

**CITY OF HAWARDEN
SPECIAL CITY COUNCIL MEETING AGENDA
Hawarden City Hall – Council Chambers Room
Wednesday, June 29, 2022, at 12:00 p.m. (Noon)**

Other Agenda Items

- 1. Resolution 2022-29, A Resolution Adopting the City of Hawarden Employee Personnel Policy.**
- 2. Adjournment**

Next regular Council Meeting July 13, 2022

City of Hawarden

Public Meeting Procedures

These Procedural rules are to provide for the orderly conduct of City business by the City Council, with the objective of providing for full, open and comprehensive debate of issues brought before the body for action in a forum open to the public, and which encourages citizens' awareness of City Council activities. These procedures do not increase or diminish the existing powers or authority of the Mayor or City Council members, but is intended merely to serve as a general set of guidelines to assist the governmental body in conducting City business.

House Rules:

- No food or drink other than bottled water may be brought into the Council Chambers.
- Cell phones and pagers should be silenced in the Council Chambers.
- Signs and placards are not permitted in the Council Chambers.

Citizens' Right To Be Heard:

It is the Council's goal that citizens resolve their complaints for service or regarding employees' performance at the staff level. However, it is recognized that citizens may from time to time believe it is necessary to speak to City Council on matters of concern. Accordingly, City Council expects any citizen to speak in a civil manner, with due respect for the decorum of the meeting, and with respect for all persons attending.

- No member of the public shall be heard until recognized by the presiding officer.
- Public comments will only be heard during the Public Comment portion of the meeting unless the issue is a Public Hearing.
- Speakers must stand at the dais and speak into the microphone, unless unable to do so, and state your name and address for the record.
- Any citizen requesting to speak shall limit himself or herself to matters of fact regarding the issue of concern.
- Comments should be limited to five (5) minutes unless prior approval by the presiding officer.
- If a representative is elected to speak for a group, the presiding officer may approve an increased time allotment.
- Personal attacks made publicly toward any citizen or city employee are not allowed. Citizens are encouraged to bring their complaints regarding employee performance through the supervisory chain of command in accordance with the City's Personnel policies.
- Any member of the public interrupting City Council proceedings, approaching the dais without permission, otherwise creating a disturbance, or failing to abide by these rules of procedure in addressing the City Council, shall be deemed to have disrupted a public meeting and, at the direction of the presiding officer, shall be removed from the Council Chambers by Police Department personnel or other agent designated by the City Council or City Administrator.

RESOLUTION NO 2022-29

**A RESOLUTION ADOPTING THE 2022 UPDATED CITY of
HAWARDEN PERSONNEL POLICY**

WHEREAS, the existing City of Hawarden Personnel Policy should be reviewed and updated on a regularly; and,

WHEREAS, the labor market and various other circumstances have changed since the last update; and

WHEREAS, City staff has reviewed the current policy and recommended changes which are incorporated into the 2022 Personnel Policy; and

WHEREAS, the City Council of the City of Hawarden has considered the updated handbook.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Hawarden, Iowa, that the 2022 City of Hawarden Personnel Policy is hereby adopted upon passage of this Resolution and to be effective July 1, 2022.

PASSED AND APPROVED the _____ day of June, 2022

Ricard R. Porter, Mayor

ATTEST:

Wanda M. Woodley, City Administrator/Clerk

**CITY OF HAWARDEN
PERSONNEL
POLICY MANUAL
2022 Update**



Effective July 1, 2022

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ARTICLE I

GENERAL PROVISIONS/POLICIES

1.1 Purpose:

The City of Hawarden recognizes that a personnel system which is designed to ensure the recruitment, development, and retention of a competent, productive work force is essential to effective, efficient local government. These personnel policies and procedures have been developed in order to achieve optimum efficiency, economy and equity for employees and citizens alike in the pursuit of the City's goals and the utilization of its human resources.

It is the purpose of this document to establish an efficient, equitable, and functional system of personnel administration based on merit principles that is intended to govern all employees and conditions or employment. To further this purpose this handbook was written for our employees as a matter of information.

1.2 Application of State and Federal Statutes:

In situations where this document is superseded by the State Code of Iowa and /or Federal Law such statutes shall apply. Changes to State or Federal law that occur after the adoption of these policies shall be adopted by reference to the extent required by law.

1.3 Employee Status:

Every employee of the City is and shall remain an employee "at will". The "doctrine of termination at will" shall be the employment policy of the City. Any City employee shall have the right to resign at any time and the City shall have the right to terminate any employee services at any time. Solely for the purpose of assisting the employee in understanding what is expected on the job and without in any way making an exception to the status of each employee as an employee "at will" additional information on employee conduct is provided in Article XIV. The acts set out in Article XIV are listed for the employee's information only and are not a limitation on the type of acts, which may be considered unacceptable practice by the City. You are an employee at will, and nothing in this handbook is intended to be, nor should be construed as, an exception thereto. Whenever the handbook uses the terms probationary or regular employee, the terms are used to determine the level of benefits that an employee in such status receives and does not create any exception to the employee's status as an "at-will" employee.

1.4 Applicability of Personnel Policies:

a. These "Rules and Regulations" shall be the established personnel policies for all employees of the City of Hawarden under the jurisdiction of the City Council, Council appointed Boards, and Commissions having authority over employees whose compensation is paid by the City excluding those listed by the City. The only exceptions to these policies if any shall be those specifically identified in the union contract.

b. The following are explicitly exempted from coverage: All elected officials; All members of City Boards or Commissions; City Attorney; Volunteers, consultants, advisors and counsel rendering temporary services; Independent contractors; Library and Hospital Board Employees and those occupying positions not established by Council.

1.5 Adoption and Amendment of Handbook

This Handbook shall become effective when adopted by the Council by resolution. Upon adoption, the rules contained herein shall supersede any and all personnel rules, policies, regulations, or procedures previously adopted by the Council. An amendment to the Handbook shall become effective upon approval of the Council by resolution, unless the resolution provides for a later effective date.

1.6 Recognition of the Union:

a. The Employer recognizes the Union as the sole and exclusive bargaining agent for: Full-time and regular part-time Street, Water/Wastewater, Gas, Electric, and Telecommunications Foreman and Street, Water/Wastewater, Gas, Electric, Telecommunications, and General Utility Assistants and Mechanic that are presently employed as well as any future employees in this class that wish to join the union.

b. The following employees are specifically excluded: City Administrator/City Clerk, Public Works Director, Deputy City Clerk/Finance Officer, Public Safety Coordinator, all clerical employees, all police department employees, employees of a seasonal/temporary nature (i.e. golf course, cemetery, swimming pool and mowing) and all other persons excluded by Section 20.4 of the Code of Iowa.

