

## **CHAPTER 3**

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### Article I. In General.

#### 3-101. Citation of chapter.

This Chapter is hereby designated as and may be cited as "Personnel Rules and Regulations."  
(Ord. No. 2911)

#### 3-102. 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, sex, religious or political opinions or affiliations, marital status, veteran status, physical or mental handicap, or other non-merit factors. The personnel management system of the City of Hastings, of which these rules are a part, is designed to bring to the City Service 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 in the City Service;
- (5) to provide fair and equal opportunity for qualified persons to enter and progress in the City Service based on merit and fitness as ascertained through fair and practical personnel rules and regulations;
- (6) to enhance the attractiveness of a city career and encourage employees to give their best efforts to the city and the public.

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(Ord. No. 2911)

### **3-103. Adoption of rules.**

These rules shall have the force and effect of law when enacted 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and City Council, whereupon any conflicting rules, regulations, policies and procedures previously adopted shall be superseded to the extent of the conflict.

(Ord. No. 2911)

### **3-104. Personnel/Civil Service Commission -- Appointment and terms.**

There is hereby created a Personnel/Civil Service Commission which shall be composed of three members who shall be appointed by the Mayor with approval of the City Council and who shall serve without compensation. No person shall be appointed a member of the Commission who holds an elective office, is not a citizen of the United States, a resident of the city for at least three years immediately preceding such appointment and an elector of the county. In the event a member of the Commission should remove his residence from the city during his term, he shall resign at once and a successor be appointed within thirty days thereafter. The term of office for the Personnel/Civil Service Commissioners shall be for six years; except, that those who were holding appointments as Civil Service Commissioners at the date of adoption of this ordinance shall serve for the period of time remaining on their appointment with the term of office to expire the first day of July after the full period has been served. Vacancies shall be filled by the appointive power to serve for the balance of the term of the member of the board whose position becomes vacant.

(Ord. No. 2911)

### **3-105. Meetings.**

(1) The Chairman shall preside at all meetings of the Commission. Meetings of the Commission shall be held at least once a month, and at such additional times as may be required for the proper discharge of its duties.

(2) Regular meetings of the Commission shall be held each month in the City Building. Notice of postponement of meetings shall be posted in the office of the Commission.

(3) Special meetings may be held at any time, upon a call of the Chairman or the Secretary or any two Commissioners, by giving twenty-four hour's notice to each Commissioner.

(4) The regular order of business shall be: Reading of minutes, finance and communications.

(5) Robert's Rules of Order shall be the rules of order of the Commission in all cases not provided for.

(Ord. No. 2911)

### **3-106. Procedures for investigations.**

(1) The Commission shall have authority to make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed hereunder; to inspect all institutions, departments, offices, places, positions and employments affected by this chapter; and to ascertain whether the provisions of this chapter and all rules and regulations are being obeyed.

(2) The Commission shall also have authority to make investigations on the written petition of a citizen, duly verified, stating that irregularities or abuses exist and setting forth, in concise language, the necessity for such an investigation.

(3) In the course of investigations, the Commission, designated Commissioner, or the Secretary shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts in this state.

(Ord. No. 2911)

### **3-107. Amendment of rules.**

Amendment of these rules may be requested in writing to the Commission by the Secretary, committees, commissions and boards. The Commission shall review such recommendations and by its choice make

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written recommendations to the City Council. The City Council shall act upon written recommendations from the Commission for the amendment of these rules by adopting or rejecting amendments under each proposed heading without modification. All amendments of these rules shall have the force and effect of law when enacted as an ordinance. No amendments to this chapter shall be enacted by the City Council except as provided hereinabove; provided, however, that the Council may amend any part of Articles IV and V of this chapter without receiving any recommendations from the Commission. (Ord. No. 2911)

### 3-108. Definitions.

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

(1) Allocation. The term "allocation" means the assignment of a position to a class on the basis of the kind, difficulty, and responsibility of work of the position.

(2) Appointing Authority. The term "appointing authority" means the officer or any person having legal authority to make appointments to positions in the City Service.

(3) Appointment. The term "appointment" means the designation to a position in the City Service of a person who has qualified for the appointment through a determination of fitness.

(4) Certification. The term "certification" means the act of the Commission in supplying an appointing authority with the names of applicants who are eligible, in accordance with the provisions of these rules, for appointment to a position for which certification is requested.

(5) City Service. The term "City Service" means all classified positions in the Civil Service and the Merit Service.

(6) Civil Service. The term "Civil Service" means all classes of positions that are designated Civil Service positions.

(7) Class Specification. The term "class specification" means the written description of a position including the title, statement of the duties and responsibilities, and the minimum requirements appropriate upon entrance for satisfactory performance in a position of the class.

(8) Commission. The term "Commission" means the Personnel/Civil Service Commission.

(9) Demotion/Reduction. The term "demotion" means the movement of an employee from one position in one class to a position in another class having a lower maximum salary rate.

(10) Department. The term "department" means a major operating functional unit of the executive branch of city government.

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

(12) Eligible. The term "eligible" means a person whose name is on an active re-employment or eligible list and who may, under these rules, be certified for appointment to a position in the City Service.

(13) Eligible List. The term "eligible list" means a list of persons for a class or classes of positions in the City Service to which they are qualified for appointment.

(14) Employee. The term "employee" means persons appointed to positions in the City Service.

(15) Examination. The term "examination" means all actions appropriate and necessary to discern an applicant's fitness for certification.

(16) 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.

(17) Merit Service. The term "Merit Service" means all classes of positions designated as Merit Service positions which includes all employee positions except those in the Civil Service.

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(18) Original Appointment. The term "original appointment" means appointment to a position in the City Service of a person who is not a present employee of the city and who is not being reinstated from a re-employment list.

(19) Overtime. The term "overtime" means authorized time worked in excess of the individual's regular work day and/or regular work week.

(20) Part-time Employee. The term "part-time employee" means an employee who has been appointed to a position in the City Service that requires less than 40 hours per week.

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

(22) Performance Test. The term "performance test" means a test that measures the applicant's skill in performing a specified type of work by evaluating the actual performance of such work.

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

(24) Promotion. The term "promotion" means the movement of an employee from a position of one class to a position of another class having a higher maximum salary rate.

(25) Provisional Appointment. The term "provisional appointment" means an appointment not to exceed four (4) months to a classified position.

(26) Re-allocation. The term "re-allocation" means the official determination that a position be assigned to a class different from the one to which it was previously assigned.

(27) Re-employment List. The term "re-employment list" means a list of persons who have been but are no longer regular employees in a particular class and who are entitled to have their names certified for appointment to a position in that class without examination.

(28) 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.

(29) Reserved.

(30) Reprimand. The term "reprimand" means an oral or written notice to an employee informing him of the specific manner in which his work performance or conduct does not meet prescribed standards.

(31) 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.

(32) Supervisor. The term "supervisor" means any person responsible to a superior for directing the work of others.

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

(34) 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.

(35) Unassembled Examination. The term "unassembled examination" means an examination which does not require all candidates to assemble in the same place.

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

(37) Veteran. The term "veteran" means a citizen of the United States and in active service for more than 90 consecutive days in time of any war which this country has been or shall hereafter be engaged; including the periods between April 6, 1917 and November 11, 1918; between December 7, 1941 and December 31, 1946; between June 25, 1950 and January 31, 1955; and between August 5, 1964 and May 7, 1975; and

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who has been discharged or released under honorable conditions; provided, however, that attendance at a school under military orders, except schooling incidental to an active enlistment or regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or national guard unit shall not be considered active service within the meaning of this definition; and provided further, that any such citizen otherwise eligible, who was discharged or released under honorable conditions on account of service connected to injury or illness prior to completion of such 90-day service shall nevertheless be deemed to be a veteran.

(38) Work Day or Working Day. The term "work day or working day" means any one shift or period of time during which a department is open for business or on which an employee is scheduled to work.

(39) Work Week. The term "work week" means the number of hours regularly scheduled to be worked during any seven consecutive days by an individual employee.

(40) Benefits. The term "benefits" includes vacation, sick leave, holidays, and health insurance, but shall not include pensions. The right of employees to pensions shall be governed under Chapter 4 of the Hastings City Code.

(Ord. No. 2911 and 3669-12/98)

### **3-109. Applicability of chapter.**

All City Service employees of the City, or of any department, shall be governed and subject to the provisions of this chapter. Excluded are all elected officials, persons appointed to advisory and administrative boards and commissions, and department heads generally with the specific exceptions of the Chiefs of the Fire and Police Departments. Department heads, generally, include those appointed by the Mayor as specified by the Code, those appointed by the Board of Public Works as specified in Section 32-209 of the City Code and those department heads appointed by the Library Board and the Museum Board.

(Ord. No. 2911)

### **3-110. 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, color, national origin, marital status, veteran status or other non-merit factors is prohibited. Discrimination on the basis of age, sex or physical requirements is prohibited except where specific age, sex or physical requirements constitute statutory or other bona fide occupational qualifications necessary to proper and efficient administration. (Ord. No. 2911)

### **3-111. Prohibited actions.**

The following actions are prohibited:

(1) to aid or harm a person in respect to registration, examination or standing as specified by state statute 19-1815;

(2) to aid or harm an employee, to promise or to threaten to do so on account of a political contribution or political service as specified by state statute 19-1816.

(Ord. No. 2911)

### **3-112. Political activities prohibited.**

No employee of the city governed by these rules shall take part or engage in city political activity.

(Ord. No. 2911)

### **3-113. Penalty for violation of prohibited actions.**

Any officer or employee of the city who violates any of the provisions of Section 11-110, 11-111 or 11-112 shall be guilty of a misdemeanor with the penalty of forfeiture of office or position. (Ord. No. 2911)

### **3-114. Conflict with collective bargaining agreement.**

In the case of conflict between the terms in Articles IV, V, and VIII of this chapter and the provisions of

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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.  
(Ord. No. 2911)

### **3-115. Status of present employees.**

Any person holding a position in the Civil Service and who has been in the employ of the city for a period of six (6) months when this chapter takes effect shall be retained but thereafter shall be subject in all respects to the provisions of this chapter. Any other employees in the Civil Service holding a probationary appointment shall be governed by the existing Civil Service rules and regulations until the expiration date of their probationary period, whereupon they shall be subject in all respects to the provisions of this chapter.  
(Ord. No. 2911)

## **Article II. Duties and Powers.**

### **3-201. Powers and duties -- Mayor and council.**

(1) The Mayor shall appoint members of the Commission with the approval of the City Council. At the time of any appointment, not more than two Commissioners, including the ones to be appointed, shall be adherents of the same political party.

