accommodations. Accommodations are reasonable unless they expose the business to an undue hardship. An undue hardship means the accommodation would require significant difficulty or expense.

The ADA does not cover temporary disabilities. Employees who experience short, temporary disabilities are covered in the “Job Assignment upon Return to Work” policy outlined in the preceding section. The purpose of the Return to Work policy is consistent with the purpose of the ADA.

Immigration Law Compliance

The City of Hastings is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin. In compliance with the Immigration Reform and Control Act of 1986, as amended, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility.

The City of Hastings participates in the federal e-Verify employment verification program. The City will provide the Social Security Administration (SSA) and if necessary, the Department of Homeland Security (DHS), with information from each applicant’s Form I-9 to confirm work authorization. If the government cannot confirm that you are authorized to work, you will be provided with written instructions and an opportunity to contact SSA and/or DHS before the City takes adverse action against you, including terminating your employment.

Former employees who are rehired must also complete a new I-9 form. Employees with questions or seeking more information on immigration law issues are encouraged to contact the Human Resources Department. Employees may raise questions about immigration law compliance without fear of reprisal.

Safety

City Commitment

The City of Hastings Team is committed to the following goals:

- Providing safe working conditions for all employees
- Eliminating occupational injuries and illnesses
- Minimizing materials and processes that negatively impact the environment
- Developing a safety culture that supports these goals.

Safety Rules

Safety is serious business at The City of Hastings. Employees who break these rules are endangering themselves and others. For this reason, the City has a responsibility to strictly enforce these safety rules:

1. Everyone in areas where applicable work is being performed is required to wear American National Standards Institute (ANSI) approved safety glasses (prescription or non-prescription) with side shields. Safety glasses may be lightly tinted to reduce glare. Dark or mirrored glasses are not allowed.
2. No carelessness, recklessness, horseplay or disorderly conduct on work premises is tolerated.
3. Employees are required to report all injuries to their supervisor, department head or the Safety Director immediately, but in no event more than 24 hours after an incident.
4. Employees are required to report all accidents resulting in damage to materials, equipment, or property to their supervisor or department head, but in no event more than 24 hours after an incident.

5. Employees assigned to a hearing-protected area, are required to wear approved hearing protection at all times.
6. All powered industrial trucks will be operated in a safe manner at all times.
7. No safety device, guard, or other protective equipment is to be removed from any piece of machinery or equipment. The exception to this rule is when the equipment is under repair by “authorized personnel” working within the guidelines of the Lockout/Tagout and Electrical Safety Programs.
8. Machines with missing or defective guarding must be reported immediately. These machines will be locked out by “authorized personnel” until they are repaired.
9. Employees are not permitted to remove a “Lock out/Tagout” tag or lock except “authorized personnel” as defined by the Lockout/Tagout Program.
10. Employees assigned to a respirator-required area, must wear a respirator at all times. Employees will not be permitted to wear a respirator unless they have been medically approved to do so and received proper training.
11. Employees who are welding must use approved welding helmets with the appropriate shade of protection and employees in the vicinity must take every precaution to avoid eye contact with light from the welding process.
12. All chemical substances must be used in accordance with safety instructions printed on the container and/or in the SDS (Safety Data Sheet) for that substance.
13. No new substances may be brought into warehouses or to a jobsite without an SDS sheet.
14. Personal Protective Equipment (PPE) must be worn in applicable areas.
15. Lifting, handling, and assembling goods and equipment must be done in a safe and professional manner.

Violations of the above safety rules are not tolerated. The first such violation may result in a verbal warning and could, depending upon the seriousness, result in suspension or discharge. Subsequent violations (not necessarily of the same type) may result in discharge.

SAFETY EYEGLASS PURCHASING GUIDELINES

SEASONAL/TEMPORARY EMPLOYEES:

1. Seasonal/temporary employees will be provided with one pair of non-prescription, protective eyewear appropriate for the type of work being performed.

NON-PRESCRIPTION SAFETY GLASSES:

1. Non-prescription safety glasses are provided, upon employee request, by the warehouse Department, Department Head or Supervisor. Approval by the Department Head is not required.
2. An employee can obtain both a clear and a shaded pair of non-prescription safety glasses.

PRESCRIPTION SAFETY GLASSES:

1. All Employees will abide by the following procedure to obtain prescription safety glasses:
 - a. Employee must obtain a prescription for safety glasses.
 - b. Employee takes prescription and request for safety glasses form to supervisor for approval signature.

- c. Employee takes the signed safety glasses request form to Nebraska Eye Care for glasses.
2. Prescription safety glasses must meet ANSI Z-87 standards and be adaptable for side shields. Side shields must be worn at all times if your safety glasses have the adaptable side shields.
3. The City of Hastings will pay for one pair of clear lenses and frames and one pair of shaded lenses and frames. In lieu of these two pair of safety glasses the City of Hastings will pay for one pair of photo-gray lenses and frames. However, if your work is 85% indoors you can only order clear or photo gray lens safety glasses. The City will not pay for dark lens safety glasses. If you wish to order the dark lens, then it is up to the employee to pay for them out of his/her own pocket.
4. The City of Hastings will pay the cost of repairing or replacing safety glasses (prescription or non-prescription) damaged while at work.
5. Linemen are required to use plastic frames.
6. If an employee's prescription changes after one year the City of Hastings will cover the cost of new lenses and frames.
7. Employees are eligible for new safety glasses every 24 months.
8. The City of Hastings will not pay for specialty lens applications.

Boot Policy

This policy will be revisited during fiscal year 2021-22.

Wellness

The City of Hastings promotes a healthy workforce and City culture while providing growth opportunities for people, productivity, and profits. Lunch and learns, family seminars, and participation in health risk assessments and community wellness activities are ways in which we encourage good health. Wellness goals include:

- To create a healthy City culture.
- To enhance the health of employees and of the organization.
- To provide techniques and tactical plans for improving and controlling health care costs.