1.7 Job Descriptions:

a. Each full-time established position shall have a job description that includes at a minimum: A concise, descriptive title; a description of duties and responsibilities of the position; a statement of desirable qualifications for the position and physical and mental requirements. These may be amended as needed by the City Administrator or any Department Head with approval of the City Administrator.

b. Department Heads from time to time shall review the duties and responsibilities of each position. If necessary, adjustment in duties and responsibilities of position(s), the creation of new positions, or the abolishment of existing positions shall be made. All changes in the number of positions shall be made upon the City Administrator's recommendation and approval of the Council.

1.8 Equal Opportunity/ Anti-Discrimination Policy:

- a. The City seeks to provide equal opportunity to all of its employees and applicants for employment and to prohibit discrimination based on race, color, sex, religion, national origin, political affiliation, physical or mental disability, age or marital status. The City promotes equal opportunity in matters of hiring, training, promotion, transfer, compensation, benefits and all other terms, privileges and conditions of employment, and actively pursues an affirmative action program.
- b. Positions in all departments in municipal service shall be open to all applicants who are citizens of the United States and who meet the qualifications established for the class of position for which application is made. No person shall, in any way, be favored or discriminated against because of his race, political or religious opinions and affiliations, national origins, sex, employee union or association membership or office therein. Employees of the City shall be free to join or refrain from joining any employee unions or associations.
- c. The City Administrator has ultimate responsibility for the overall administration of the affirmative action/ equal opportunity policies. The total integration of equal opportunity into all parts of personnel and program management is the City Administrator's responsibility. The City Administrator will review all policies and procedures as they affect equal opportunity and affirmative action and ensure compliance with relevant federal and state statutes.
- d. Any person who feels that he or she has been denied employment, participation, representation, or services in any program administered by the City of Hawarden because of race, creed, color, religion, sex, national origin, age, handicap, political affiliation, or citizenship, has the right to file an equal opportunity complaint in writing with the Deputy City Clerk/Finance Director or City Administrator. Information and assistance relative to equal opportunity complaints shall be provided by the Affirmative Action/ Equal Opportunity Officer, which shall be the Deputy City Clerk/ Finance Officer.

1.9 Americans with Disabilities Act:

The City of Hawarden complies with the Americans with Disabilities Act of 1990, as amended by the Civil Rights Act of 1991, which prohibits discrimination on the basis of disability and protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, and other aspects of employment.

1.10 Harassment/Sexual Harassment:

- a. It is the policy of the City of Hawarden to strictly prohibit harassment of any kind and to maintain a professional and quality working environment for all employees or future employees. Additionally, it is the policy of the City of Hawarden to promote a productive work environment that does not tolerate verbal or physical conduct by any employee which harasses, disrupts, or interferes with another's work performance or which creates an intimidating, offensive, or hostile environment.
- b. Harassment on the basis of sex is a violation of Section 703 of Title VII Civil Rights Act of 1964. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejections of such conduct is used as the basis for employment decisions affecting an individual, or
3. Submission to 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.

c. Harassment of any kind encompasses harassment of subordinates or co-workers based on race, color, national origin, age, sex, religion, or handicap. Examples of prohibited behavior include, but are not limited to:

1. Threats;
2. Offensive jokes and/or offensive language
3. Subjecting employees to ridicule, slurs, or derogatory actions;
4. Basing employment decisions or practices on submission to harassment;
5. Refusal to cooperate with employees in performing work assignments;
6. Open speculation or repeated inquiries about a person's sex life;
7. Display of sexually explicit material in the workplace

d. The City of Hawarden's position is to take a proactive position to prevent such unwanted conduct from occurring and to deal with all such reported incidents in a fair, impartial, and speedy matter. All complaints or incidents will be investigated on a case-by-case basis. In those instances where a violation has been shown to occur, immediate action will be taken to remedy the situation. All persons who violate this policy will be subject to disciplinary action up to and including termination.

e. To carry out the policy enunciated herein and to prevent the actions prohibited in this policy, it is essential that the employee promptly notify the City of any harassment and the department head take immediate action in response to such notification.

1. It is each employee's responsibility to help eliminate all forms of harassment and unwanted conduct. It is each Department Head's responsibility to prevent such behavior from occurring within his/her department.
2. It is the responsibility of each employee who feels they are the victim of harassment to let the alleged harasser know that such behavior is unwelcome and if they deem it warranted, to report such harassment to their department head as provided in the following paragraph (3).

3. If such harassment is warranted or continues after an initial warning it shall be the responsibility of the employee to report such harassment. The incident should be reported within five (5) working days in writing to his/her department head: or to any other department head of the employee's choosing. If an applicant or employee feels that he/she has been harassed by a Department Head, the incident shall be reported in writing to the City Administrator within five (5) working days. If an applicant or employee feels that he/she has been harassed by the City Administrator the incident shall be reported in writing to the Finance Officer/Deputy City Clerk within five (5) working days. The report shall clearly state what occurred, when it occurred, by whom, who witnessed it, and other facts concerning the issue. Working days shall be construed as City Hall business days.

f. All allegations of harassment will be investigated and appropriate action up to, and including, discharge may result if the facts appear to support the allegation. Information about sexual harassment investigations will be disclosed only on a need-to-know basis. No retaliation will be permitted against an employee who brings an allegation of harassment or who participates in an investigation.

1.11 Substance Abuse Prevention:

a. The City of Hawarden is dedicated to providing safe and efficient service to our citizens. Our employees are our most valuable resource in ensuring this quality service. Therefore it is the goal of the City to provide our employees with a drug-free workplace environment, which promotes health and safety. In addition, it is designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles or those holding safety sensitive positions.

b. In order to meet this goal, the City endorses the Federal Highway Administration and Office of Pipeline Safety (OPS) anti-drug policies and regulations and all employees holding a Commercial Vehicle Operator's License or occupying a Safety-Sensitive Covered position will be subject to random testing for substance abuse. The two standards above encompass every full-time position with the City. The City of Hawarden policy will be implemented through a consortium of other local governments, contractors, or governmental agencies called the Drug and Alcohol Testing Alliance (DATA). Detailed testing procedures, definitions and standing drug policies of the DATA are hereby incorporated by reference excluding the consequences as listed below:

c. The City will not tolerate the unauthorized use, abuse, possession or sale of controlled substances by its employees. If the test of an employee, who is subject to the requirements of drug and alcohol testing, results in a Medical Review Officer verified positive test for the use of a controlled substance (drugs) or an alcohol level of .04 or greater, the employee will be terminated immediately (pursuant to the normal termination procedures). An employees' refusal to test or a conviction for the sale or possession of controlled substances shall have the same consequences as a positive test result above. The consequences of an arrest for the sale or possession of controlled substances shall be up to and including termination and shall be determined by the City Administrator on a case-by-case basis based on the facts surrounding the individual case.