(2) The Mayor and the City Council shall provide for the compensation of employees.

(3) The Mayor and the City Council shall create all places, positions, and employments.

(4) The Mayor may, with City Council approval, remove Commissioners as specified in state statutes.  
(Ord. No. 2911)

### **3-202. Powers and duties -- Personnel/Civil Service Commission.**

(1) The commission shall organize by electing one of their members Chairman upon the appointment of each new member or the re-appointment of a current member.

(2) The Commission shall hold regular meetings at least once a month and such additional meetings as may be required to discharge its duties. Two members of the Commission shall constitute a quorum. The concurring votes of two members of such Commission shall be sufficient for the decision of all business matters and the transaction of all business to be decided or transacted by the Commission, under or by virtue of the provisions of this chapter.

(3) The Commission shall appoint some person as its Secretary and Chief Examiner as a result of a competitive examination.

(4) The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of these rules and of the rules of the Commission.

(5) The Commission shall oversee the administration of the City Service, which includes the following duties:

(a) To make suitable rules and regulations for the discharge of this duty.

(b) To provide that tests for such positions shall be practical and consist only of such subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include tests of physical fitness and of manual skill.

(c) To provide rules for veteran preference credits as follows:

(i) A credit of ten percent in favor of all veterans on entrance examinations for Civil Service positions.

(ii) A credit of five percent in favor of all veterans receiving passing scores on Merit Service entrance examinations and another five percent to all disabled veterans on entrance examinations.

(d) To make investigations and report upon all matters touching on the enforcement of provisions having to do with the City Service.

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(e) To hear and determine all appeals and grievances having to do with the City Service.

(f) To provide rules for all hearings and investigations.

(g) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any City Service class or position and, as a result thereof, establish eligible lists for the various classes of positions.

(h) To provide that persons laid off from the Fire Department or Police Department because of curtailment of expenditures, reduction in force, or similar causes, shall be the last person or persons, including probationers, that have been appointed to the Fire Department or Police Department. Such removal shall be accomplished by laying off in order of date of original appointment, beginning with the most recent, until such necessary reductions have been accomplished. Such persons laid off shall be reinstated prior to any new appointments to the same department.

(i) To certify, on a written request, when a vacant position is to be filled, to the appointing authority the name or names of persons on the re-employment list.

(j) To maintain a roster of officers and employees.

(k) To establish a classification plan for the City Service.

(l) To review department rules and regulations to determine whether or not they are in conformance with these personnel rules and regulations.

(m) To publish all personnel and Commission rules and regulations.

(n) To establish what shall be required in the manner of City Service payment documents in the manner specified in state statute 19-1812.

(o) To keep such records as may be necessary for the administration of their duties.

(p) To make investigations concerning these personnel rules and regulations.

(q) To make recommendations concerning employee time records, compensation, evaluation, working conditions, and other matters concerning these personnel rules and regulations and the City Service.

(Ord. No. 2911)

### **3-203. Powers and duties -- Secretary and chief examiner.**

The Secretary and Chief Examiner shall have the following duties:

(1) To keep all records of the following:

(a) Commission meetings and actions.

(b) Reports and all other communications to the Commission.

(c) Position recruitment announcements.

(d) Applications.

(e) Examinations and examination results.

(f) Re-employment and eligible lists.

(g) Appointments.

(h) Promotions.

(i) Transfers.

(j) Discharges.

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- (k) Resignations.
  - (l) Suspensions.
  - (m) Roster of officers and employees including place of residence.
  - (n) Demotions.
  - (o) Written reprimands.
  - (p) Written appeals and grievances.
  - (q) Grievance and appeal hearings.
  - (r) Leaves of absences.
  - (s) Departmental rules and regulations.
  - (t) Employee performance evaluations.
- (2) To implement Commission policies and decisions.
  - (3) To announce and advertise employment opportunities as appropriate.
  - (4) To receive and process employment applications.
  - (5) To conduct examinations.
  - (6) To prepare re-employment and eligible lists.
  - (7) To process appointments, separations and other actions.
  - (8) To receive and transmit reports to the Commission.
  - (9) To see that all personnel and Commission rules and regulations are published.
  - (10) To prepare a classification plan for Commission approval only after consultation with any and all department heads in whose department or departments a position to be classified exists.
  - (11) To bring any infraction of personnel or Commission rules and regulations before the Commission.
  - (12) To undertake any other duties prescribed by the Commission.
  - (13) To review and certify that all manner of City Service payment documents comply with Commission rules, prior to payment of same.
  - (14) To make announcements of public Commission meetings in conformance with the Open Meetings Act.
  - (15) To maintain the classification system.
  - (16) To compile statistical information and to prepare reports concerning City employment as instructed by the Commission.
  - (17) To administer performance evaluations in cooperation with department heads.  
(Ord. No. 2911)

### **3-204. Powers and duties -- Department heads.**

Department heads shall have the following duties:

- (1) To appoint employees in their departments.
- (2) To make any reasonable written rules and regulations concerning employees and employment in their

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departments consistent with and limited by these and Commission rules and regulations. Such written rules and regulations shall be dated and provided to all employees in the department involved and the Commission.

(3) To exercise all disciplinary powers allotted to them including, but not limited to the following.

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Transfer.
- (d) Demotion.
- (e) Suspension.
- (f) Discharge.

(4) To report to the Commission all of the following:

- (a) All manner of appointments.
- (b) Refusals to accept appointments.
- (c) Resignations.
- (d) Discharges.
- (e) Transfers.
- (f) Demotions.
- (g) Suspensions.
- (h) Written reprimands.
- (i) Leave of absences.
- (j) Written rules and regulations.
- (k) Written grievances.
- (l) Personnel evaluations.

(5) To consult with the Secretary and Chief Examiner concerning class specifications relative to their departments.

(6) To do written evaluations of employees in a systematic fashion on an annual basis and as otherwise required.

Performance evaluations are not subject to provisions of Article VIII of these personnel rules.

(7) To respond to written grievances.  
(Ord. No. 2911)

### **3-205. 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 this chapter and to afford the Commission, its members and employees, all reasonable facilities and assistance to inspect books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments, subject to City Service, to produce such books and documents and accounts and to attend and testify, whenever required to do so by the Commission or any Commissioner.

(Ord. No. 2911)

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### Article III. Classification.

#### 3-301. Current classification plan retained.

The classification plan known as job descriptions, now in effect, shall remain in effect until it has been duly revised. The Commission shall establish a classification plan.  
(Ord. No. 2911)

#### 3-302. Classification specifications.

All class specifications 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.

(2) Minimum requirements to be eligible for regular appointment.

(3) Position duties and responsibilities.

(4) Whether or not a position:

(a) involves regular employment;

(b) involves seasonal employment;

(c) is confidential;

(d) is part-time;

(e) is regular part-time;

(f) is regular full-time.

(5) Into which of the following divisions each position shall be categorized:

(a) Division A shall include all positions for which it is practicable to determine merit of applicants by examination.

(b) Division B shall include all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

(c) Division C shall include ordinary unskilled labor.  
(Ord. No. 2911)

#### 3-303. Use of class specifications.

(1) Interpretation of Specifications. The definitions in class specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes as determined by their duties and responsibilities and are not to be construed as declaring what the duties or responsibilities of any position may be, or as limiting or modifying the power of any department head to assign, direct, or control the work of employees under his supervision. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind or quality, nor shall any specific omission necessarily mean that such factor is not included.

(2) Use in Allocation. In determining the class to which any position should be allocated, the specification describing each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, qualification requirements, and relationships to other classes as a composite description of the kind and employment which the class is intended to embrace.

(3) Qualification Statements. Personal qualifications commonly required of an employee in any class, such as good citizenship, honesty, loyalty, good moral character, temperate and industrious habits, amenability to supervision and suggestions of superiors for improvement of service, and willingness to cooperate with associates shall be implied as qualifications required for entrance to every class, even

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though such traits may not be specifically mentioned in the specifications. The statement of qualifications required in the specifications for any class shall constitute the basis and source of authority for the tests to be included in examinations for the class, the evaluation of the qualifications of applicants, and the evaluation of employees. Qualifications enumerated in a class specification shall relate to the reasonable standards of experience and training required at the time of original appointment of a new employee and shall not be construed as representing or measuring qualifications which employees already working in such a class may actually possess.

(Ord. No. 2911)

### **3-304. Classification plan -- Use of titles.**

The class title shall be the official title of every position allocated to the class for the purpose of personnel actions and shall be used on all payrolls, budget estimates, and official records and reports relating to the position. Any abbreviations or code symbols requested by a department head and approved by the Commission and for payroll or budgetary purposes by the Mayor, may be used in lieu of the class title to designate the class of a position for official records. Any other working title desired and authorized to be used by the department head may be used as a designation of any position for purposes of internal administration or in oral or written contracts with the public.

(Ord. No. 2911)

### **3-305. Age requirement.**

(1) Civilian Positions. All applicants for positions in the City Service shall not be less than 16 years of age or as otherwise required by state or federal regulations for specific positions.

(2) Uniform Positions. 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 employed in the City Service as a new employee after having reached compulsory retirement age except for those special programs or unusual circumstances where program requirements are such that employment in the City Service for those persons who have reached compulsory retirement age is in the best interests of the city and with the approval of the department head, the Commission, and the Mayor.

(4) Employment After Retirement. No person shall be rehired as a regular employee by the city who is 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 contract basis for a specified period of time upon the request of the appointing authority and with the approval of the Commission and the Mayor.