Nursing Mothers

If you are a new mother feeding your child and you wish to pump at work, you will be provided with a private place to do so and appropriate time away from your work station. However, you should utilize your breaks and lunchtime for these activities. If the break time is not sufficient, then you will return to work when you are finished.

Respectful Workplace Policy

Purpose

To promote a work environment free from violence or threats of violence, including bullying, harassment and intimidation, against individuals, as well as City and personal property. This includes partner or family violence that may occur on City property.

The examples and definitions listed in this policy are not all inclusive. The City has the sole right to interpret this policy based on individual facts and circumstances.

Application

The policy requires all individuals on City premises, whether employees or non-employees, to conduct themselves in a professional manner consistent with good business practices. The policy strictly prohibits use of bullying, violence, threats of violence, or possession of weapons in the workplace, including acts or threats of family violence.

Violations of this policy will lead to disciplinary actions, up to and including termination, and may include the involvement of appropriate law enforcement authorities.

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on City property will be removed from the premises, and may be asked to remain away from the property pending the outcome of an investigation.

The City reserves the right, in its sole discretion, to determine when particular conduct constitutes an act of violence under this policy, and to respond to actual or perceived acts of violence in the manner deemed appropriate, based on the situation.

Workplace Violence

Workplace Violence is defined as:

- (1) behavior which constitutes actual or potential assault, harassment, intimidation, threats or similar actions.
- (2) possession of weapons.
- (3) threats to City or personal property.
- (4) enlisting, coercing or aiding other employees in such behaviors either:
 - (a) in the workplace or while engaged in City business or
 - (b) while using City or personal resources, such as phones, copy or fax machines, mail, e-mail, internet, voice mail and other forms of electronic communication, automobiles, etc.
 - (c) acts related to any of the above that reasonably relate to the workplace, regardless of whether the action takes place on or off City property.

Partner/Family Violence

The City recognizes the impact of partner/family violence can have an impact on the workplace. Partner/Family Violence is defined as abusive behavior, occurring between family, partners, or household members, which affects the workplace. The behavior includes physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking and economic control.

Bullying

Bullying is deliberate and repeated behavior intended to intimidate, offend, degrade or humiliate a particular person or group of people.

Examples of Bullying: Bullying is a form of aggression where actions are most often covert or subtle. Bullying usually, but not always, involves a pattern of behavior, so there is generally more than one occurrence of the behavior. The following examples are not all-inclusive, but show ways bullying may occur in the workplace:

- (1) Spreading malicious rumors, gossip or innuendo.
- (2) Excluding or isolating someone socially.

- (3) Undermining or deliberately impeding a person's work.
- (4) Withholding necessary information or purposefully giving the wrong information.
- (5) Yelling or using profanity.
- (6) Criticizing a person persistently.
- (7) Tampering with a person's personal belongings or work equipment.

Respectful comments that are objective, intended to provide constructive feedback, and intended to assist employees with their work, are not considered bullying.

Responsibility of Employees

All employees are responsible for establishing and maintaining a workplace free of violence by treating others with dignity and respect.

Employees are encouraged to notify a supervisor, manager, or human resources representative in good faith, in a timely manner of the following:

- any threats or acts of violence or
- any behavior regarded as violent or a safety concern witnessed, heard, or heard about from another person at the workplace or potentially affecting the workplace.

All threats should be taken seriously. Employees should NOT confront individuals who are making threats. Threats should immediately be reported to a supervisor, manager, or human resources representative.

In cases of bullying or harassment, employees may inform the perpetrator that their actions are not acceptable and ask the person to stop. Employees who are not comfortable doing this should talk with a supervisor, manager or Human Resources Department.

Training

All employees should be familiar with the policy regarding workplace violence and the steps for dealing with workplace threats and emergencies. To follow the steps outlined in this policy, employees will receive information on how to identify, report and respond to violence in the workplace.

Confidentiality

The City understands the sensitivity of such information and will take action in ways that maintain the respect and dignity for individuals, while acting to address the situation. The information will be kept confidential to the extent possible, consistent with the best interests of the City and those involved.

No Retaliation/Discrimination

The City will not tolerate retaliation against anyone who, in good faith, reports an incident, or who cooperates in the investigation process.

Reporting potential violence, bullying, etc., will not impact an employee's standing or opportunities within the City.

Also, employees who experience any form of workplace violence should not retaliate against the perpetrator(s). Employees should use the reporting procedure to elevate concerns and keep the investigation focused on the perpetrator.

Counseling

When an employee requests, or the City mandates, professional assistance relating to this policy, the

Employee Assistance Program (EAP) will be contacted for counseling, support and referrals. This includes employees who are involved in partner/family violence.

Protective or Restraining Orders

Employees who obtain a temporary or permanent order of protection from a court that lists the City as a protected area must provide Human Resources with a copy of the petition and court order.

Right to Search

The City has the right to conduct searches of any items on City property. This can include desks, file cabinets, lockers, the employee's person, computers (including e-mail and internet), City provided cell phones or personal cell phone used for City business or anything brought onto or taken off its premises, when the City has reasonable suspicion. In certain situations, this may also involve appropriate law enforcement.

Emergency or Immediate Danger

If an employee is in immediate danger of harm while on City property, immediately call 911.

False Accusations

Employees who knowingly, willfully or in bad faith falsely accuse another person of such acts, will receive disciplinary action, up to and including termination.

ARTICLE XII.

DRUG AND ALCOHOL FREE WORKPLACE POLICY

Intent

The City of Hastings is committed to a drug and alcohol free workplace. Drug and alcohol testing of employees shall be determined based upon each employee's job classification and/or state or federal testing requirements.