If the test of an employee results in positive result for an alcohol concentration of 0.02 but less than 0.04, the employee shall be removed from active work status for remainder of the day without pay. In addition the employee will be referred to and required to visit an appropriate substance abuse professional for assessment and/or enrollment in a treatment and rehabilitation program if recommended. Upon receiving a second positive test result for an alcohol concentration of 0.02 but less than 0.04, the employee shall be terminated immediately (pursuant to the normal termination procedures). The costs of any evaluation and treatment/rehabilitation described above shall be paid entirely by the employee.

d. Treatment/Rehabilitation - Those that voluntarily turn themselves in prior to a test day, shall be eligible for a treatment/rehabilitation program, one time. The expenses for any evaluation, treatment/rehabilitation program shall be paid entirely by the employee with no City funds, other than any coverage that the employee may have under the City's health insurance program. An employee required to take time off in order to participate in a rehabilitation process may use accrued sick leave, accrued vacation time, compensatory time, personal time, and/or unpaid leave.

Participation in an abuse treatment and rehab program will not result in disciplinary action. However, safety-sensitive duties will be assigned until the Medical Review Officer or substance abuse professional determines that the employee may return to duty. Successful completion of the prescribed program will be required for that employee to continue employment with the City. Employees who undergo treatment and counseling under this policy and who continue to work must meet all established standards of conduct and job performance.

e. Definitions - Whenever the term alcohol concentration is used in the policy the definition for that term shall be as found in 49CFR 382.107. Whenever the term controlled substance is used in this policy, the definition for that term shall be as found in 49CRF Part 382, Part 391, Part 40, and 21 U.S.C.802.

1.12 Safety Policy:

a. The City of Hawarden considers the safety of its employees and volunteers working for the City to be a top priority. Our policy is to provide the safest possible working conditions for our employees in the performance of their required duties. In turn employees are expected to accomplish their work in an acceptable and safe manner for themselves and the public. The main safety program objective for all employees is to eliminate unsafe conditions and practices.

b. To accomplish this the City shall attempt to provide and maintain a safe and healthy workplace for all employees and correct hazards as they are brought to the City's attention. Employees shall be alert to unsafe practices, equipment or conditions and shall be required to report any such perceived unsafe practice, equipment, or conditions to their immediate supervisor, Department Head, or City Administrator until the safety concern is resolved.

c. The City agrees to comply with occupational safety and health standards and regulations as required by law. In addition the City agrees to furnish and maintain in safe working conditions all tools and equipment required to carry out the duties of each position. However, employees and the supervisors that utilize these tools and equipment shall bear a direct responsibility for inspecting, training on, and maintaining these tools and equipment as well as reporting any unsafe condition or practice and properly using said tools and equipment.

d. The City shall also furnish protective devices, clothing, and equipment as required by law. This shall not include daily work uniforms but shall include items such as: safety glasses, hearing protection, hard hats, respirators, protective gloves, safety toe work boots, and full turn-out gear. Employees shall be required to wear and supervisors shall be required to ensure that all safety equipment provided is worn and otherwise utilized correctly. Supervisors at every level to include supervisors are required to address those in the City's service that fail to wear the safety equipment/clothing provided up to removing the individual from the City's service for continued abuses.

1.13 Department Regulations:

These personnel policies shall not be construed as limiting in any way the power and authority of any department head to make departmental rules and regulations governing the conduct and performance of employees that are more specific to the particular area (i.e. Police Procedures, Life Guard Rules, Burial Procedures). Departmental rules and regulations, however, shall not conflict with provisions of these rules. Such rules and regulations shall have the force and effect of official City policies and disciplinary action may be based upon breach of any such rules and regulations. A copy of said Departmental Rules shall be provided to the City Administrator for approval and shall be subject to City Council review if so desired.

1.14 Administrative Responsibilities:

a. The City Administrator is authorized and directed to administer these personnel policies and regulations including the right to establish whatever detailed provisions and procedures may be necessary to further explain and clarify the provisions herein. Such detailed provisions/explanations shall be in writing and shall be effective after a written copy has been provided to the City Council for information and review.

b. In addition to other duties set forth in these policies and procedures, the City Administrator shall insure that at least the following records are maintained for all employees:

1. Employee's Employment Application;
2. Position title and departmental assignment;
3. Salary, W-4 and I-9 forms;
4. IPERS and Group Insurance enrollment forms
5. Past changes in employment with the City;
6. Any drug tests or vaccines;
7. Such additional information as may be required.
8. Signed employee "Statement of Understanding And Receipt of Personnel Handbook".

c. Insure that all current and newly employed personnel in established positions receive a copy of the policies and procedures of the City.

d. Insure that subsequent amendments or additions made in these personnel policies and procedures by the Council are incorporated herein as follows:

1. Immediately upon official amendment or addition, the change or change(s) shall be written in a manner and format consistent with these policies and procedures;
2. The effective date of the change shall be noted after the word "changed" in the lower right-hand corner of each replacement page or addition; and
3. The change (s) shall be distributed to all personnel assigned custody of a copy of the policies and procedures.
4. All personnel decisions are subject to final review and approval by the City Administrator, who has responsibility and authority over all personnel matters per this personnel manual, excluding those affecting the City Administrator personally. The City Administrator shall advise the Council of said decisions of a significant nature.

ARTICLE II EMPLOYMENT PROCESS

2.1 Philosophy for Filling Vacancies:

- a. It shall be the policy of the City of Hawarden to carry on such recruitment programs as necessary to seek out and secure the most qualified individuals to apply for City positions at all levels of the municipal service.
- b. Vacancies shall be filled as far as practical by promotion from within. To accomplish this, closed competition may be held when the Department Head or City Administrator determines there is sufficient number of qualified employees applying for the position. However, the Department Head or City Administrator may elect to do both and also go outside the current City employees to fill vacant positions.
- c. Appointment to any established position with the City may be made only after the City Administrator has determined that the person being considered meets all qualifications prescribed in the job description for the position to which the appointment will be made. The City Administrator may grant a waiver of any prescribed qualification as long as the proposed waiver is not prohibited by law.
- d. This policy shall apply equally to current employees who request a transfer or promotion to a vacant position as well as new applicants for employment or re-employment

2.2 Announcement of vacant positions:

- a. When a regular full-time vacancy occurs within the City, current employees shall be notified of the vacancy by posting announcements in the City Hall and Public Works bulletin boards for at least five (5) working days, and by such other means as the City shall otherwise deem advisable. Internal announcements may include position title, pay rate/salary, and summary of duties, position qualifications, and the time limit for applying. Vacant positions may be filled by either the promotion/transfer of a current employee or employing a person from outside of the City service.
- b. When announcements of vacant position(s) are made outside the organization, they shall be made in a newspaper of general circulation in the City. All announcements may include such information as where to apply, deadlines for application, pay ranges for the position, a summary of duties of the position, and position qualifications. The City may also list such vacancies with the local office of Iowa Department of Labor Services. All written announcements of vacant positions shall contain the following statement: "An Equal Opportunity Employer" or "EOE".