(Ord. No. 2911 and 3658-11/98)

### **3-306. Classification plan -- Amendments.**

Any appointing authority or regular employee in the City Service may initiate a request to the Secretary to amend the classification plan. The Secretary shall make the necessary investigation of any such request and may make classification studies at other times. If the Secretary finds that substantial change in organization, creation or change of positions, or other pertinent conditions make necessary the establishment of a new class, he shall recommend such amendment to the Commission. The Commission shall review and decide upon such recommendations.

(Ord. No. 2911)

### **3-307. Classification plan -- Allocation of positions.**

The Secretary shall be charged with the responsibility for administering the classification plan so that it will reflect the true situation in respect to each position.

(1) New Allocations. 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 Secretary who shall review the description of the new position and submit the description of the new position and his recommendation concerning allocation to the Commission. The Commission shall allocate such position and shall notify the department head of the official allocation.

(2) Re-allocation. Whenever a department head desires to make any permanent and substantial change in the duties or responsibilities of a position, written notification of the proposed change shall be submitted

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to the Secretary. The Secretary shall investigate and make a recommendation of re-allocation to the Commission. The Commission shall decide upon re-allocation and notify the department head. The Secretary may, upon his own initiative or at the request of a department head or regular employee, study the duties of any position or positions to review allocations and make recommendations to the Commission for re-allocation of positions.

(3) Effect of Re-allocation. A regular employee occupying a position which has been re-allocated shall continue in the position only if he possesses the qualifications requisite for such a position. In any case, where an incumbent is ineligible to continue in the position and is not transferred, promoted, or demoted, the layoff provisions of these rules shall apply. A regular employee whose position is re-allocated by virtue of a gradual change in the duties and responsibilities and not because of assignment to another position may qualify for the position by virtue of a non-competitive examination.  
(Ord. No. 2911)

### **3-308. Qualifications -- Civil service.**

(1) An applicant for a position of any kind in the Civil Service must be a citizen of the United States, able to read and write the English language, of good moral character and of temperate and industrious habits.

(2) Applicants for entrance to the Police Department shall be at least twenty-one (21) years of age.

(3) Applicants for entrance to the Fire Department shall be at least eighteen (18) years of age.  
(Ord. No. 2911 and 3658-11/98)

## **Article IV. Compensation.**

### **3-401. Compensation.**

The Mayor and City Council shall establish compensation ranges at least annually for all employees, and within such ranges:

(1) The compensation for all employees, other than Hastings Utilities employees, shall be in accordance with the provisions of Hastings City Code Sections 3-402 and 3-403.

(2) The compensation for all Hastings Utilities employees shall be in accordance with the Pay-For-Performance Target Evaluations Plan of the Board of Public Works, as amended from time to time. The provisions of Hastings City Code Sections 3-402 and 3-403 shall not apply to Hastings Utilities employees.  
(Ord. No. 2911 and 3720-11/99)

### **3-402. Wages.**

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

(a) If the salary received in the lower grade is below the minimum step of the pay grade for the class to which promoted, his rate of pay shall be increased to that minimum.

(b) If the salary received in the lower grade falls within the pay range and below the maximum pay grade for the class to which promoted, his pay shall be set at a rate which is at least one step above the present salary and grade step prior to promotion.

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

(a) If the salary received in the higher grade is more than the maximum of the pay grade for the class to which demoted, his salary shall be reduced to the maximum rate of the lower pay grade.

(b) If the salary received falls within the pay grade for the class to which demoted, his rate of pay shall remain unchanged.

(3) When an employee transfers between positions, either within grade or within class, his rate of pay shall remain unchanged.

(4) The re-allocation of a position shall affect the employee holding the position in the following way:

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(a) When a position is re-allocated to a classification with a higher pay grade, the provisions governing rate of pay on promotion shall be used to set the salary of the incumbent.

(b) When a position is re-allocated to another classification of the same pay grade, the salary of the incumbent shall remain unchanged.

(c) When a position is re-allocated to a classification with a lower pay grade, the salary of the incumbent shall be set as follows:

(i) If the incumbent's salary in the higher pay grade is above the maximum rate of the lower grade, his salary shall be set at the maximum rate of the lower grade.

(ii) If the incumbent's salary in the higher pay grade falls within the rate of the lower grade, it shall remain unchanged.

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

(Ord. Nos. 2911 and 2942-8/85)

### **3-403. Proficiency pay increase.**

(1) A proficiency 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) Before any proficiency pay increase is given, a performance evaluation shall be conducted and shall be considered as one of the factors used by the appointing authority in determining the proficiency pay increase.

(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) If the employee is paid at the step one (1) rate or is a probational employee, he shall complete six (6) consecutive months at that step in class in order to be eligible for the next step.

(b) If the employee is paid at the step two (2) rate or at a higher step rate, he shall complete twelve (12) consecutive months at that step in the class in order to be eligible for the next higher step, through step six (6); at step six (6) for eighteen (18) months in order to be eligible for step L-1; and step L-1 for two (2) years in order to be eligible for step L-2.

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

(d) Any deviation requested by a department head from this procedure shall require approval of the Commission.

(4) In order to provide an orderly method of granting pay increases, classes of work 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 proficiency pay increase. When receiving a proficiency pay increase, an employee's pay rate shall travel from one step of the pay range to the next higher until it has reached the maximum within that class of work, provided that each employee has met the time requirements specified. It shall be the responsibility of the employee to notify the appointing authority that he meets the time requirement for a proficiency pay increase. Within ten (10) days after receiving such notification, the appointing authority shall either:

(a) Grant a proficiency pay increase, effective from the date that the time requirement was satisfied;  
or

(b) Deny the proficiency pay increase. In event of denial, the appointing authority shall notify the employee in writing.

(Ord. No. 2911)

(5) Notwithstanding the foregoing, the City Council may, upon the request of a department head, establish

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the salary of any promoted, transferred, or reallocated employee to a step higher than that provided in subsections (1), (3) and (4) above.  
(Ord. No. 2942)

### 3-404. Vacation.

(1) All full-time employees and those part-time employees who qualify under Section 3-410 shall be entitled to vacation leave. Seasonal, temporary and provisional employees shall not be entitled to vacation leave.

(2) 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 shall have two weeks (80 hours) of annual vacation leave through their fifth year of employment. Vacation leave accrues at a rate of 6 2/3 hours each month for this group of employees;

(b) Beginning in their sixth year of employment, and continuing through their fourteenth year of employment, employees shall receive three weeks (120 hours) of annual vacation leave. Vacation leave accrues at the rate of 10 hours per month for this group of employees;

(c) Beginning in their fifteenth year of employment, for the duration of their employment, employees shall receive four weeks (160 hours) of annual vacation leave. Vacation leave accrues at the rate of 13 1/3 hours per month for this group of employees;

Provided that the Board of Public Works may establish vacation accrual for its employees in a manner that reflects comparability with the array used by the Board of Public Works.

(3) Part-time employees shall be entitled to vacation leave as provided in Hastings City Code Section 3-410.

(4) Accrued vacation leave shall be used by employees in the form of paid vacation. No employee shall be paid for forfeited vacation leave.

(5) An employee must complete six (6) months of continuous service to accrue and become eligible for their first week of vacation leave.

(6) When an employee is eligible for vacation leave, he or she may use any vacation leave for which he or she is eligible.

(7) An employee may accumulate up to two times his or her annual allowance for vacation leave. The employee may not accumulate vacation leave in excess of the amount allowed by this provision; provided, however, the City Administrator (for non-utility city employees) and the Utility Manager (for utility city employees) 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 must be taken when it appears that the employee will not be able to take the accumulated vacation within the prescribed time limit due to work-related circumstances beyond the employee's control.

(8) Reserved.

(9) Each employee shall apply to his or her department head for vacation leave. The department head shall give consideration to each employee's vacation request. In scheduling vacation leave, years of continuous service shall be the basis for resolving conflicting vacation leave requests. The department head shall make efforts to accommodate employee vacation leave requests while taking into account the staffing requirements of the department.

(10) An employee who transfers from one department to another shall retain his or her accrued vacation leave.

(11) Reserved.

(12) Any employee in the City Service for at least six (6) months, upon separation, shall be entitled to payment for accrued vacation leave for which he or she is eligible at the rate of pay he or she is receiving at the time of his or her separation, provided that the separation is not a disciplinary discharge.

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(13) Vacation leave shall accrue to an employee in months in which he or she is in pay status more than half of the month and not during the first month of service on or after the 16th of the month nor during the last month of service on or before the 15th.

(Ord. No. 2911, 3229-9/91, 3403-6/94, 3669-12/98, 3767-10/2000, 3792-2/2001 and 3926-10/2003)

### **3-405. Medical leave.**

(1) Medical leave with pay shall be provided to employees for the purpose of providing an economic cushion, and the accumulation of medical 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 medical leave. Full-time employees shall accrue medical leave at the rate of eight (8) hours per month of service. Those part-time employees who qualify under Section 3-410 of the Hastings City Code shall be entitled to medical leave at the rates provided therein. Employees may accrue up to one thousand sixty (1060) hours of medical leave. Seasonal, temporary and provisional employees shall not be entitled to medical leave.

(3) Medical leave shall be accrued for any month in which an employee is in pay status for more than half of that month and not during a month when he or she enters the City Service on or after the 16th nor during a month when he or she leaves the City Service on or before the 15th.

(4) An employee may use medical leave hours for sickness or injury, for medical, dental or optical examination or treatment, when an employee is exposed to a contagious disease, or when attendance at duty may jeopardize the health of others.

Additionally, an employee may use medical leave when it is medically necessary for the employee to be with an immediate family member.

An employee who is absent shall inform his or her immediate supervisor of the fact and the reason therefore as soon as possible. Failure to do so within a reasonable time may be cause for discipline.

(5) Compensation for medical 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 his or her current rate of pay and work schedule without the inclusion of any overtime factor.

(6) At no time shall an employee be allowed more medical leave than he or she has accumulated at the end of the month before, but vacation leave or leave without pay or both may be authorized by his or her department head when an employee has exhausted his or her medical leave.

(7) An employee on medical leave due to illness or injury, or due to an illness or injury of an immediate family member of the employee shall be required to produce a doctor's statement as to the nature and extent of illness or injury if requested to do so by his or her department head.