Generally

Generally employees are divided for testing as follows:

1. Those employees who are subject to the federal Gas Pipeline, a copy of which is attached to this Employee Handbook as Appendix "A";
2. Employees who possess a CDL Driver's License which is maintained by the City; and
3. All other employees.

(It should be noted that an employee who qualifies in both 1. and 2. above may be included in both pools.)

This policy will not apply to:

1. This policy shall apply to all employees except for employees who are covered by a collective bargaining agreement that provides for different drug and alcohol testing as part of their collective bargaining agreement.
2. Law enforcement officers and fire and rescue personnel who have general or standing orders which cover drug and alcohol in their systems or who are subject to state or federal regulations governing their positions or who have legal custody of controlled substances obtained or used in the lawful performance of their duties.

3. Any employee that has been pre-approved to distribute alcoholic beverages at a City social event as a part of their legitimate duties. Pre-approval must be granted by the employee's department head or in the case of department heads, by the City Administrator. On such occasions, the employee is not to consume alcohol.

Alcohol Prohibitions

1. All employees are prohibited from using, purchasing, possessing, distributing, and being impaired or intoxicated by alcohol while at work or on duty.
2. An employee who refuses to submit to a post-accident, reasonable suspicion or follow-up alcohol test will be immediately suspended from their job duties pending review.
3. An employee shall not consume alcohol while on standby and being paid standby pay. Doing so could result in disciplinary action.

Drug Prohibitions

1. All employees are prohibited from using, possessing, distributing, and being impaired or intoxicated by controlled substances or illegal drugs while at work or on duty.
2. Prescription and over-the counter medications are not prohibited when taken in recommended dosage and/or according to a physician's direction or recommendation.
3. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of their job.
4. If the use of a medication could compromise the safety of the employee, fellow employees, the public or adversely affects the ability of the employee to reasonably perform their duties, it is the employee's responsibility to use appropriate procedures (e.g., call in sick, use leave time, request change of duty, notify supervisor, etc.) to avoid unsafe workplace practices.

Prohibitions for both Alcohol and Drugs

1. Any employee covered by this policy that refuses, fails a drug or alcohol test, or provides altered, substituted or diluted test specimen may receive disciplinary action, up to and including termination.
2. Any employee covered by this policy who refuses or fails a drug or alcohol test shall be immediately suspended from their job duties pending review.
3. All employees will be made aware of any modifications to this policy.

Confidentiality

1. Each employee's record of testing and results shall be maintained private and confidential with the exception of the testing laboratory, Medical Review Officer (if applicable), Human Resources and Safety departments, upon order of a court of competent jurisdiction or upon any State or Federal agency with regulatory authority, or as part of an accident investigation. The information shall include name-specific alcohol test results, records, and reports. The results of individual tests will not be released to anyone without the express written authorization of the individual tested.
2. All written records will be maintained in the Human Resources offices under the control of the Human Resources Director or his or her designee.

3. Unless an employee gives his or her written consent, the employee's drug and alcohol testing and/or rehabilitation records will not be released to a subsequent employer.
4. A covered employee is entitled, upon written request, to obtain copies of records pertaining to the employee's use of drugs or alcohol, including drug and alcohol tests.
5. The City may disclose information to an employee or the decision maker in a lawsuit, grievance, or other proceeding, and involving the results of a drug or alcohol test administered under this policy, or from the City's determination that the employee engaged in prohibited conduct.
6. The City shall release information regarding an employee's records as directed by the specific, written consent of the employee authorizing release to an identified person. Release of such information by the person or entity receiving the information is permitted only in accordance with the terms of the employee's consent.

Types of Drug Testing

1. Random Testing

- A. All employees are subject to unannounced testing based on random selection based on their job classification.
- B. The City of Hastings will random drug test at least 25 percent (25 %) of employees every twelve (12) months, conducted quarterly. All employees will be subject to be randomly picked for drug testing at each random testing date. An employee may be randomly picked more than once or not picked at all during the annual period.
- C. To assure that the selection process is random; all employees covered by this policy shall be placed in their respective common pool or pools. The random selection procedure will be a computer-based number generator that is matched with an employee's payroll identification number or any other identifying number.
- D. Employees who test positive have the right to have their sample retested, provided a written request for retesting is made within three (3) days of the initial positive finding. An employee will be responsible to pay in advance the cost of the retest, but will be reimbursed if the retest is negative.

2. Post-accident testing

- A. Employees who are involved in a workplace or traffic accident while on duty that results in bodily injury or property damage, **may** be required to take a drug test as soon as possible following the accident. **The decision will be made by the employees' supervisor, and the next highest supervisor, as to whether a test shall be required.**
- B. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- C. Employees who test positive have the right to have their sample retested, provided a written request for retesting is made within three (3) days of the initial positive finding. An employee will pay in advance the cost of the retest, but will be reimbursed if the retest is negative.
- D.

3. Reasonable cause testing

- A. When there is reasonable cause to believe that an employee covered by this policy is using a controlled substance or prohibited drug, the employee shall be required to take a drug and alcohol test.
- B. The employee's supervisor must substantiate with another supervisor the decision to test for reasonable cause. Both supervisors must have completed training in drug and alcohol use symptoms.
- C. A decision to test must be based on physical, behavioral, or performance indicators of possible drug use. Examples of this are evidence of repeated errors on the job, regulatory or City rule violations, or unsatisfactory time and attendance patterns, coupled with a contemporaneous event that indicates possible drug use.
- D. For purposes of reasonable cause, testing is limited to controlled substances and intoxicating components.
- E. Employees who test positive have the right to have their sample retested, provided a written request for retesting is made within three (3) **days** of the initial positive finding. The employee will pay in advance the cost of the retest but will be reimbursed if the retest is negative.