2.3 Application for positions:

- a. Employment Application Forms supplied by the City and completed by applicants shall include information about the applicant's training and experience and such additional information as required to effectively evaluate the applicant's ability to perform the duties required by the position.
- b. No person may be appointed to a position unless information on an official Employment Application Form (or resumes for some positions) indicates that the person meets the qualifications for the position as set forth in the job description.

c. All Employment Application Forms must be completed in their entirety, signed and dated by the applicant.

d. Any employee occupying an established position may request a transfer from one position to a vacant position by submitting a written request to the appropriate Department Head (or City Administrator if applicable) provided the employee possesses the appropriate qualifications for the position and the employee is not serving an original probationary period. Current employees who wish to apply for the vacant position must complete all employment processes required by the City.

2.4 Selection methods for positions:

a. In order to be considered eligible for the vacant position, candidates must meet the necessary and desirable requirements of the position, including, but not limited to, knowledge, skills, abilities, education, and training. Applicants may be required to submit proof of education, training and other documentation as deemed necessary.

b. In making a selection from among candidates to fill positions in the municipal service, the appointing authority may use written, oral or performance tests, an evaluation of training and experience, or any combination of these. The qualifications of an applicant for a position may be ascertained on the basis of the following:

1. Information the applicant supplies on the official Employment Application Form.

2. A written test based on the knowledge required for the position.

3. Personal Interview.

4. Information and evaluations supplied by references given by the applicant.

5. A Physical Skills Test may be required to demonstrate fitness (police only) or to demonstrate skill such as a typing test, equipment operation, etc.

6. Seniority may also be considered. Seniority shall be defined as an employee's length of continuous service since his/her last date of hire only to be broken by: Resignation; Lay-off for one (1) year; Discharge; Failure to report for work after recall; Retirement; Unpaid leave of absence for one year.

7. A favorable credit check/history report for those employees handling public monies.

8. A clear criminal background check.

9. Other appropriate information as required.

c. On the basis of the information obtained concerning the applicant, an extensive background investigation may be conducted prior to the actual appointment of the applicant.

- d. After a preliminary offer of employment, applicants shall be required to pass the following:
1. A complete physical examination including testing for substance abuse and communicable diseases;
 2. For employment in the police department, applicants shall be required to take a psychological evaluation prior to actual employment.

2.5 Rejection of Applications:

Applications for employment may be rejected for, but not limited to, the following reasons:

- a. Failure of a substance abuse screening.
- b. The applicant did not pass a written exam, where applicable.
- c. The applicant is deficient in any of the requirements specified in the position description.
- d. The applicant attempted fraud or deception during any part of the employment processes.
- e. Failure to successfully pass the physical or psychological evaluation, where applicable.
- f. Unsatisfactory prior employment record.
- g. Failure to pass any departmental skills test.
- h. Not the most qualified applicant.

2.6 Eligibility List:

- a. After appointment of a candidate to a position, an eligibility file may be kept for up to 6 months of the remaining candidates who have most recently passed the preliminary qualifications as set out in prior sections.
- b. Upon establishing this eligibility file, candidates who have qualified for other vacant positions requiring similar training, experience, knowledge, skills, and abilities may be the first considered for vacant positions without re-advertising and re-opening the selection process for this position.

2.7 Appointing and Removing Authorities:

- a. The City Council shall have the power to appoint and remove the City Administrator. The City Administrator shall have the authority to appoint and remove all Department Heads and subordinate employees. The Department Heads shall have the authority to appoint all and remove all subordinate employees with the advisement and consent of the City Administrator prior to making appointments or removing of subordinate positions.
- b. For the purpose of these policies Department Heads shall be defined as the Chief of Police, Deputy City Clerk/Finance Officer, Public Works Director, Community Development Director, Emergency Services/Safety Coordinator, and Recreation Director. This section shall not be construed as depriving the City Council or any boards and commissions of appointments. Specifically, the Library Board, Park Board, and Hospital Board shall have the authority to appoint and remove their respective employees.

2.8. Employment of Relatives:

- a. The City does not specifically prohibit the employment of relatives, unless the relative is in the direct line of supervision. However, it is declared to be the practice of this City to appoint personnel based on

merit and qualifications rather than on political or family advantage. For purposes of this section the Mayor and City Council shall be included in the direct line of supervision.

b. Nepotism, or favoritism shown to relatives shall be avoided.

c. For the purpose of this section, relative is hereby defined as spouse, parent, children, brothers, sisters, and immediate in-laws (same relation to spouse as defined for employee).

d. This policy shall not apply to seasonal/temporary help for under 6 months.

ARTICLE III CLASSES OF EMPLOYMENT

3.1. Classes of Employees

- a. Regular Full Time: Employees who have satisfactorily met the requirements of their probationary period and who regularly work at least 40 scheduled hours a week or more twelve months per fiscal year and who have been designated by the City as full-time employees.

- b. Regular Part Time: Employees who have satisfactorily met the requirements of their probationary period and who regularly work less than 40 scheduled hours a week twelve months per fiscal year. Part-time employees working 20-39 hours per week on a regularly scheduled basis shall receive employer participation in the payment of health insurance premiums on the following pro-rated basis: 25-29 hours per week 50%, 30-39 hours per week 75%. Other benefits allocated shall include vacation, sick time, holiday pay, and personal time shall be as described in each applicable section.

- c. Probationary: Employees who are undergoing a trial period to verify if they are capable of meeting the requirements of their position. As all employees, probationary employees are subject to dismissal at any time during their probationary period at the discretion of their Department Head or City Administrator as the case may be. Probationary periods shall follow the rules listed below in Section 3.2.

- d. Seasonal: Employees who are hired to work for a specific length of time or season. The length of time must be for a period of less than eight complete months. Seasonal employees do not receive any benefits excluding seasonal employees that work more or are scheduled to work more than eight complete months. Those employees shall be entitled to, holiday pay for any holidays that occur during the time worked, one week of vacation and 4hrs sick time per month. Some seasonal employees shall also be entitled to IPERS contributions as required by Iowa Law.

- e. Irregular Part Time: Employees who work on an inconsistent or “on call” basis. These positions shall not be entitled to any benefits.

3.2 Probationary Period:

- a. The probationary period is regarded as an integral part of the selection process and shall be utilized for closely observing the employee's work, securing the most effective adjustments of the employee to the position, and rejecting any worker whose performance is not satisfactory.