(8) Medical leave with pay is deemed a privilege, and department heads are authorized to suspend the use of medical leave for a period up to six (6) months when an employee is found to have abused the privilege. Suspension of medical leave shall result in an employee not being paid for medical leave during that period.

(9) 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, he or she shall be allowed up to three (3) eight (8) hour days paid leave, provided that:

(a) The employee is on the active payroll on the date of the death of the member of his or her immediate family;

(b) The employee notifies his or her immediate supervisor of the purpose of his or her absence not less than eight (8) hours prior to the time that he or she is scheduled for duty;

(c) No payment will be made for any day of absence which is later than the day of such funeral, except where the employee attends the funeral at a location where the reasonable time for travel extends the absence beyond the day of such funeral; and

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(d) The employee, when requested, furnishes proof satisfactory to the City of the death, his or her relationship to the deceased, the date of the funeral, and the employee's actual attendance at such funeral;

(e) If the employee requests additional time off, and the employee's department head approves such request, leave in excess of three days shall be charged against the employee's medical leave.

(10) An employee who serves as a pallbearer may take up to four (4) hours of medical leave with pay.

(11) An employee shall not take medical leave for child care purposes. In such cases, vacation leave or leave without pay may be authorized, if feasible and appropriate.

(12) Employees injured on the job who are eligible to receive workman's compensation disability payments may elect to continue their regular salaries by taking medical leave or vacation leave or both while remitting their disability payments to the city until such paid leave is exhausted. Only the amount of money paid by the city divided by an employee's hourly rate of pay shall determine the number of leave hours used.

(13) The minimum period of medical leave shall be one (1) hour.

(14) An employee who transfers from one department to another shall retain his or her accrued medical leave.

(15) Employee illness or incapacity arising from pregnancy or maternity shall be treated for leave purposes as illness or incapacity due to other causes. An employee shall expend accrued medical 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 a date when she should discontinue working. When the employee again is able to perform her duties, she shall obtain a physician's certification of her fitness to return to work.

(16) It is the policy of the City that employees not be allowed to accrue more than one thousand sixty (1060) hours of medical 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 (1060) hours of medical leave shall be paid for any unused medical leave over and above the one thousand sixty (1060) hours which may be carried over to the next year. The amount of compensation shall be twenty-five percent (25%) of the accumulated medical leave in excess of one thousand sixty (1060) hours. Every employee who is a member of a collective bargaining unit shall be paid annually for unused medical leave in the manner and to the extent provided in any collective bargaining agreement which applies to each such employee.

(17) Upon termination of employment, an employee who has been employed by the City for a period of not less than ten (10) continuous years shall be compensated for accumulated medical leave; provided however, an employee who is terminated for cause other than disability shall not be eligible for this benefit. The amount of compensation shall be twenty-five percent (25%) of the accumulated medical leave. Employees who die while in the employ of the City shall receive payment for accumulated medical leave at the rate specified herein, regardless of their years of service.  
(Ord. Nos. 2911, 3198-11/90, 3230-9/91, 3268-6/92, 3669-12/98, 3767-10/2000 and 4157-12/2007)

### **3-406. Holidays.**

(1) The following days are hereby declared holidays for all City Service employees, except those covered by collective bargaining agreements, and as otherwise provided: New Year's Day, Dr. Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, 1/2 day Christmas Eve, Christmas Day, and 2 1/2 days floating holidays. Provided that the Solid Waste department and respective boards of the Utility, Museum, and Library departments may substitute one or more floating holidays for designated holidays to accommodate their hours of operation.

(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.

(3) Full-time employees shall be paid for holidays. Those part-time employees who qualify under Section 3-410 shall be paid for all holidays at the rates provided therein. Seasonal, temporary and provisional employees shall not be paid for holidays.

(4) Eligible City Service employees who are shift workers, and who work a holiday, will receive an

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additional shift's pay computed at time and one-half for working the holiday, or compensatory time off equivalent to the holiday shift worked, at time and one-half. Those City Service shift workers who do not work on the holiday shall receive an additional shift's pay at straight time, or compensatory time equivalent to one shift. Compensatory time will be given in lieu of pay only by agreement of the employee and the department head.

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

(6) The board of public works may establish holidays for Utility employees in manner that reflects comparability with the array used for Hastings Utilities.

(Ord. Nos. 2911, 3000-12/86, 3198-11/90, 3616-1/98, 3669-12/98 and 4157-12/2007)

### **3-407. Jury duty pay.**

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

(Ord. No. 2911)

### **3-408. Military leave.**

All employees who shall be members of the National Guard, Army Reserve, Air Force Reserve, Naval Reserve, Marine Reserve, and Coast Guard Reserve, shall be entitled to 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 competent authority in the active service of the state or of the United States, not to exceed fifteen (15) work days in any one calendar year. Such leave of absence shall be in addition to the regular annual leave of the persons named herein.

(Ord. No. 2911)

### **3-409. Health insurance.**

Health insurance may be provided by the City to full-time employees and those part-time employees who qualify under Section 3-410. The coverage shall be of the type, and subject to such terms and requirements, as the Council shall determine from time to time. The Council may from time to time provide that employees pay a part of the cost of the premiums for said insurance.

(Ord. No. 3669-12/98)

### **3-410. Part-time employees; benefits.**

(1) Part-time employees who work at least 1,560 hours per service year shall be entitled to benefits beginning one year after employment with the City, according to the following schedule.

(2) Part-time employees who work at least 1,560 hours per service year, but less than 2,080 hours per service year, shall be entitled to 75% of those benefits to which full-time employees are entitled.

(3) Part-time employees shall earn benefits as provided above for each full year of service, and shall not earn benefits for any year or part of a year in which they work fewer hours than those prescribed hereinabove.

(Ord. 3669-12/98 and 4276-1/2011)

## **Article V. Working Conditions.**

### **3-501. 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 the leave;

(b) not receive holiday pay for any holiday which falls during the time of leave;

(c) continue to accrue vacation and sick leave;

(d) maintain his seniority;

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(e) beyond the first thirty (30) days, no vacation or sick leave shall be accrued, but seniority shall be maintained.

(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 and accident and life insurance programs at the city's expense shall cease; however, the employee may continue participating in the city's health and accident and life insurance programs at his own expense until he returns to work.  
(Ord. No. 2911)

### **3-502. Transfers.**

Transfers will 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 to which the transfer is being considered. All permanent and probationary employees are eligible to transfer or be transferred. All benefits afforded to the employee shall be transferred along with the employee.

There shall be three types of transfer:

(1) Voluntary: The employee and both department heads shall approve of a voluntary transfer.

(2) Disciplinary: Both department heads and the City Administrator or Utilities Manager 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 or Utilities Manager 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.  
(Ord. No. 2911, 4034-8/2005 and 4034-9/2005)

### **3-503. Nepotism.**

No member of the immediate family of any supervisor shall be employed in that supervisor's department.  
(Ord. No. 2911)

### **3-504. Layoffs -- Merit service.**

A regular employee may be laid off from any department in the Merit Service because of curtailment of expenditures, reduction in force or other similar reason. In determining the order of layoff:

(1) The employee first laid off shall be the employee in a department who was last certified to or placed in the particular class in 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 certified to or placed in the class in which the reduction is to be made, his service shall be compared to that of other employees in the class on the basis of seniority, which is defined as the length of continuous service from the date of original appointment, less any days of suspension.

(2) No regular full-time employee shall be laid off from any position while a temporary employee is still employed in the same class in the department.

(3) Layoffs shall not be considered disciplinary actions.  
(Ord. No. 2911)

### **3-505. Resignation.**

Any employee may resign from the City Service by presenting his resignation in writing to the department head at least two weeks prior to the effective date. Such resignation shall be promptly reported to the Commission.  
(Ord. No. 2911)

### **3-506. Re-employment.**

Except as otherwise provided, any former employee who is re-employed shall be treated in all respects as a new employee and benefits shall not be reinstated. Regular city employees laid off as a result of a reduction in force shall, if re-employed within two years thereafter, have their benefits reinstated as they

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were at the time of termination.  
(Ord. Nos. 2911 and 3029-8/87)

### **3-507. Physical or mental examination.**

A department head may at any time, for reasonable cause, require an employee to be examined by a physician or psychiatrist for the purpose of determining the employee's ability to perform his required duties. Such examination if required by a department head shall be at the expense of the city.  
(Ord. No. 2911)

### **3-508. Outside employment.**

(1) No 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 his city work.

(2) Any regular employee in the Merit Service desiring to engage in outside employment or activity for financial gain shall request approval from the department head. The department head may approve or deny the request, may require an employee to discontinue such outside employment or to resign without prejudice from the Merit Service, or may make such inconsistent or detrimental outside employment or activity for financial gain a cause for discipline. Approval shall not be withheld without reasonable cause.

(3) Any regular employee in the Civil Service desiring to engage in outside employment or activity for financial gain shall request approval from the Commission. The Commission may approve or deny the request, may require an employee to discontinue such outside employment or to resign without prejudice from the Civil Service, or may make such inconsistent or detrimental outside employment or activity for financial gain a cause for discipline. Approval shall not be withheld without reasonable cause.  
(Ord. No. 2911)

### **3-509. Work week.**

The normal work week shall be forty (40) hours per week for full-time employees, except as otherwise provided. Normal working hours, except as otherwise specified, shall be from 8 a.m. to 5 p.m., Monday through Friday. Other regular working hours may be established by department rules. A statement of each department's work week stating the days and hours of its beginning and end shall be filed with the Commission.  
(Ord. No. 2911)

### **3-510. 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. (Ord. No. 2911)

### **3-511. Political activities prohibited.**

No person holding an appointment in the City Service shall engage in political activities during their work day, while on official duties, or while wearing a required uniform.  
(Ord. No. 2911)

## **Article VI. Records, Applications, Examinations, Lists, and Appointments.**

### **3-601. Confidentiality of personnel records.**

All applicant and employee records other than public information shall be withheld from the public.  
(Ord. No. 2911)

### **3-602. Personnel records.**

All reports by a department head to the Commission in respect to an employee within his department shall become a part of that person's personnel file. A copy of any such report shall be delivered or mailed to the employee within ten (10) working days after it is placed in his file.  
(Ord. No. 2911)

### **3-603. Public records.**

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Records of the Commission shall be public records available to the public except for individuals' confidential records, examinations, salary and fringe benefit surveys, inquiries made for labor negotiations or judicial hearings, and such other confidential papers that may be specified by the Commission. Such public records shall be available during regular office hours, at reasonable times, and in accordance with such procedures and for such reasonable charges as the Commission may devise.