Types of Alcohol Testing

1. Random Testing

- A. All employees are subject to unannounced testing based on random selection based on their job classification.
- B. The City will random alcohol test at least ten percent (10 %) of the covered employees every twelve (12) months. Tests are conducted quarterly. All persons may be randomly picked more than once or not picked at all during the annual period.
- C. To assure that the selection process is random; all employees covered by this policy will be placed in their respective common pool or pools. The random selection procedure will be a computer-based number generator that is matched with an employee's payroll identification number or any other identifying number.

2. Post-accident testing

- A. Employees who are involved in a workplace or traffic accident while on duty that results in bodily injury or property damage shall be required to take an alcohol test as soon as possible following the accident.
- B. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

3. Reasonable cause testing

- A. When there is reasonable cause to believe that an employee covered by this policy is under the influence of alcohol, the employee shall be required to take a drug and alcohol test. No supervisor shall permit an employee who refuses to submit to such a test to perform or continue to perform their duties.

- B. The employee's supervisor must substantiate with another supervisor the decision to test for reasonable cause. Both supervisors must have completed training in drug and alcohol use symptoms.
- C. A decision to test must be based on physical, behavioral, or performance indicators of possible drug use. Examples of this are evidence of repeated errors on the job, regulatory or City rule violations, or unsatisfactory time and attendance patterns, coupled with a contemporaneous event that indicates possible alcohol use.
- D. No supervisor shall take any action under this subpart against an employee based solely on the employee's behavior and appearance in the absence of an alcohol test. The supervisor shall notify the Human Resources and/or Safety department that they are transporting the employee to the collection site.
- E. An employee who fails to remain available for testing for no good reason, not including medical attention, may be deemed to have refused to submit to testing.
- F. A covered employee shall not be permitted to report for duty or remain on duty while the employee is under the influence or impaired by alcohol.

Result of positive drug and/or alcohol test finding

- A. All employees who have a positive alcohol test or engage in prohibited alcohol misuse will be suspended from their duties and referred to the City Employee Assistance Program (EAP) for evaluation and rehabilitation under direction of a substance abuse professional either under contract or not affiliated with employer. Any employee who refuses to enter such a program could be subject to discipline up to and including dismissal.
- B. Participation in rehabilitation through the EAP will not result in disciplinary action. However, successful completion of the prescribed program will be required for the employee to continue in the employment of the City of Hastings. Only one rehabilitation program per employee is allowed. A positive test result, or a refusal to submit to a test, after a rehabilitation program will result in dismissal of the employee.
- C. Participation in rehabilitation through the EAP will not waive disciplinary action where warranted for violations of rules and regulations.
- D. An employee resolving problems associated with drug or alcohol misuse is subject to unannounced follow-up drug or alcohol testing as directed by a substance abuse professional.

Designated Personnel and Sites

Medical Review Officer for this program is Dr. A. A. Armstrong, M.D., WPCI, 1321 Broadway, Scottsbluff, NE 69361.

Drug and Alcohol collection site for this program is Mary Lanning Memorial Hospital, 715 North St. Joseph Avenue, Hastings, NE 68901.

Testing laboratory for this program is Clinical Reference Laboratory, 8433 Quivera, Lenexa, KS 66215.

ARTICLE XIII.

Computer Systems Security and Acceptable Use Policy

Purpose

To protect the City of Hastings from civil and criminal liability, and to protect the City of Hastings computer information systems against loss of information, unauthorized access and unnecessary performance degradation.

Employee agreement

All employees are required to sign a statement indicating that they have read and agree to adhere to the policy set forth below.

Licensed software and copyrighted materials

Employees must not copy software. Violations of software license agreements or copyright law can expose the City of Hastings and the responsible employee to civil and criminal penalties. This includes copying software onto City-owned computers as well as copying software onto computers owned by the employee.

Loss of Computerized information

The Information Technology Department has established procedures for making periodic backup copies of computerized City of Hastings information. Employees must not circumvent or interfere with these procedures, and must make reasonable efforts to avoid erasing or destroying City information. Employees must notify the Information Technology Dept. whenever data is mistakenly erased.

Software not provided by the City

Employees must not install any software on City owned computers. Any and all software installed on City owned computers must be purchased and installed by the Information Technology Department. If there is a need for additional software that is not installed on a computer, the employee must contact the Information Technology Dept.

Personal use of City of Hastings computers and software, and any personal use of computers and software provided by City of Hastings, is prohibited unless specifically authorized by the employee's supervisor and the Information Technology Department is notified.

Any information stored on City of Hastings-provided computers is the property of City of Hastings, and is in no way considered an employee's private or confidential information. City of Hastings management may review or inspect any employee's computer documents at any time.

Personal use of internet and email services

City of Hastings provides employees with internet and email services for the purpose of conducting City business. Any personal use of internet and e-mail services is prohibited unless specifically authorized by the employee's supervisor and the Information Technology Department is notified.

Any communication performed through City-provided internet or email services is the property of the City and is in no way considered an employee's private or confidential information. City of Hastings' management may review or inspect any employee's use of internet or email service at any time.

Employees must not spend work time with personal internet or email use. Any personal usage or anything of an illegal, sexual or inappropriate nature or consume excessive amounts of bandwidth such as downloading video and or audio files or file transferring utilizing peer-to-peer protocol including, but not

limited to, Bit Torrent is strictly prohibited and may subject the employee to disciplinary action up to and including dismissal.

Computer viruses

The Information Technology Department is responsible for installing and maintaining virus protection software on all City computers whose operating systems are vulnerable to virus infection. Employees must not circumvent or interfere with this virus protection, and must not intentionally introduce a computer virus into a City computer whether by receiving an infected email message, by copying from an infected drive, or any external mass storage device, or by copying infected data from a portable device. These actions may subject the employee to disciplinary action up to and including termination.

Passwords

Employees must not disclose their computer passwords to anyone, except as required by the Information Technology Department for testing or administrative purposes. Passwords must not be written down in a place where they might be discovered. Employees must change passwords periodically and must choose passwords that cannot be easily guessed.