- b. All personnel initially appointed to an established position shall be on probationary status for six (6) months. At the end of the six months, the new employee (excluding police officer) shall automatically receive status as a regular full-time or regular part-time employee (as applicable) unless otherwise notified in writing. Police officers that have not been certified shall be on probation for 1 year or 6 months after police certification is completed, whichever shall occur first.

- c. Probationary periods may be extended by the City Administrator for an additional 6 months, upon recommendation by the Department Head if applicable.

d. Probationary employees should be evaluated at least quarterly, verbally or in writing, during the probationary period.

ARTICLE IV PAY POLICY

4.1 Pay Plan:

The City Council shall determine salaries in a pay plan provided by resolution and may revise the plan from time to time. The City Administrator shall be responsible for maintaining the fairness and adequacy of the overall pay plan and shall make recommendations to the City Council for such changes as are necessary to discharge this responsibility. The pay plan or given ranges or position assignments within it may be reviewed by the City Administrator at the request of subordinate personnel, the Mayor or the City Council. Adjustments to wage rates may be authorized only by a majority of the City Council.

4.2 Compensation:

- a. Every City employee, whether hired or contracted, and every employee of the City shall receive a salary or stated compensation determined in accordance with the pay plan. The rates of pay set forth in the pay plan are for full-time employment and represent the total salary compensation except as otherwise provided.
- b. Regular Part-time, Seasonal, and Irregular Part-Time employee rates shall be set by the Department Head upon approval of the City Administrator. In no case shall the rates set by the City Administrator be higher than any full time position of a similar nature.
- c. The City Administrator will have the discretion within similar rates of pay established in the pay plan (described in 4.2a above) to determine the initial rate for pay to be received by all individuals upon their employment, considering at a minimum: the present rate of pay other employees, market conditions, and the experience/skills level of the individual hired.

4.3 Special Fees:

Total compensation and other authorized allowances shall be in lieu of any special fees or compensation which an employee or officer may be authorized by law to collect. Such fees or other compensation shall be paid to the City in full.

4.4 Uniform Allowance/Policies:

- a. Members of the Police Department who are full time employees shall be allowed expenses for the procurement, maintenance and upkeep of uniforms as approved by the Chief of Police not to exceed the amount budgeted for the fiscal year. Such expenses will be paid directly by the City per our normal claim procedures.
All full-time outside employee will be provided 5 T-shirts and sweatshirts as needed not to exceed 2 per year.

4.5 Pay Periods:

Employees shall be paid biweekly. If regular payday falls on a holiday, payment shall be on the preceding regular workday. Payment, net of lawful deductions, shall be by direct deposit to an account designated by the employee.

4.6 Deductions:

Any employee may authorize deductions from their pay for the purposes listed below; some of which may be offered on pre-tax basis:

- a. Group Medical Insurance
- b. Deferred Compensation
- c. Additional Life Insurance
- d. Supplemental Insurances such as Cancer or long term disability Insurance
- e. Flex-Spending Account for daycare, dental, optical, life insurance and supplemental insurance once a program is established.
- f. Other Deductions approved by the City Administrator or by a resolution of the City Council.

4.7 Longevity Pay:

Longevity pay will be paid on an annual basis in December of each year to all employees. The amount of this pay shall be **\$100** for full-time employees and **\$50** for part-time employees or the equivalent thereof (i.e. Chamber Dollars). Such amount may be amended from time to time by the City Council by resolution at the time annual salaries are approved as part of the employee's annual salary compensation.

4.8 Pay Plan Administration:

The City Administrator shall be responsible for general administration of the pay plan with the assistance of all department heads. It shall be the responsibility of the designated department heads to turn into the Finance Officer/Deputy City Clerk, the complete record of each employee of actual time worked, vacation taken, sick leave taken, compensatory time earned and compensatory time taken. The Deputy City Clerk will keep a current record for each employee. These records shall be turned into the Clerk's Office on the Monday after the completion of each two-week pay period. All time will be calculated in fifteen (15) minute increments, with five (5) minutes and lower rounding back, and six (6) minutes and higher rounding up.

ARTICLE V

HOURS OF WORK AND GENERAL WORK RULES

5.1 Workday:

a. Police Department Officers

The normal workday for Police Department employees shall be from eight (8) to twelve (12) hours depending on the work schedule established by the Police Chief and shall include a paid lunch period.

b. The normal workday for all full-time employees, except police department employees, shall be eight (8) consecutive hours, exclusive of an unpaid lunch period.

c. A more flexible schedule may be established between the Department Head and employee for certain positions with the approval of the City Administrator.

5.2 Normal Work Schedules and Work Week:

a. The normal work schedule for full-time employees, except police department employees, shall generally consist of five (5) consecutive eight (8) hour days, Monday through Friday for 40hrs. For Police officers it shall be as scheduled but shall generally be 40hrs. The workweek for all employees shall begin at 0700hrs on Monday and end at 0700hrs on Monday seven (7) consecutive days thereafter. Time worked for all employees over 40 hrs in one week, Police 86 hrs in two weeks, shall be handled in accordance with article VI.

b. The workweek for all employees shall begin at 0700 hrs on Monday and end at 0700 hrs on Monday seven (7) consecutive days thereafter. Normal scheduled hours of work shall be from about 7:30 am to 4:30pm, excluding police, which shall be by the posted schedule. Except for emergencies or staffing shortfalls change in normal schedule hours shall be posted a minimum of five (5) working days in advance unless otherwise unless agreed to by the employee. However, the employer may send employees home upon the completion of forty (40) hours (Police 86hrs for two weeks) of work at any time during the week. In such cases the employer will not hire part-time employees to perform work normally performed by these employees, excluding police which hire part-time employees on a regular basis to fill such shifts.

c. The City Administrator and Department Heads (exempt employees) will be expected to work a normal work schedule (40hrs) plus any additional hours necessary to do their job, or to otherwise maintain or improve the operation of their departments to the benefit of the City without overtime compensation. Time worked over 40hrs in any one week shall be handled in accordance with Article VI.

d. Nothing contained in this Article is a guarantee of number of hours per day, per week, or year.

5.3 Meal Periods:

- a. Police Officers will be granted up to a one-hour meal period with pay per 8hr day, which will be scheduled at the approximate middle of the shift. An additional half (1/2) hour meal period with pay shall be permitted for a 12 hr shift. Police officers shall not be entitled to any additional compensation if no or partial lunch periods are taken.
- b. All other employees shall be granted a one-hour (1) hour meal period without pay after 4 hours worked, which whenever possible shall be scheduled at the approximate middle of the eight-hour shift.
- c. All employees shall also receive a one-half (1/2) hour unpaid meal period for pay for each consecutive four (4) hour work period completed beyond their regularly scheduled shift if the employee so desires (i.e. Dinner).
- d. Employees shall not have the ability to work through this period and adjust their work schedules except on those special occasions approved by their Department Head.