(Ord. No. 2911)

### **3-604. Recruitment.**

Recruitment shall consist of announcement of positions in the City Service to be filled by appointment. Announcement shall consist of posting and publishing announcements in such places so that all who are interested may make application. Announcements shall be for specific positions except in the case of Division C positions which shall be announcements for Division C positions as a group, groups, or specific positions as appropriate. Announcements should include:

- (1) Title.
- (2) Salary and benefits.
- (3) Minimum qualifications for original appointment.
- (4) Minimum qualifications for regular appointment.
- (5) The nature of the work.
- (6) The time, place, and manner of making application.
- (7) The closing date for receiving applications.
- (8) The time and place of written examinations necessary to complete the application process.
- (9) The statement: "The City of Hastings is an Equal Opportunity Employer."
- (10) Whether or not there is continuous recruitment.
- (11) Any other pertinent information.

(Ord. No. 2911)

### **3-605. Application.**

(1) All applications shall be made on forms approved by the Commission. All applications shall be filed with the Secretary on or prior to the closing date specified in the announcement. Applications may require any pertinent information including but not limited to training, education, experience, references, residence, physical fitness, and licenses and certification. The Secretary shall require proof of age, education, experience, training, licenses and certification, and other claims as appropriate. All applications shall be dated, signed and the truth of the statements contained therein certified by such signature.

(2) No question in any application form shall be framed so as to elicit information concerning race, religion, political affiliation, sex, or handicap.

(3) Applications, whether accepted or rejected, shall remain on file and shall not be returned.

(Ord. No. 2911)

### **3-606. Examination -- Admission.**

(1) Persons who submit applications on or before the last date for filing, and whose applications clearly show that the applicants meet the requirements for admission to the examination as specified in the official announcement, shall be admitted to compete in the examination for which they are applying. Where doubt exists as to whether an applicant meets the requirements for admission to an examination, the Secretary may authorize conditional admission to the examination, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the Secretary's or the Commission's satisfaction. Each applicant whose application has been accepted for any examination shall be notified of the date, time, and place of the examination. No person shall be permitted to take any examination without an authorization or other

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satisfactory evidence of acceptance or conditional acceptance of his application by the Secretary.

(2) A decision by the Secretary not to admit an applicant to an examination may be appealed by the applicant to the Commission which shall rule on the appeal.  
(Ord. No. 2911)

### **3-607. Examination -- Medical.**

Applicants for positions may be required to undergo a medical examination by a physician to determine physical or mental fitness or both to perform work in the position for which application is made.  
(Ord. No. 2911)

### **3-608. Examination -- Disqualification.**

(1) The Commission may direct the Secretary to refuse to examine an applicant, or after examination, may disqualify such applicant or remove his name from an eligible list or refuse to certify him or may consult with the appointing authority in taking steps to remove such person already appointed if:

- (a) He is found to lack any of the established qualification requirements for the position.
- (b) He is physically or mentally disabled as to render him unfit for the performance of the duties of the class.
- (c) He is addicted to the habitual or excessive use of drugs or intoxicating beverages.
- (d) He has made a false statement of material fact in his application.
- (e) He has used or attempted to use political pressure or bribery to secure an advantage in the examination.
- (f) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled.
- (g) He has failed to submit his application correctly or within the prescribed time limits.
- (h) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant.
- (i) He has previously been dismissed from a position in the City Service for cause or has resigned while charges for dismissal for cause were pending.
- (j) He has been convicted of a crime or of disgraceful conduct.
- (k) He has willfully violated the provisions of these rules and regulations.
- (l) He has established an unsatisfactory employment or personnel record as evidenced by reference check of such nature as to demonstrate unsuitability for employment.
- (m) He is not within the age limits prescribed in the class specifications.
- (n) He has taken and passed the same exam within the previous year.
- (o) Or for such other reasons considered by the Commission that the employment of the individual would be detrimental to the best interests of the city.

(2) An applicant who is refused examination, disqualified, has his name removed from an eligible list, refused certification, or removed from an appointment under the terms of this section may appeal the action to the Commission which shall rule on the appeal. (Ord. No. 2911)

### **3-609. Examinations -- Character of.**

(1) Examinations shall relate to those matters which fairly test the capacity, merit, and fitness of persons examined to discharge the duties of the positions sought by them. Examinations may be assembled or unassembled and may include written, oral, physical, or performance tests, or any combination of these.

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The examinations may take into consideration such factors as education, experience, aptitude, knowledge, character, physical fitness as determined by a performance test or tests or medical examination, or other attributes as may be determined by the Commission.

(2) All examinations shall be approved by the Commission and no question shall be asked without Commission approval.

(3) Examinations for Division B and Division C shall establish whether or not applicants meet the minimum requirements for original appointment.

(4) Examinations for Division A positions shall be competitive except in cases where a regular employee whose position is re-allocated in recognition of a gradual change in duties and responsibilities is being examined for fitness for appointment to a higher class.

(5) When necessary to meet continued requirements for filling positions and there is not available a sufficient number of applicants for a class, the closing date for any examination may be indefinite and applicants may be tested continuously in such manner and at such times and places as the Commission may provide. No applicant who fails to achieve a passing score in such an open continuous examination may compete again in the written portion of the same examination for a period of six (6) months following the original date of taking the examination. For positions involving unskilled labor, the Commission may adopt or authorize the use of such other procedures as they determine to be appropriate in order to meet the needs of the service while assuring the selection of such employees on the basis of merit and fitness. Examinations so given shall conform with and utilize such methods, forms, and techniques as the Commission may require.

(Ord. No. 2911)

### **3-610. Examination -- Administration.**

(1) The examination of applicants shall be undertaken by the Secretary or by persons designated by him.

(2) All reasonable precautions shall be taken to preserve the anonymity of applicants in the conduct and scoring of written examinations.

(Ord. No. 2911)

### **3-611. Examination -- Postponement or cancellation.**

In the event a sufficient number of qualified applicants has not applied for any examination, the Secretary may postpone the last filing day and the date of examination and shall in such cases give written notice to the applicants and department heads concerned.

(Ord. No. 2911)

### **3-612. Examination -- Ratings of competitive examinations.**

The ratings of competitive examinations shall be based on standards approved prior to administration of the examination. The Commission may require that examinees achieve a minimum passing score on any or all parts of an examination.

(Ord. No. 2911)

### **3-613. Examination -- Notification of results.**

Each person examined shall be notified of the results of his examination within thirty (30) days of the final grading of such examinations.

(Ord. No. 2911)

### **3-614. Examination -- Review and appeal.**

Within ten (10) days of notification of the results, an applicant can have his examination reviewed and any errors corrected. Review of an applicant's examination shall be limited to the applicant and the Secretary or his designee. An applicant may appeal any disputed item to the Commission which shall rule on such appeals.

(Ord. No. 2911)

### **3-615. Eligible lists.**

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(1) All applicants passing examinations for particular City Service positions shall have their names placed on the eligible list for that position.

(2) If one or more members of the Police or Fire Department shall successfully complete all parts of the examination for a promotional position, then any vacancy in such promotional position shall be filled by a member of the department as specified in state statute section 19-1803.

(3) Eligible lists shall have such duration in time as the Commission may determine.  
(Ord. No. 2911)

### **3-616. Order of names on eligible list.**

The order of names on eligible lists, except as otherwise provided, shall be based on ratings in the case of competitive examinations and date of application otherwise.  
(Ord. No. 2911)

### **3-617. Availability of eligibles.**

It shall be the responsibility of eligibles to notify the Commission in writing of any change in address or other change affecting availability for employment. Whenever an eligible submits a written statement restricting the conditions under which he will be available for employment, his name shall be withheld from all certifications which do not meet the conditions he has specified. An eligible may file a new written statement at any time within the duration of an eligible list modifying any prior statement as to conditions under which he will be available for appointment.  
(Ord. No. 2911)

### **3-618. Re-employment lists -- Merit service.**

Any regular employee in the Merit Service who is involuntarily separated from the City Service through no fault of his own shall have his name placed on a re-employment list for the position held at the time of his separation. Order on a re-employment list shall be based on the years of continuous service with the city. Names shall be maintained on such re-employment lists for two years. (Ord. No. 2911)

### **3-619. Requisition.**

Whenever there is a vacant City Service position to be filled, the appointing authority shall submit a written request for a list of persons eligible for appointment to a particular position to the Commission.  
(Ord. No. 2911)

### **3-620. Certification.**

Upon receipt of a written request for a list of persons eligible for appointment to a particular position, the Commission shall:

(1) Determine whether or not a re-employment list exists for that department and certify the person whose name is highest on the list to the appointing authority; or

(2) In the event that there is no re-employment list and the position is a Civil Service position, the Commission shall certify the three persons whose names are the highest on the eligible list for the position, or if less than three names are on the eligible list, then however many names appear on the list; or in the event there are no names on the eligible list, then the Commission shall certify the names of the persons standing highest on its list who are held appropriate for such a class; if more than one vacancy is to be filled, then an additional name shall be certified for each additional vacancy, provided that if one or more members of the Police or Fire Department are on an eligible list for a promotional position, then only members of that department shall be certified; or

(3) In the event that there is no re-employment list and the position is a Merit Service position, the Commission shall certify the names of persons on the eligible list to the appointing authority; or

(4) In the event that there is no re-employment list nor eligible list for a Merit Service position, the Commission shall notify the appointing authority and undertake recruitment to the end of the developing an eligible list and certifying the same to the appointing authority in accordance with these personnel rules and regulations.