Use of City computers off-site

Employees must not take City computers off-site unless specifically approved by the employee's supervisor and the Information Technology Department is notified of the location. Whenever a City computer is taken off-site, the employee doing so must protect the computer from physical damage and from use by anyone else.

Employee owned computers and networkable devices

Only City owned computers and networkable devices are allowed to be connected to the wired City of Hastings Corporate Local Area Network. Under no circumstances are City employees allowed to connect an employee-owned computer or networkable device to the wired City of Hastings' Corporate Local Area Network. Networkable devices include but are not limited to; Desktop Computers, Laptop Computers, Printers, PDAs, 'Smart' phones, managed switches, unmanaged switches, Game consoles, Wi-Fi Access Points (APs), and Servers. Use of these computers or devices may subject the employee to disciplinary action up to and including dismissal.

City owned computers and networkable devices

City owned networkable devices should not be connected or disconnected from the City of Hastings' Corporate Local Area Network (wired or Wi-Fi) unless specifically approved by the supervisor and the Information Technology Department is notified. Networkable devices include but are not limited to; Desktop Computers, Laptop Computers, Printers, PDAs, 'Smart' phones, managed switches, unmanaged switches, Wi-Fi Access Points (APs), and Servers. Connecting or disconnecting these computers or devices without supervisor approval and notification of the Information Technology Department may subject the employee to disciplinary action up to and including dismissal.

Non-City-owned files and data storage devices

Employees must not access, open, or transfer any non-City-owned files to City-owned computers that could modify the computers configuration in any way. These files include but are not limited to the following types; .exe, .iso, .dll, etc.

Employees must exercise extreme caution when using non-City-owned data storage devices, using them only when absolutely necessary and only from trusted organizations/individuals who can confirm the safety of its contents. Data storage devices include but are not limited to; thumb drives, flash drives, or

any device using flash memory with an integrated USB interface, NAS devices (network attached storage), and external hard drives. If a data storage device is required for work related file transfers, contact the Information Technology Department.

City of Hastings
Business Usage of Cell Phone Policy

1. Policy Summary Statement

- (a) The purpose of this policy is to provide a procedure for the City of Hastings employees to follow in regards to the business use of personally owned cell phones, the personal use of all cell phones during work hours, and personnel eligible to receive a City of Hastings cell phone or reimbursement for work-related use of personally owned cell phones.
- (b) This policy does not apply to Police Department or Fire Department Employees.

2. Procedure

(a) General

- (1) Use of cell phones to conduct official City of Hastings business is helpful in situations where other means of communication are not readily available. i.e. landline telephones radios.
- (2) Use of personal cell phones for personal use during work hours is not prohibited but employees are expected to exercise discretion and are encouraged to refrain from such activity until their designated break or lunchtime.
- (3) City of Hastings may acquire and assign cell phones to individual departments. It is expected that the employee shall have with them the assigned cell phone at all times during work hours. Use of these cell phones is for the convenience of the City to aid in its' efficient performance when employees are frequently away from access to traditional landline telephone service. A Cell Phone Authorization and Agreement form shall be filled out for each City phone and submitted to the Information Technology Department
- (4) In addition, City of Hastings will provide qualifying employees with a City of Hastings cell phone or the option of reimbursement for the use of the employee's personal cell phone for business use. A Cell Phone Authorization and Agreement form shall be filled out for each of these phones and submitted to the Information Technology Department.
 - (a) Qualifications for employees use of a cell phone are the following:
 - Employee is frequently away from access to traditional landline telephone service.
 - The nature of the employee's work is critical to the operation of the City of Hastings requiring immediate and direct accessibility/response during business or non-business hours that cannot be accommodated by another device.
 - The anticipated level of business use is significant whether in volume of calls or importance of the call.

- The nature of the employee's work requires immediate access to their City of Hastings email account and Internet access via a smartphone during business and non-business hours.
- Employee is a key staff member needed in the event of an emergency, playing a key role in problem solving and decision-making.
- Criteria to be reviewed on an annual basis

(b) Employees have certain expectations that come with the responsibility of their position. The employee's work is critical to the operation of the City of Hastings, at times requiring direct accessibility/response and cannot be accommodated by another device.

(1) Employees have the following expectations for use whether it is with a City of Hastings phone or their personal phone for which reimbursement is being made:

- The employee will have with them the cell phone at all times during working hours.
- If employee is in a supervisory role, they may be required to have with them the cell phone during non-business hours per their departmental needs.
- Salaried employees, when required shall reply to emails or other internet usage during business or non-business hours.

(b) City of Hastings owned and provided cell phones

(1) Employees must ensure cell phones are only used for business purposes and not in an illegal, illicit or offensive manner. The City of Hastings will maintain oversight of their department's City of Hastings owned cellular phone usage to ensure that use is appropriate and prudent fiscal management practices are followed.

(c) Reimbursement for Qualifying Employees

(1) This reimbursement provides the employees with funds to help defray the cost of acquiring and maintaining cell phone services that would be used to conduct City of Hastings business. See the attached list for the positions eligible for reimbursement. Employees that qualify for cell phone reimbursement and choose to use their personal phone for business use shall receive a monthly reimbursement in an amount determined in the annual budget process.

(d) Employees that choose to use their personal phone for business use shall submit a completed Cell Phone Authorization and Agreement form to the Information Technology department where the employee's phone number will be added to the official phone directory. It will be distributed to the Human Resource Department where it will be kept in the employee's file and to the Accounting Department for reimbursement of funds to the employee.