5.4 Rest Periods:

- a. All employees shall be granted a paid fifteen (15) minute rest period during each one-half (1/2) shift. The scheduling of the time of the rest period and the selection of the location of the rest period will be subject to the discretion of the immediate supervisor on the job. Such periods shall generally be in the middle of each 4hr shift and located at the worksite unless otherwise approved by the Department Head. Excessive refreshments/snacks and socializing with other employees may constitute having taken this break period.
- b. Additional rest periods may be granted on-site at the discretion of the immediate supervisor during periods of strenuous physical labor and when temperatures are above 90 degrees Fahrenheit. Employees shall receive additional fifteen (15) minute rest periods for each two (2) hours worked beyond their regularly scheduled shift.
- c. Coffee that is produced at the rest areas designated by the City Administrator will be provided by the City for the employees. At a minimum there shall be a designated rest area at the City Hall and at the Public Works Facility.
- d. An employee may not save or combine these periods, nor shall they be entitled to adjust their work hours or any additional pay if they are not taken.

5.5 Call-Back Time:

The City agrees that employees called back for duty or called in on the employee's day off will be guaranteed a minimum of two (2) hours at one and one-half (1 1/2) times the employee's regular hourly rate, to be paid in overtime pay. This section shall not be construed so as to provide for additional compensation if the employee is recalled back to duty within the original two (2) hour period, except that employees who are called back to work in excess of two (2) hours will be paid for actual time worked. A job requiring continuous work beyond normal quitting, when authorized, shall not be considered as call-back time.

5.6 On Call Time:

No compensation shall be received for on-call time, with the exception of that listed in the holiday section.

5.7 Volunteer Service:

Approval shall be required from the City Administrator prior to joining either the Fire Department or Ambulance Squad for service during normal City business hours. Existing employees that are already members of the City of Hawarden Fire Department or the City of Hawarden Ambulance Squad shall be allowed time off with pay for service on obligated day shifts. No employee shall be permitted to be obligated for more than one squad or department, for service during normal City business hours.

Employees who have the approval from their Supervisor and the City Administrator to be a member of either the Hawarden Fire Department or Hawarden Ambulance may not participate while on-call for the City.

Responding to an emergency page is at the discretion of the Supervisor and based on current workload during regular working hours. Supervisors are encouraged to communicate with staff at least weekly with regard to workload and their availability to respond to page.

ARTICLE VI OVERTIME AND COMPENSATORY TIME

6.1 Eligibility:

a. Police Officers

All hours worked by non-exempt Police Officers in excess of eighty-six (86) hours in a two week period will be compensated at the rate of one and one-half (1 1/2) times the employee's regular hourly rate of pay.

b. Other Non-exempt Employees

All hours worked by other non-exempt employees in excess of forty (40) hours in a work week will be compensated at a rate of one and one-half (1 1/2) times the employee's regular hourly rate of pay.

c. For all employees, other than Police Officers and hours normally scheduled as part of the work week (i.e. gas and water checks), hours worked on Sunday will automatically be compensated at the rate of one and one-half (1&1/2) the employee's regular hourly rate of pay regardless of overtime status.

d. Exempt employees shall not be entitled to overtime pay

6.2 Approval of Overtime

No employee shall be compensated for overtime pay unless such overtime work above has been approved by the employee's Department Head or the City Administrator. Such time shall be turned in during the pay cycle for the period in which it occurs.

6.3. Overtime Pay Administration:

a. Hours of vacation, personal leave and holiday will count as actual hours worked. Sick leave and other leaves shall not count in the calculation of overtime unless specifically permitted herein.

ARTICLE VII HOLIDAY LEAVE

7.1 Holidays Recognized

a. Full-time employees will be paid for the following holidays:

- New Year's Day, January 1st
- Memorial Day, the last Monday in May
- Independence Day, July 4th
- Labor Day, the first Monday in September
- Veteran's Day, November 11th
- Thanksgiving Day, fourth Thursday in November
- One-Half Day on Christmas Eve
- Christmas Day, December 25th

7.2 Observance of Holidays

If a holiday falls on a Saturday, then the preceding Friday will be observed as a holiday, and if a holiday falls on a Sunday, the following Monday will be observed as the holiday, for those employees on a Monday through Friday work week. For other than these employees, the holiday shall be deemed to fall on the day on which the holiday occurs.

7.3 Eligibility for Holiday Pay

No employee that has been laid-off, discharged, suspended or on leave without pay will be eligible for holiday pay. In order to be eligible for holiday pay, an employee must be at work (complete days) or be on a paid leave of absence on the last scheduled workday before the holiday and on the first scheduled workday after the holiday. As previously stated if an observed holiday falls during an employee's paid leave of absence, such observed holiday shall not be charged against the employee's paid leave.

7.4 Pay for Holidays

Full-time employees eligible for holiday pay shall receive as holiday pay their normal rate of pay at straight time equal to one (1) regularly scheduled workday but not more than eight (8) hours for each holiday.

7.5 Holiday Premium Pay

When a full-time non-exempt employee is required by the City to work a holiday listed above, the City agrees to provide holiday premium pay at the rate of one and half times the employee's regular hourly rate for all hours worked plus their holiday pay, starting on the evening before the holiday at 0001hrs and ending at 2400hrs on the date of the holiday (using military time).

In the case of Christmas/Christmas Eve Holiday Period it shall begin on December 24th at 1200 hrs and shall extend to 2400hrs on the December 25th.

When a full-time non-exempt employee is required by the City to work on a day off given in direct relationship to a holiday listed above, the City agrees to provide pay at the rate of one times the

employee's regular hourly rate for all hours worked in addition to any holiday pay provided. If the employee is already at the overtime threshold hours per this employee manual (5.2a), such hours be paid at a rate of one and a half times the employee's regular hourly rate per Article VI.

For City (ambulance) employees that are scheduled during the day on a holiday, the City agrees to provide holiday premium pay at the rate of half time the employee's regular hourly rate for the holiday hours paid plus their holiday pay. Should ambulance employees have to work (via an emergency ambulance call) any time worked less than four hours will be considered to have been paid.

7.6 Holiday Pay for Police Officers

Police Officers will follow Section 7.1 *Holidays Recognized* but will receive 8 hours for Christmas Eve instead of the One-Half Day.

Police Officers will be allowed to take recognized holidays as optional floating holidays instead of on the day of the holiday. Floating holidays may be used as follows:

January 1 – June 30	4 Days Available to be used
July 1 – December 31	4 Days Available to be used

Floating holidays not used by June 30 and December 31 each year will not be carried over to the next period.