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(5) Whenever there is need for temporary employment in any of the departments and it is not practicable to secure the needed person or persons by certification from an eligible list, the Commission may authorize, and the appointing authority may make a temporary appointment for a period not to exceed three (3) months. Successive temporary appointments to the same position shall not be made within one year. An employee under a temporary appointment must meet the minimum qualifications for the position. No person shall receive more than one temporary appointment or serve more than three (3) months in such an appointment in any one year.

(6) When there is no appropriate list available, when there is not a sufficient number of persons on appropriate lists who are willing to accept appointment, or for the purpose of filling the position of an employee in the City Service who is on an extended leave of absence, the Commission may authorize the provisional appointment and a department head may appoint a person meeting the prerequisites for the class to which the position is allocated. Any time served by an employee under a provisional appointment shall not constitute a part of or be deducted from the probationary period if the employee is subsequently appointed from a list to the same or another position. Provisional appointments shall be limited to four (4) months duration. No person shall receive more than one provisional appointment to the same position or serve more than four (4) months as a provisional appointee in any year.  
(Ord. No. 2911)

### **3-621. Appointment from re-employment lists.**

Upon receipt of certification of a name from a re-employment list, the appointing authority shall forthwith appoint that person to the vacant position. Such an appointment shall be a regular appointment.  
(Ord. No. 2911)

### **3-622. Appointment -- Merit service.**

(1) Upon receipt of certification of a list of names that constitute an eligible list for a Merit Service position, the appointing authority or his designee may review applicant files for the position and may interview any or all of the persons on the eligible list for the purpose of selecting a person to appoint to the position. The appointing authority shall appoint one person from the eligible list to each vacant position. The appointment shall be probationary, and the first six (6) months of such an appointment shall be a probationary period, and the appointing authority may terminate the employment of a person appointed by it, during the performance test thus afforded, if the appointing authority deems such person unfit or unsatisfactory for service in the department. Whereupon the department head shall appoint one of the other persons certified by the Commission and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment for the probationary period provided therefore and the appointment shall be deemed to be complete. The Commission shall not hear any appeals of termination during the probationary period.

(2) In the event that such an appointment is a promotional one, a person terminated in a probationary period shall return to the previous position or onto a re-employment list for that position.  
(Ord. No. 2911)

### **3-623. Appointment -- Medical examinations.**

All new regular full-time and regular part-time employees appointed to a position in the City Service are required to take a physical examination. This examination must be given by the City Physician and approved by him before employment begins. The forms for physician reports are furnished by the Commission. A fee approved by the City Council shall be paid by the employee's department.  
(Ord. No. 2911)

### **3-624. Completion of appointment.**

Department heads shall notify probationary employees and the Commission of their completion of appointment. Failure of the department head to accomplish such notice shall result in the employee achieving a completion of appointment at the expiration of the probationary period.  
(Ord. No. 2911)

## **Article VII. Discipline.**

### **3-701. Causes of discipline -- Merit service.**

Incompetence, inefficiency, or inattention to ordereliction of duty; or any action which reflects discredit

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upon the City Service; or which is a direct hindrance to the effective performance of city services, or which violates a departmental, Commission, 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) Habitual use of intoxicating beverages to excess or to the use of narcotics.
  - (2) Has been adjudged guilty of a felony or of a misdemeanor involving moral turpitude.
  - (3) The taking of intoxicating beverages or intoxication while on duty.
  - (4) That the employee is guilty of improper political activity as defined in these rules.
  - (5) Offensive conduct or language toward the public or toward city officers or employees.
  - (6) Has been guilty of insubordination or any conduct unbecoming to an officer or employee of the city, either on or off duty.
  - (7) Incompetence, inefficiency, or inattention to or dereliction of duty.
  - (8) Damage to or negligence in the care and handling of city property.
  - (9) Violation of any lawful and reasonable regulation made or given by his superior, where such violation or failure to obey amounts to an act of insubordination or a serious breach of proper discipline; or results, or might reasonably have been expected to result, in loss or injury to the city, to prisoners of the city or to the public.
  - (10) Commission of acts or omissions unbecoming an incumbent of the particular office or position held, which render his reprimand, suspension, demotion, or dismissal necessary or desirable for the economical or efficient conduct of the business of the city or for the best interest of the municipal government.
  - (11) Willful violation of any of the provisions of these rules.
  - (12) Has induced or attempted to induce any officer or employee in the City Service to commit an illegal act or to act in violation of any lawful and reasonable departmental 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.
- (Ord. No. 2911)

### **3-702. Written reprimand.**

A department head may reprimand any employee in his 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 will initial receipt. A signed copy shall be delivered to the Commission for inclusion in the employee's personnel file.

(Ord. No. 2911)

### **3-703. Oral reprimand.**

Except in such cases where a written reprimand is issued, a supervisor or department head shall discipline City Service employees under his direction by oral reprimand for any and all causes for discipline; said oral reprimand shall consist of oral statements that include a specification of how an employee's conduct deviates from proper conduct.

(Ord. No. 2911)

### **3-704. Suspension.**

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A department head may suspend an employee without pay for cause for a period or periods not to exceed forty (40) working days in any twelve months; however, no single suspension shall be for more than twenty (20) working days. The department head shall notify the employee and the Commission in writing. Such notice shall include the reasons for and the duration of the suspension.

An employee who is on an "imposed" leave of absence without pay shall accrue no vacation, sick leave, nor seniority rights with respect to promotion and proficiency pay increases for any portion of the entire period of leave.  
(Ord. No. 2911)

### **3-705. 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 lower class or if any regular employee in the lower class will be laid off by reason of the action. The department head shall notify the employee and the Commission of such disciplinary demotions.  
(Ord. No. 2911)

### **3-706. Discharge -- Merit service.**

(1) A department head may dismiss for cause any Merit Service employee under his jurisdiction by notifying the employee and the Commission in writing.

(2) A Merit Service employee who has a completed appointment, shall be discharged only upon being served with a written form, stating cause of discharge pursuant to Section 11-701.

(a) A copy of the discharge form shall be filed with the Commission.

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

(3) Appeal. The discharged employee shall have ten days from the date of such notice to file an appeal with the Commission.  
(Ord. No. 2911)

### **3-707. Hearings -- Merit service.**

(1) If a discharged Merit Service employee makes a written request for a hearing, the Commission shall notify the person and the department head involved of the time and place of the investigation of such charges. No such investigation shall be held less than ten (10) days after serving or mailing the notice of the time and place of such investigation, unless this time is waived by the department head affected and the former employee.

(2) The Commission shall determine its own procedure in the investigation and hearing of the discharge of the former employee in the Merit Service, and:

(a) confirm the discharge; or

(b) order that the employee be reinstated to the position formerly held.

(3) In the course of such investigation, the former employee under charges shall be given an opportunity to produce witnesses and be heard in his own defense and to be represented by counsel. The finding of the Commission shall be certified in writing to the appointing officer and be forthwith enforced by him. A stenographic or electronic record of all proceedings at the hearing shall be made.  
(Ord. No. 2911)

## **Article VIII. Grievances.**

### **3-801. Grievance Policy.**

It is the policy of the City of Hastings 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

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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 City Service employees who do not have contracts otherwise specifying grievance procedures. (Ord. No. 2911)

### **3-802. Grievance -- Definition.**

A grievance shall be defined for the purposes of this article as a complaint by an employee alleging a violation of city ordinances, personnel rules, Commission rules, disciplinary actions, or any other condition of employment on the part of one or more representatives of the city. (Ord. No. 2911)

### **3-803. 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 orally. Supervisors shall make a record of all such oral discussions of grievances upon the date of their occurrence which specifies the employee, the act or acts discussed, the date of such acts discussed, and the date of the oral discussion.

(2) If an oral discussion between an employee and his immediate supervisor does not resolve the grievance, the employee may within three (3) working days submit a written grievance to his immediate supervisor. Written grievances, so submitted, 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 be aggrieved.
- (e) The identity of the party or parties alleged to have caused 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 three (3) working days after receiving such written grievance, the immediate supervisor shall furnish the employee with a written reply to the written grievance.

(3) If the written reply by the immediate supervisor does not resolve the grievance, the employee may, within five (5) working days of receiving the written response, submit the written grievance to his 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 Commission. The Commission shall hold a formal 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 formal hearing, the Commission shall provide all parties to the grievance with a written reply. Appointing authorities and supervisors shall be bound by the decision unless the Commission decision is overturned by a court of law. (Ord. No. 2911)

### **3-804. 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. (Ord. No. 2911)

### **3-805. Failure to adhere to time periods.**

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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 representative had acted on the last day of the allotted time period.

(Ord. No. 2911)

### Article IX. Civil Service Act.

#### 3-901. Positions covered.

The Civil Service Act shall apply only to all present full-time firefighters or full-time police officers of the City, including any paid full-time police or fire chief of such department, and future appointees to such full-time positions. Full-time police officers shall mean police officers in positions which require certification by the Nebraska Law Enforcement Training Center, who have the power of arrest, who are paid regularly by the City, and for whom law enforcement is a full-time career, but shall not include clerical, custodial, or maintenance personnel. Full-time firefighters shall mean duly appointed firefighters who are paid regularly by the City and for whom firefighting is a full-time career, but shall not include clerical, custodial, or maintenance personnel who are not engaged in fire suppression.

(Ord. No. 2997-12/86)

#### 3-902. Position creation and elimination.

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

(Ord. No. 2997-12/86)

#### 3-903. Establishment of salaries and compensation.

The Civil Service Act shall not be construed to infringe upon the power and authority of the Mayor and Council to establish salaries and compensation of all employees within the compensation schedule or ranges established by the Mayor and Council for the positions.

(Ord. No. 2997-12/86)

#### 3-904. Payment of compensation for services.

No treasurer, auditor, comptroller, or other officer or employee of the City shall subject to the Civil Service Act approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services to any person subject to the jurisdiction and scope of the Civil Service Act unless the person to receive such salary, wage, or other compensation has been appointed or employed in compliance with such Act.