- (e) If there is a change in an employee's responsibilities that would disqualify them from continuing to receive reimbursement, the supervisor must immediately take the necessary steps to modify the benefit, effective with the date that the employee's responsibilities changed.
- (f) On an annual basis the employee will be given the opportunity to make changes to their choice of using a personal phone for business use.
- (g) Qualifying employees receiving reimbursement shall acquire and maintain an active cell phone service that provides national coverage and has an activated voicemail feature as well as, and if appropriate, a data plan. Qualifying employees should notify the Human Resources Department within 15 days of any changes in his/her cell phone service during the fiscal year. The employee's cell phone number will be placed in the contact/directory lists.
- (h) The City of Hastings is not liable for any damages to an employee owned phone during the use of the phone for work purposes.

3. Safety

Any employee utilizing a cell phone shall comply with all provisions set forth in the City of Hastings Fleet Management Policy and the City of Hastings Employee Handbook as the same may, from time to time, be amended.

4. Privacy

No employee using his or her personal device should expect any privacy except that which is governed by law. City of Hastings has the right, at any time, to monitor and preserve any communications that use the City of Hastings's networks in any way, including data, voicemail, telephone logs, internet use and network traffic, to determine proper use. City of Hastings reserves the right to review or retain personal and City of Hastings related data on personal devices or to release the data to government agencies or third parties during an investigation or litigation. The City of Hastings may review the activity and analyze use patterns and may choose to publicize these data to ensure that City of Hastings resources in these areas are being use according to this policy. Furthermore, no employee may knowingly disable any network software or system identified as a monitoring tool.

5. Effective Date

This policy shall become effective October 1, 2021

City of Hastings
Cell Phone Authorization and Agreement Form

This form is to be used in conjunction with the Business Usage of Cell Phone Policy to request a phone for an individual or for departmental use and to also to receive reimbursement of personal phone use for those eligible.

Section 1

Employee _____ Date _____
Job Title _____ Department _____

1. _____ Employee meets all qualification requirements per Section 2(a) 4 of the Business Usage of Cell Phone Policy

(A). _____ Employee requests reimbursement for personal phone use
(fill out Section 2)

(B). _____ Phone to be a departmental phone

Section 2

It has been determined that _____ is a City of Hastings employee that conducts certain City related business which at times requires the use of a cell phone and therefore qualifies for reimbursement. Rather than being issued a cell phone by the City of Hastings, employee desires the ability to utilize his/her own personal cell phone for City business purposes in exchange for a monthly per diem (non-taxable to employee).

_____ Phone service with data plan (\$30.00 per month)

Employee understands and agrees that in exchange for the monthly per diem stated above, employee will adhere to all of the stipulations outlined in the "Business Usage of Cell Phone Policy". Employee's cell phone will be listed in the phone directory.

The employee's cell phone number: _____

This agreement may be modified on an annual basis before January 1 each year.

Date

Date

Signature

Signature

Employee Name

Department Head

*Please return to Information Technology Department

CHAPTER 7 PURCHASING

Article I. Purchasing

7-101.	Title.
7-102.	Definitions.
7-103.	Office of purchasing agent.
7-104.	Responsibilities and duties of purchasing agent.
7-105.	Encumbrance of funds.
7-106.	Prohibition of interest; adoption of state law.
7-107.	Gifts and rebates.
7-108.	Formal contract procedure.
7-109.	Informal bidding.
7-110.	Emergency purchases.
7-111.	Inspection and testing.
7-112.	Surplus stock.
7-113.	Prescribed authority structures.
7-114.	Exceptions.
7-115.	Contract and agreement approval.

Sec. 7-101. Title.

This article shall be known and may be cited as the "Purchasing Ordinance of the City of Hastings."

Sec. 7-102. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Bid shall mean and include all bids and proposals.

City is the City of Hastings, Nebraska.

City purchasing agent is the purchasing agent of the City of Hastings or his or her designee.

Contractual services shall mean and include all telephone, gas, water, electric light and power service, towel and cleaning service, insurance, lessee for all grounds, building, office or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery, and other city-owned property. The term shall

not include professional and other contractual services which are in their nature unique and not subject to competition.

Supplies shall mean and include all supplies, materials, and equipment.

Using agency is any department, agency, commission, bureau, or other unit in the city government using supplies or procuring contractual services as provided for in this article.

Sec. 7-103. Office of purchasing agent.

The purchasing agent shall be appointed by the city administrator and under the direction and control of the city administrator, and shall be responsible for the efficient conduct of his or her office.

Sec. 7-104. Responsibilities and duties of purchasing agent.

The purchasing agent shall have the responsibility:

- (1) To purchase or contract for all supplies and contractual services needed by any using agency which derives its support wholly or in part from the city, in accordance with procedures as prescribed by city ordinance and such rules and regulations as the purchasing agent shall adopt for the internal management and operation of the purchasing functions;
- (2) To procure for the city the highest quality in supplies and contractual services at the least expense to the city; to endeavor to obtain as full and open competition as possible on all purchases and sales; and to establish and amend, when necessary, all rules and regulations authorized by city ordinance and any others necessary to its operations;
- (3) To explore the possibilities of purchasing "in bulk," so as to take full advantage of discounts; to procure for the city all tax exemptions to which it is entitled; and to cooperate with the city administrator or his or her duly authorized representative, so as to secure for the city the maximum efficiency in budgeting and accounting;
- (4) To prescribe and maintain such forms as shall be reasonably necessary to the operation of purchasing; to prepare and adopt standard purchasing terms for city departments, agencies and suppliers;
- (5) To have the authority to declare vendors who default on their quotation irresponsible vendors and to disqualify them from receiving any business from the municipality for a stated period of time;

- (6) To keep informed on current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions having national recognition and by private businesses and organizations;
- (7) To perform any related duties assigned by the city administrator.

Sec. 7-105. Encumbrance of funds.

Except in cases of emergency, the purchasing agent may refuse to issue any order for delivery on a contract or open market purchase until it has been certified, after pre-audit, that there is sufficient unencumbered appropriation balance to the credit of the using agency or department, in excess of all unpaid obligations, to defray the amount of such orders.