Scheduling of floating holidays will be subject to the approval of the Police Chief and the operational needs of the City. Consideration will be given to the employee's preference. Floating Holiday requests under 16 hours shall be requested at least 2 working days in advance. Floating Holiday requests greater than 16 hours shall be requested at least 5 working days in advance. Failure to request such time in advance shall be sufficient grounds to deny such request. In scheduling floating holiday selection, floating holiday requested at the earliest time will be given preference on a "first come, first serve" basis.

**ARTICLE VIII
VACATION LEAVE**

8.1 Vacation Leave:

a. Full-time employees will receive vacation benefits as of **January 1**, of each year in accordance with the following schedule:

<u>Years of Completed Service on January 1</u>	<u>Number of Vacation Days</u>
1 month -7 years*	ten (10) days
8-14 years	fifteen (15) days
15 years +	twenty (20) days

b. No vacation leave time shall be accrued during an unpaid leave of absence or during FMLA leave, sick leave or personal leave. If any employee discontinues working for the City, such employee's vacation schedule shall start over upon re-hiring.

c. Should the normal scheduling of the police department change to more or fewer hours per week on a consistent basis (more than 3 months) their vacation leave shall be adjusted accordingly by the City Administrator.

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***1 Month - employee must start before December 1**

8.3 Vacation Leave Limitations:

Vacation leave must be taken in 1 hour increments. Employees can carry over up to a maximum of 2 days of vacation total from one year to the next Scheduling of vacations will be subject to the approval of the employee's Department Head and the operational needs of the City. Consideration will be given to the employee's preference. Vacation requests under 16 hours shall be requested at least 2 working days in advance. Vacation requests greater than 16 hours shall be requested at least 5 working days in advance. Failure to request such time in advance shall be sufficient grounds to deny such request. In scheduling vacation selection, vacation requested at the earliest time will be given preference on a "first come, first serve" basis. Vacation requests will be answered as soon as possible but no later than five (5) working days from the date of receipt. Once vacation periods have been scheduled, the City shall make no changes in employee's vacation schedule.

8.4 Vacation Pay:

Employees will receive their regular rate of pay for all hours of vacation leave. No employee will be entitled to vacation pay in lieu of vacation leave except under section 8.5. If after the employee has begun his/her vacation and the employer requires the employee to work during the scheduled period, the employee shall be compensated as follows:

- a. Union employees shall be paid one and one-half (1&1/2) times his/her regular hourly rate of pay.
- a. Non-union employees shall be paid two (2) times his/her regular hourly rate of pay.
- c. The employee shall not be charged with vacation time for the hours worked.

8.5. Vacation Leave Payout Upon Separation of Employment:

Vacation leave pay shall be paid at the employee's current rate of pay at the time of separation. Vacation payout will be on a pro-rated basis for partial years of service.

ARTICLE IX PERSONAL LEAVE

- a. A full-time employee will be eligible for two days per **calendar** year of non-cumulative leave with pay to attend to matters which cannot be accomplished at times other than during working hours. Personal leave for new employees shall be prorated in 4-hour increments based on the quarter the employee starts. (Unless the leave is of an emergency nature, the employee will request approval for such leave at least two (2) calendar days in advance of the date of the leave. Such leave shall be taken in increments of at least 1 hr.

- b. All other employees shall not be eligible for this leave.

- c. This leave will be granted in the same manner as vacation leave as stated above with the exception of the request period.

ARTICLE X SICK LEAVE

10.1 Uses of Sick Leave:

Full-time employees may use accrued sick leave for personal illness (both physical and mental) or injury and for doctor or dentist appointment for himself/herself only which cannot be arranged outside working hours.

All accumulated sick leave must be used anytime an employee is granted FMLA leave under Article XI of this handbook.

Employees may use current year (January 1 to December 31) accrued sick leave for family members as defined in the FMLA:

- The term “Spouse” will be defined as in Iowa Law this includes common law marriage.
- Son or Daughter includes: biological, adopted, foster, stepchild, a legal ward, or a child of a person standing “in loco parentis”. The son or daughter must be under the age of 18 or incapable of self-care because of a physical or mental disability.
- The City may require the employee to provide documentation of the family relationship.
- Parent includes: a biological parent or an individual who stands or stood “in loco parentis” to an employee when the employee was a son or daughter as defined above.
- Loco Parentis: mean to assume the responsibilities and duties of a parent.
- FMLA does not provide leave to care for parents-in-law, grandparents, siblings, aunts, uncles, nieces or nephews.

Employees will not be allowed to use Sick Leave accumulated from previous years for family members.

10.2 Accumulation:

All full-time employees will earn one (1) day of sick leave for each month of completed service. Employees may accumulate unused sick leave to a maximum of 960hrs. Employees will not earn sick leave during periods when they are absent due to layoff, when they are on leave of absence without pay, or on sick leave, personal leave, or on FMLA leave.

10.3 Physician's Statement:

The City may require a physician's statement for any absences due to illness or injury and may also require a physician's statement verifying the employee's ability to return and perform the work as required in the job description. The decision to require a physician's statement will be made by the Department Head or City Administrator.

10.4 Usage/Administration:

When a holiday falls while an employee is on paid sick leave, the employee's sick leave account shall not be charged for the holiday. Sick leave benefits are not available during vacations, holidays, or leaves

of absences (i.e. no double pay for sickness while on vacation). To be eligible for sick leave payment, employees shall notify their Department Head as soon as possible prior to the starting time of the employee's workday. Employees are required to explain the reason for their absence and to state the date on which they intend to return to work. If there is any change in the date in which the employee intends to return to work, the employee will notify his/her Department Head of the change as soon as possible. Such leave shall be taken in increments of at least 1 hour or greater. Accrued sick leave shall be taken concurrently with Family Medical Leave as outlined in Article XI of this handbook.

10.5 Effect of Employment Layoff and Separation on Sick Leave:

Upon an employee's voluntary separation of employment from the City with 10 or more years of service, the city shall pay out 25% of the amount of accrued sick leave up to 240 hours. To be eligible, the employee has to have reached at least 10 years of consecutive service, given proper notice of separation, and been in good standing with the City. An employee who is released from employment due to disciplinary reasons is not eligible for sick leave payout.

ARTICLE XI OTHER LEAVES OF ABSENCE

11.1 Bereavement Leave:

a. A full time employee may be granted up to 5 days annually with full pay to attend funeral services etc. in the event of a death in the immediate family. Immediate family shall be limited to spouse, children, mother, father, brothers, sisters, grandchildren, grandparents, and **stepchildren, stepmother, stepfather, stepsister, stepbrother, step grandchildren and step grandparents.** The following in-laws: son, daughter, mother, father, sister, & brother. Such time shall be used judiciously by the employee based on the closeness to the departed and responsibilities of the employee. Such time shall not be counted against other leaves permitted by the City. Any exceptions need approval of the City Administrator.

b. Employees shall be paid for the time taken to attend the funeral of another employee of the City. The amount of time allotted for such attendance shall be determined by the City Administrator. Such leave for attendance shall be made with the understanding that orderly operation of the various departments will be assured.

c. When circumstances require and additional funeral leave is needed, vacation time, compensatory time, and/or personal time may be utilized for additional time off. If the employee has no remaining vacation time or personal time left then the City Administrator may grant time off without pay.