(Ord. No. 2997-12/86)

#### 3-905. City's duty to commission.

The Mayor and Council shall provide the Commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated, lighted, and supplied with all office supplies and equipment necessary to carry on the business of the Commission and with such clerical assistance as may be necessary. It shall be the duty of the City to appropriate each fiscal year, from the general funds of the City, a sum of money sufficient to pay the necessary expenses involved in carrying out the purposes of such act, including, but not limited to, reasonable attorney's fees for any special counsel appointed by the Mayor when the City Attorney is not authorized by the City Administrator to represent the Commission. The Mayor may establish the hourly or monthly rate of pay of such special counsel. The City shall afford the commission, and its members all reasonable facilities and assistance to inspect all books, papers, documents, and accounts applying or in any way appertaining to any and all positions and employments subject to civil service and shall produce such books, papers, documents and accounts. All city officers and employees shall attend and testify whenever required to do so by the Commission, the accused, or the City Administrator or the City Attorney.

(Ord. No. 2997-12/86)

#### 3-906. Political fund contribution and political service.

No person holding any position subject to civil service shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever. No person shall be

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removed, reduced in position or salary or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service, or promise or threaten to do so for giving, withholding, or neglecting to make any contribution of money, services, or any valuable thing for any political purposes.

(Ord. No. 2997-12/86)

### **3-907. Obstructing examinations.**

No commissioner or any other person shall by himself or herself or in cooperation with one or more persons (1) defeat, deceive, or obstruct any person in respect to the right of examination according to the rules and regulations made pursuant to the Civil Service Act, (2) falsely mark, grade, estimate, or report upon the examination and standing of any person examined or certified in accordance with such act or aid in so doing, (3) make any false representation concerning the same or concerning the persons examined, (4) furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined or certified to be examined or certified, or (5) persuade any other person or permit or aid in manner any other person to impersonate him or her in connection with any examination, application, or request to be so examined.

(Ord. No. 2997-12/86)

## **Article X. Civil Service Commission.**

### **3-1001. Civil service commission created.**

There is hereby created in the City, a Civil Service Commission which shall have five (5) members who shall each be a citizen of the United States, a resident of such City for at least three years immediately preceding such appointment, and an elector of the county wherein such person resides.

(Ord. No. 2997-12/86)

### **3-1002. Appointment of members.**

The members of the Civil Service Commission shall be appointed by the Mayor. At the time of any appointment, not more than three members of the Civil Service Commission including the one or ones to be appointed, shall be registered electors of the same political party. Confirmation of the appointment(s) shall be made by the City Council.

(Ord. No. 2997-12/86)

### **3-1003. Members' term of office.**

The first persons appointed to the Civil Service Commission shall serve for terms of one (1) year, two (2) years, three (3) years, four (4) years, and (5) years respectively. Thereafter, all appointments shall be for five (5) years.

(Ord. No. 2997-12/86)

### **3-1004. Removal from office.**

Any member of the Civil Service Commission may be removed from office by Mayor for incompetency, dereliction of duty, malfeasance in office, or other good cause, except that no member of the Civil Service Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the Mayor.

(Ord. No. 2997-12/86)

### **3-1005. Compensation of members.**

Members of the Civil Service Commission shall serve without compensation.

(Ord. No. 2997-12/86)

### **3-1006. Meetings.**

The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties.

(Ord. No. 2997-12/86)

### **3-1007. Chairperson.**

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The Civil Service Commission shall annually elect one of its members as chairperson.  
(Ord. No. 2997-12/86)

### **3-1008. Secretary and chief examiner.**

The City Administrator shall appoint a secretary and a chief examiner who shall keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties needed. The positions of Secretary, Chief Examiner and Personnel Director may be merged by the City Administrator.  
(Ord. No. 2997-12/86)

### **3-1009. Quorum.**

Three (3) members shall constitute a quorum for the transaction of business.  
(Ord. No. 2997-12/86)

### **3-1010. Powers and duties.**

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

(2) The Commission shall provide that all tests shall be practical and consist only of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include, but not be limited to, tests of physical fitness and of manual skill and psychological testing.

(3) The Commission shall provide, by the rules and regulations, for a credit of ten percent in favor of all applicants for an appointment to an entry level position, as defined by the City Administrator under civil service who, in time of war or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States and who have equaled or exceeded the minimum qualifying standards established by the City Administrator.

(4) The Commission may conduct an investigation concerning and report upon all matters regarding the enforcement and effect of the Civil Service Act and the rules and regulations prescribed.

(5) The Commission may inspect all institutions, departments, positions, and employments affected by such act to determine whether such act and all such rules and regulations are being obeyed. Such investigations may be conducted by the Commission or by any Commissioner designated by the Commissioner for that purpose. The Commission shall also make a like investigation on the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such an investigation. The Commission may be represented in such investigations by the City Attorney, if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Mayor in any such investigation. In the course of such an investigation, the Commission, designated Commissioner, or chief examiner shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this state. The oaths administered and subpoenas issued shall have the same force and effect as the oaths administered by a district judge in a judicial capacity and subpoenas issued by the district courts of Nebraska. The failure of any person so subpoenaed to comply shall be deemed a violation of the Civil Service Act and be punished as such. No investigation shall be made pursuant to this section if there is a written accusation concerning the same subject matter against a person in the Civil Service. Such accusation shall be handled pursuant to Section 11-1105 (3) of this Code.

(6) The Commission shall provide that all hearings and investigations before the Commission, designated Commissioner, or chief examiner shall be governed by the Civil Service Act and the rules of practice and procedure to be adopted by the Commission. In the conduct thereof, they shall not be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Commission, except that no order, decision, rule, or regulation made by any designated Commissioner

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conducting any hearing or investigation alone shall be of any force or effect unless it is concurred in by a majority of the appointed members of the Commission, including the vote of any Commissioner making the investigation.

(7) The Commission shall establish and maintain a roster of officers and employees.

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

(9) The Commission shall make recommendations concerning a reduction in force policy.

(10) The Commission shall keep such records as may be necessary for the proper administration of Civil Service Act.

(11) The Commission, upon request of the City Administrator, shall establish and maintain a list of names and addresses, for a period of time established by the City Administrator, of those eligible for appointment to or promotion within the department.

(12) The Commission, upon request of the City Administrator, shall certify the names of the persons who are the three highest on the eligible list, following the most recent examination, and whose qualifications have been validated by the Commission for the vacant position.

(13) The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of the Civil Service Act and of the rules of the Commission. The Commission may be represented in such suits and all investigations pursuant to the Act by the City Attorney if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Mayor in any particular case.  
(Ord. No. 2997-12/86)

### Article XI. Civil Service Provisions.

#### 3-1101. Appointments and promotions.

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

(Ord. No. 2997-12/86)

##### 3-1101.01. Police chief and fire chief; appointing authority.

The appointing authority for the Police Chief and Fire Chief shall be the Mayor based on the City Administrator's recommendation. The Mayor's appointment shall be approved by the City Council.

(Ord. No. 3503-9/95)

##### 3-1102. Requirements for civil service position applicants.

An applicant for a position of any kind under civil service shall be able to read and write the English language, meet the minimum job qualifications of the position as established by the City Administrator, and be of good moral character. An applicant shall be required to disclose his or her past employment history and his or her criminal record, if any. Prior to certifying to the City Administrator the names of the persons eligible for the position or positions, the Commission shall validate the qualifications of such persons.

(Ord. No. 2997-12/86)

##### 3-1103 Filling of vacant positions.

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

(a) The multiple job skills recently or currently being performed by the applicant which are necessary

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for the position;

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

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

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

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

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

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

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

(Ord. No. 2997-12/86)

### **3-1104. Probationary Period.**

To enable the City Administrator to exercise the choice in the filling of positions, no appointment, employment, or promotion in any position in the service shall be deemed complete until after the expiration of a period of six months probationary service for firefighters and not less than six months after certification by the Nebraska Law Enforcement Training Center for police officers, during which time the City Administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the department. The City Administrator may appoint one of the other persons certified by the Commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment or promotion for the probationary period provided and then the appointment, employment, or promotion shall be complete.

(Ord. No. 2997-12/86)

### **3-1105. Disciplinary actions.**

(1) Tenure of employment. The tenure of a person holding a position of employment under the Civil Service Act shall be only during good behavior.

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

(a) Incompetency, inefficiency, or inattention to or dereliction of duty;

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

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

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

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

(f) Any other act or failure to act which, in the judgment of the Civil Service Commissioners is sufficient to justify the offender to be an unsuitable and unfit person to be employed in the public service.

### (3) Disciplinary action procedure.

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

(b) The written accusation shall set forth the alleged misconduct, charges, or grounds for investigation against the employee. The written accusation shall be filed by the complainant with the Personnel Director who shall cause a copy of such written accusation to be delivered within three (3) calendar days after the filing (1) to the Police or Fire Chief (2) to the City Administrator, and (3) to the employee personally, or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. The Personnel Director shall cause a return showing such delivery or mailing to be executed and filed in the Director's office.

(c) The Police or Fire Chief shall have the authority to immediately suspend, with or without pay, an employee against whom such written accusation has been filed, pending the confirmation of the suspension, or a decision of the City Administrator to reinstate the employee, remove, demote, discharge, or suspend the employee, with or without pay.

(d) Prior to the decision of the City Administrator to reinstate the employee or remove, demote, discharge, or suspend the employee, with or without pay, the Police or Fire Chief shall within a reasonable period of time investigate the alleged misconduct, charges, or grounds against the employee and explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present his or her version of the circumstances which resulted in the filing of the written accusation. If the Chief's investigation reveals other misconduct, charges, or grounds, he shall take immediate action by filing an amendment to the written accusation with the Personnel Director who shall cause a copy of such amended accusation to be delivered within three (3) calendar days after the filing (1) to the Police or Fire Chief (2) to the City Administrator, and (3) to the employee personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. In all cases there shall be kept a record showing such delivery or mailing to be executed and filed in the Personnel Director's office. In the event that a Police or Fire Chief is being disciplined, the City Administrator shall follow the same procedures as are followed by the Police or Fire Chief in disciplining employees under the Act. Upon completion of this procedure within a reasonable period of time, the Police or Fire Chief shall recommend in writing to the City Administrator that the alleged misconduct, charges, or grounds set forth in the written accusation be deemed: (1) to be without merit, (2) to not warrant disciplinary action, (3) to warrant disciplinary action less severe than removal, demotion, discharge, or suspension, with or without pay, such as an oral or written reprimand, or (4) to warrant removal, demotion, discharge, or suspension, with or without pay.