Sec. 7-106. Prohibition of interest; adoption of state law.

Any purchase order or contract within the purview of this article in which the purchasing agent is financially interested, directly or indirectly, shall be void, except that before the execution of a purchase order or contract, the city council shall have the authority to waive compliance with this section when it finds such action to be in the best interest of the city.

Neb. Rev, Stat, §16-502, as the same may from time to time be amended, is hereby incorporated into this article.

Sec. 7-107. Gifts and rebates.

The purchasing agent is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the city.

Sec. 7-108. Formal contract procedure.

(a) When the estimated cost of supplies, equipment or contractual services exceeds forty thousand dollars (\$40,000.00), no formal contract for purchase or sale shall be authorized until the contract, if any, has been reviewed by the city attorney, and without prior approval of the city council. All supplies, equipment, and contractual services in this category shall be purchased or sold by formal written contract, from the lowest responsible and responsive bidder, after due notice inviting bids.

(b) The municipal electric utility, water utility, sewer utility or gas utility may enter into a contract for the enlargement or improvement of their respective system or for the purchase of equipment used for such enlargement or improvement if the price of the same is under one hundred twenty thousand dollars (\$120,000.00).

(c) Notice inviting bids shall be published once in at least one official newspaper in the city and at least seven (7) days preceding the last day set for the receipt of bids. The notice shall include a general description of the articles to be purchased or sold, and shall state where bid blanks and specifications may be secured, and the date, time and place for opening bids.

- (1) The purchasing agent shall also endeavor to distribute bid documents to responsible prospective suppliers of whom the purchasing agent may be aware.

(d) When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to a return of surety required by the purchasing agent. Successful bidder shall forfeit his or her bid deposit upon failure on his or her part to enter a contract within ten (10) days after being notified of the award.

(e) Bids shall be sealed and submitted to the purchasing agent or city clerk as directed in the request for bid and shall be identified as bids on the envelope. Bids shall be opened in public on the date and at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection.

- (1) The city council shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
- (2) The purchasing agent shall not accept the bid of a contractor who is in default on the payment of taxes, licenses, or other monies due the city.

(f) Contracts shall be awarded to the lowest responsible and responsive bidder. In determining "lowest responsible bidder," in addition to price, the purchasing agent shall consider:

- (1) The ability, capacity, and skill of the bidder to perform the contract required;
- (2) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (3) Whether the bidder can perform the contract within the time specified;

- (4) The quality of performance of previous contracts;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
- (6) The life-cost of the personal property in relation to the purchase price and specific use of the item;
- (7) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (9) The information furnished by each bidder when deemed applicable by the purchasing agent, concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;
- (10) Such other information as may be secured having a bearing on the decision to award the contract.

A "responsive bidder" shall be defined as a person or company who has submitted a bid which conforms in all material respects to the "Invitation for Bids".

(g) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with other papers relating to the transaction.

(h) No contract in excess of thirty thousand dollars (\$30,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, works on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property shall be awarded by the city council until an estimate of the cost shall be made by the city engineer and submitted to the council.

(i) The electric utility shall not enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is over one hundred twenty thousand dollars (\$120,000.00).

(j) Except in the case of tie bids, there shall be neither formal, or tacit local vendor's preference policies. The city shall neither impose nor condone any bidding or procurement policies that result in exclusionary or anti-competitive bidding or violate

state or federal antitrust laws. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. Where there is no local bidder or when two (2) or more local bidders are equal, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public.

(k) The city, whenever applicable, may purchase supplies, equipment, or services without the necessity of using the formal bid requirements as set forth in this section by either:

- (1) Purchasing under a State of Nebraska contract; or
- (2) Purchasing the same supplies, equipment, or services from another vendor at or below the purchase price of a State of Nebraska contract; or
- (3) Purchasing under a contract or agreement compliant with the Interlocal Cooperation Act where the acquisition cost of the item being purchased has been established through a public procurement process; or
- (4) Purchasing under a contract or agreement with a Joint Public Agency where the cost of the item being purchased has been established through a public procurement process; or
- (5) Purchasing where the entire cost of the supplies, or services is one hundred percent (100%) funded by a donation to the city for said supplies, equipment, or services, and the following criteria are met:
 - a) the project utilizing said supplies, equipment, or services has been approved by the city in advance of the donation to the city, and
 - b) the donor has requested that particular supplies, equipment, or services be acquired by the city with the donated funds, and
 - c) the city, before accepting the donation, has considered the criteria set forth in subsection (f) of this section and has declared that, having considered the criteria set forth in subsection (f), it is in the best interest of the city; or
- (6) Purchasing used equipment with prior authorization of the council; or
- (7) Purchasing items that are available only from a single source; or
- (8) Purchasing parts and labor needed for maintenance and repairs, or

- (9) Purchasing consumables and fuels.

Sec. 7-109. Informal bidding.

(a) When the estimated cost of supplies, equipment or contractual services is less than forty thousand dollars (\$40,000.00), or less than one hundred twenty thousand dollars (\$120,000.00) in the event of a purchase by the municipal utility, the purchase shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed for the award of formal contracts and shall be referred to as open market purchases. All such purchases shall be awarded by the purchasing agent.

(b) All open market purchases in an amount greater than ten thousand dollars (\$10,000.00) but less than forty thousand dollars (\$40,000.00) or in the event of a purchase by the municipal utility greater than ten thousand dollars (\$10,000.00), but less than one hundred twenty thousand dollars (\$120,000.00), shall, whenever possible or practicable, be based on at least three (3) competitive bids, and shall be awarded to the "lowest responsible and responsive bidder," in accordance with the same criteria established in this article for the formal contract procedure. All such purchases shall be awarded by the purchasing agent.

(c) All open market purchases of ten thousand dollars (\$10,000.00) or less may be made by utilizing open monthly purchase orders or by purchasing from available sources without the necessity of a bid.

(d) The purchasing agent may solicit open market bids by direct mail request to prospective vendors, by public notice on bulletin board, by telephone, by facsimile transmission, by electronic mail or other electronic means.

(e) The purchasing agent shall keep a record of all open market orders, and the bids submitted in competition thereon, and such records shall also be open to public inspection.

(f) The city, whenever applicable, may purchase supplies, equipment, or services without the necessity of using the informal bid requirements as set forth in this section by either:

- (1) Purchasing under a State of Nebraska contract; or
- (2) Purchasing the same supplies, equipment, or services from another vendor at or below the purchase price of a State of Nebraska contract; or
- (3) Purchasing under a contract or agreement compliant with the Interlocal Cooperation Act where the acquisition cost of the item being purchased has been established through a public procurement process; or

- (4) Purchasing under a contract or agreement with a Joint Public Agency where the cost of the item being purchased has been established through a public procurement process; or
- (5) Purchasing where the entire cost of the supplies, or services is one hundred percent (100%) funded by a donation to the city for said supplies, equipment, or services, and the following criteria are met:
 - d) the project utilizing said supplies, equipment, or services has been approved by the city in advance of the donation to the city, and
 - e) the donor has requested that particular supplies, equipment, or services be acquired by the city with the donated funds, and
 - f) the city, before accepting the donation, has considered the criteria set forth in subsection (f) of this section and has declared that, having considered the criteria set forth in subsection (f), it is in the best interest of the city; or
- (6) Purchasing used equipment with prior authorization of the council. or
- (7) Purchasing items that are available only from a single source, or
- (8) Purchasing parts and labor needed for maintenance and repairs, or
- (9) Purchasing consumables and fuels.

Sec. 7-110. Emergency purchases.

(a) In the event of an emergency which requires immediate purchase of supplies or contractual services, the city administrator shall be empowered to authorize the purchasing agent to secure by open market procedure as herein set forth, at the lowest obtainable price, any supplies or contractual services.

(b) An "emergency" shall be defined as any event which interrupts the normal administration of municipal services, thereby jeopardizing the life, health or convenience of citizens.

(c) Should an emergency situation arise on a weekend or holiday, and where it is not possible or convenient to reach the purchasing agent, any purchase necessary shall be made by the department in charge and such purchase reported to the purchasing agent without delay.

(d) A report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the city administrator.

Sec. 7-111. Inspection and testing.

(a) The purchasing agent shall inspect, or supervise the inspection of, all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.

(b) The purchasing agent may authorize using agencies or departments having the staff and facilities for adequate inspection to inspect all deliveries made to such agencies or departments, under rules and regulations which the purchasing agent shall prescribe.

(c) The purchasing agent may require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority, to make use of laboratory facilities of any agency of the city government or any outside laboratory.

Sec. 7-112. Surplus stock.

All agencies and departments shall submit to the purchasing agent, at such time and in such form as he or she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

The purchasing agent shall have the authority to sell or dispose of all surplus supplies and equipment of less than forty thousand dollars (\$40,000.00) in value which have become unsuitable or unnecessary for public use. The purchasing agent shall sell or dispose of the property by any method which is most advantageous to the city, including auction, sealed bid, private or public sale, or trade-in for other property. All sales of equipment or supplies of forty thousand dollars (\$40,000.00) or more in value shall require the prior approval of the mayor and city council.

Sec. 7-113. Prescribed authority structures.

Insofar as the sale or purchasing procedures of this policy are concerned, the following authority structure shall apply:

- (1) Every city employee shall requisition for supplies, equipment or services only with the approval of the employee's department head or duly authorized representative;

- (2) After obtaining the approval of the department head, the employee shall forward the information regarding the proposed purchase or sale to the purchasing agent. The purchasing agent shall determine the disposition of the proposed purchase or sale according to the procedures and authority specified in this article;
- (3) Any city employee who desires to appeal a decision of the purchasing agent shall appeal only to the city administrator, unless the city administrator determines that the final decision should rest with the mayor and city council and be determined in public session, his decision in all cases shall be final;
- (4) No city employee shall circumvent that prescribed authority structure of this policy without permission of the city administrator.

Sec. 7-114. Exceptions.

Insofar as the authority of the purchasing agent is concerned, this policy shall not apply to construction contracts for special improvement districts nor to state or federally funded programs that mandate a different contracting procedure, nor to contracts for legal services.

Sec. 7-115. Contract and agreement approval and signing.

- (a) Contracts and agreements for supplies, equipment materials, and contractual services which exceed forty thousand dollars (\$40,000.00), or in the event of a purchase by the municipal utility for supplies, equipment, materials and contractual services which exceeds one hundred twenty thousand dollars (\$120,000.00) shall be approved by the City Council and signed by the Mayor unless:
 - (1) The amount of the expenditure or contract is less than any amount budgeted for the subject supplies, equipment, materials or contractual subjects in which case the contract or agreement need not be approved by the City Council, but shall be signed by the Mayor.
- (b) Multiple year contracts and agreements for supplies, equipment, materials and contractual services exceeding forty thousand dollars (\$40,000.00) over the life of the contract or agreement, or in the event of a purchase by the municipal utility for supplies, equipment, materials and contractual services exceeding one hundred twenty thousand dollars (\$120,000.00) over the life of the contract or agreement shall be approved by the City Council and signed by the Mayor.
- (c) Contracts and agreements for supplies, equipment, materials and contractual services not exceeding forty thousand dollars (\$40,000.00), or in the event of

a purchase by the municipal utility for supplies, equipment, materials and contractual services not exceeding one hundred twenty thousand dollars (\$120,000.00) may be signed by department heads.

- (d) Other contracts, agreements, memorandums of understanding and other similar documents not described in this section shall be signed by the Mayor or by his or her designee.

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