(e) Within fourteen (14) calendar days after receiving the written recommendation of the Police or Fire Chief, the City Administrator shall decide to accept the recommendation of the Police or Fire Chief, or shall decide that the alleged misconduct, charges, or grounds for investigation against the employee set forth in the written accusation be deemed: (1) to be without merit, (2) to not warrant disciplinary action, (3) to warrant disciplinary action less severe than removal, demotion, discharge, or suspension, with or without pay, such as an oral or written reprimand, or (4) to warrant removal, demotion, discharge, or suspension, with or without pay. The City Administrator shall file a copy of his or her decision within fourteen (14) calendar days after receiving the written recommendation of the Police or Fire Chief, with the Personnel Director who shall cause a copy of such decision to be filed within 24 hours after the filing (1) to the Police or Fire Chief, and (2) to the employee, personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. The Personnel Director shall cause a return showing such delivery or mailing to be executed and filed in the Secretary's office.

(f) Any employee so removed, suspended, demoted or discharged may, within fourteen (14) calendar days after receiving written notice of the City Administrator's decision, file a written demand for an investigation and public hearing by the Civil Service Commission. The employee shall file the request for

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the hearing with the secretary of the Commission and simultaneously send a copy of the request to the City Administrator. The failure to file such a request with the Personnel Director within fourteen (14) calendar days of receipt of notice of the action by the City Administrator shall constitute a waiver of the employee's right to review by the Civil Service Commission and the City Administrator's decision shall become final.

(g) Within fourteen (14) calendar days of receipt of the employee's notice of appeal, the City Administrator shall cause to be mailed or delivered the following notice to the employee and secretary of the Civil Service Commission:

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

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

(3) Copies of the documents to be introduced.

(h) Within fourteen (14) calendar days of the filing of the written demand for an investigation and public hearing by the Commission, the employee shall mail or deliver the following upon the City Administrator and Commission:

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

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

(3) Copies of the documents to be introduced.

(i) Upon receipt of a written demand, the Commission shall conduct an investigation. The Commission may be represented in such investigation and public hearing by the City Attorney if authorized by the City Administrator. If the City Attorney does not represent the Commission, the commission may be represented by special counsel appointed by the Mayor for any such investigation and hearing. The investigation shall consist solely of a review of the written submissions of the City Administrator and employee to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission ultimately to determine whether the City Administrator acted in good faith for cause. Good faith for cause shall mean that the action was not arbitrary or capricious and was not made for political or religious reasons.

(j) The Commission shall schedule a public hearing no less than ten (10) nor more than twenty (20) calendar days from the date of filing of the employee's written demand for an investigation. The Commission shall notify the City Administrator and employee in writing at least three (3) calendar days prior to the date of the hearing, of the date, time and place of the hearing.

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

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

(m) After the hearing, in lieu of affirming the removal, suspension, demotion, or discharge, the Commission may modify the order of removal, suspension, demotion, or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than fourteen (14) calendar days after the hearing the Commission shall certify its findings in writing to the employee and the City Administrator who shall enforce them.

(Ord. No. 2997-12/86)

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### 3-1106. Reduction in force policy.

(1) Establishment. There is hereby established a reduction in force policy for all civil service employees of the City of Hastings. This policy is being adopted after having:

- (a) Considered the recommendation of the Hastings Civil Service Commission on such policy;
- (b) Given reasonable notice to each police officer and firefighter of the City of the time, date and location of a public hearing on the policy; and
- (c) Conducted the said public hearing in accordance with the notification provided to each police officer and firefighter.

(2) Factors. An employee who has successfully fulfilled the probationary period for the position which he or she holds, will be removed from the classified service only after any probationary employees in the same job classification have been removed. In the event there are no such probationary employees, or if further reduction is to occur after removal of probationary employees, then the following factors shall be considered for a reduction in force.

- (a) The employment policies and staffing needs of the department together with the contracts, ordinances and statutes related thereto;
- (b) Required federal, state, or local certifications or licenses;
- (c) The multiple job skills recently or currently being performed by the employee;
- (d) The knowledge, skills, and abilities of the employee;
- (e) Efficiency of the employee as demonstrated on the job;
- (f) The performance appraisal of the employee including any recent or pending disciplinary actions involving the employee;
- (g) Seniority; and
- (h) Such other factors as may be determined to be relevant under the facts and circumstances of such reduction in force.

These factors may be documented or supported by employee evaluations, disciplinary actions, employee files, commendations, documented training, citizen reports, and other verifiable comments or data relevant to the factors to be considered.

(3) Weighting of Factors. Equal weight shall be accorded to each of the foregoing factors.

(4) Determination. Prior to the termination of any employment due to a reduction in force, the department head of the department in which the reduction is to occur shall meet with the Mayor and City Administrator for the purpose of determining which employee or employees should be terminated, taking into consideration the factors described above.

They shall first determine the job classification in which the reduction is to occur, and then they shall apply the factors to each employee within that class, and determine which employee or employees should be terminated.

In the event an employee becomes subject to layoff in his or her classification and the Committee determines in its discretion that such employee is qualified to perform duties in a lower classification, he or she shall be permitted to take a position in such lower classification at that classification's highest rate of pay or the employee's existing rate of pay, whichever is less and any employees in such lower classifications subjected to layoffs by virtue of the provisions of this subsection shall be laid off in accordance with the provisions of this section.

Regular full-time employees who have been laid off shall be eligible for re-employment for a period of two years thereafter, and the employer shall rehire in the reverse order of layoff; provided, such employees are otherwise qualified to perform the duties of the position.

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(5) Notification. When it has been determined that an employee is to be terminated due to a reduction in force, he or she shall be notified in writing by the department head of:

(a) the fact that his or her employment is being terminated due to a reduction in force;

(b) the effective date of the termination;

(c) the reason that such employee was selected for a reduction in force; and

(d) the employee's right to appeal the action taken to the Hastings Civil Service Commission, to be represented by an attorney, and to confront and cross-examine available adverse witnesses at such hearing.

Such notice shall be delivered to the employee personally or mailed to him or her by certified mail with return receipt requested.

(6) Effective date. No reduction in force as to any employee shall be effective until 14 days have elapsed from the time such employee has been notified in writing that his or her employment is being terminated due to a reduction in force.

(7) Appeal. An employee whose employment is terminated due to a reduction in force shall have the right to appeal such action to the Hastings Civil Service Commission, which shall proceed to hear such matter as in other cases. The general rules pertaining to appeals of other matters to the Commission under this article shall prevail. The Commission, in considering the matter, shall determine whether the department head, Mayor and City Administrator fairly and reasonably applied the factors described above and acted from honest convictions without any ill will, fraud, collusion, or other such improper motives.

(Ord. No. 2997-12/86)

### **3-1107. Leave of absence.**

A leave of absence with or without pay may be granted by the City Administrator to any person under Civil Service. The City Administrator shall give notice of such leave to the Commission. All appointments for temporary employment resulting from such leaves of absence shall be made from the eligible list, if any, of the Civil Service.

(Ord. No. 2997-12/86)

## **Article XII. Sexual Harassment.**

### **3-1201. Legislative intent.**

It is the policy of the City of Hastings that there be no discrimination against any employee or applicant for employment with the City of Hastings on the basis of his or her sex. The City of Hastings considers sexual 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.

### **3-1202. Sexual harassment prohibited.**

Sexual harassment by or directed toward any employee or prospective employee is expressly prohibited. Violation of this policy shall result in disciplinary action.

### **3-1203. 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 sexual harassment, 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

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Hastings Utilities, 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. If the complainant is a city government employee, the investigator shall be the City Administrator. If the complainant is a Hastings Utilities employee, the investigator shall be the Manager of Hastings Utilities. If the complaint involves the City Administrator, the investigator shall be the Mayor and Hastings City Council, who shall have the authority to investigate the complaint, or designate an individual to conduct the investigation. If the complaint involves the Manager of Hastings Utilities, the investigator shall be the Board of Public Works, 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.

### **3-1204. Complaint procedure.**

(1) An employee or job applicant who believes he or she has been sexually harassed may submit a written complaint with any one of the following:

- (a) immediate supervisor
- (b) department head
- (c) any supervisor or the department head of any City department
- (d) City Personnel Officer
- (e) City Administrator
- (f) Manager, Hastings Utilities

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

### **3-1205. 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 record, for each interview 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 harassment; and
- (e) the identity of the aggrieved party.

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

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(3) The employee who filed the complaint shall be kept informed of the status of the investigation. Three (3) months after the completion of the investigation, the investigator shall conduct a follow-up review with the employee in order to make sure that the problem has been remedied.

### **3-1206. Investigation; findings.**

Upon completion of the investigation, the investigator shall prepare a report of the findings of the investigation, deliver same to the appointing authority of the employee against whom the complaint was filed and to the City Personnel Officer. 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.

### **3-1207. Disciplinary action.**

After reviewing the findings of the investigation, the appointing authority of the employee against whom the complaint was filed shall take any appropriate action. 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 affected employee.

### **3-1208. Appeal procedure.**

Appeals of action taken under the provisions of this Article shall be submitted directly to the Civil Service commission. Any appeal shall be submitted in writing within five (5) working days of notification of action taken. The Commission shall hold a formal hearing within ten (10) working days of the submission of the written appeal. The Commission shall provide the complainant and the party against whom the grievance was filed at least five (5) days' written notice of the time and place of the hearing. Within five (5) working days after the formal hearing, the Commission shall provide all parties to the appeal with a written decision.

### **3-1209. 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.

### **3-1210. False complaints.**

No employee shall intentionally prepare and execute a false complaint of sexual harassment. Any employee who does so shall be subject to disciplinary action.  
(Ord. No. 3235-11/91)