11.2 Employee Court Appearance Pay (Work Related):

Employees who are required by the Employer to appear in any Court or administrative proceedings during non-working hours as a result of the performance of their duties shall be paid for a minimum of two (2) hours worked or the actual hours spent in court, whichever is greater. During normal working hours normal time shall apply to include continuation past the regular scheduled day. Such time shall be counted towards the calculation in determining if an employee is entitled to overtime pay.

11.3 Jury Duty and Other Court Appearances:

When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness or serves on a jury for the Federal Government, the State of Iowa or a political subdivision thereof, or in private litigation, to which the employee is not a party, the time spent shall be considered as a leave of absence with pay, provided the employee is not a party to the proceedings. The employee shall remit witness fees to the Employer, less any travel or personal expenses. When released from jury duty or from the court as the case may be during working hours, the employee will report to work within one (1) hour, unless less than one (1) hour remains in the employee's working day. This shall not include grievance procedures filed by an employee or any case brought by or on the behalf of any employee against the City.

11.4 Military Leave:

Any employee may be granted a military leave of absence with pay for a period up to thirty (30) calendar days with pay as provided under Section 29A.28 of the Code of Iowa.

11.5 Disability Leave (Work Injury):

- a. Any personal injury arising out of, and in the course of, employment shall be handled in accordance with the applicable Workman's Compensation Laws of the State of Iowa and the policies contained herein.
- b. Such injuries shall be reported to the employee's supervisor and Department Head immediately (no later than 24 hours after the injury is sustained). This shall also apply to any accident, which occurs in a city vehicle.
- c. Any employee who suffers injury or illness as a result of a service connected accident or illness shall be compensated at the regular rate as determined by the City worker's compensation insurance company. The City shall compensate the employee until the insurance become effective. The employee shall be responsible for the repaying to the City whatever worker's comp reimburses the employee in wages for the same hours/time paid by the City. The City shall pay the difference between the insurance payment and the employee's current net pay for regular scheduled workweek (no overtime) for a period up to one month. Such disability time shall not count against the employees' accumulated sick time.
- d. During the time recovery period the City may require a detailed evaluation from the employee's health provider or a City selected provider on form provided by the City to determine if the employee can perform other functions (light duty work). The employee shall be required to report in at least once weekly to their department head (provided physically able) as to their physical condition and estimated return date, scheduled doctor visits/evaluations, etc. During the same period the employee shall be prohibited from working for another employer.
- e. After six months of from the date of the injury the employee shall be deemed to be permanently disabled for the purposes of this section, his/her employment with the City terminated and no further benefits paid; unless the
- f. Employees returning to work after being on disability leave must furnish a certificate from a medical doctor stating that the employee is capable of performing all required duties and responsibilities.

11.6 Family Medical Leave Act Policy

POLICY:

The City of Hawarden (the "City") provides leave under the Family Medical Leave Act (FMLA) for eligible employees and is obligated by federal law to do so when the situation warrants. Eligible employees meeting the requirements for FMLA leave may request up to 12 workweeks of leave during any rolling twelve month period. For Service member Family Leave, as defined under the FMLA and summarized below, eligible employees may request up to 26 workweeks of leave during any rolling twelve month period. Language in this policy contains specific information on how this leave is to be applied.

PROCEDURE:

ELIGIBILITY

To be eligible for FMLA benefits, an employee must have been employed for at least 12 months and have worked for at least 1250 hours during the 12- month period immediately preceding the start of the leave. The previous 12-month period need not be consecutive.

Employment periods preceding a break in service of more than seven years must be counted in determining whether the employee has been employed by the City for at least 12 months where:

- The break in service is due to a National Guard or Reserve military service obligation. In determining eligibility under the FMLA, an employee returning to the City from military duty, who is eligible for reemployment under the City's Military Leave Policy and applicable laws, should be credited with the hours of service that such individual would have performed but for the period of the individual's military service. In order to determine the hours that would have been worked during the period of military service, the employee's previous work schedule can be used for calculations. For example, an employee who typically worked 40 hours per week prior to taking military leave, and who returns to the City following 20 weeks of military service, who subsequently requests leave under the FMLA, would have 800 hours (40 x 20) added to the employee's actual hours worked during the 12-month period immediately prior to the start of FMLA leave, for purposes of determining whether the employee meets the FMLA eligibility requirements of 1250 hours.
- If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave during which other benefits or compensation are provided by the City the week counts as a week of employment.

The right to take FMLA leave applies equally to male and female employees.

QUALIFYING FMLA LEAVE

Leaves that qualify under the FMLA include:

1. To care for the employee's child after birth, or placement into the employee's family by adoption or foster care.
 - If both parents are employed by the City, the FMLA entitlement for a birth or placement of a child into the employee's family is twelve weeks for the two employees combined.
 - Mothers are entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child.
 - Employees may take FMLA leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.
 - Leave may not be taken intermittently or on a reduced schedule unless the child has a serious health condition or the employee's supervisor, in collaboration with the Director of Human Resources or a designee, approves such intermittent leave or reduced schedule.
 - The rights to FMLA leave for the birth, care, and/or placement of a child into an employee's family may only be taken within the 12 months after the date of the birth or placement of the child.
2. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition.
 - The term "serious health condition" means: an illness, injury, incapacity, impairment, or physical or mental condition that involves the following:

- Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work related to the serious health condition, treatment, or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work) due to:
 - A health condition (including treatment therefore, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - treatment two or more times, within 30 days of the first day of incapacity, by or under the supervision of a health care provider and the first visit to the health care provider must occur within 7 days of the first day of the incapacity; or
 - one treatment by a health care provider with a continuing regimen of treatment with the visit to the health care provider occurring within 7 days of the day of incapacity; or
 - Pregnancy or prenatal care; or
 - A chronic serious health condition which continues over an extended period of time, requiring periodic visits to a health care provider, and may involve occasional episodes of incapacity; or
 - A permanent or long-term condition for which treatment may not be effective; or
 - Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated.
- The term “serious health condition” typically does not include: Colds, Upset Stomach, Headaches, Dental Problems, Routine Care, Ulcers, Earaches, Cosmetic Treatments, Use of Illegal Substances (not related to the treatment for substance abuse by or on the referral of a health care provider), or Allergies.
- Care includes providing physical or psychological support.
- The term “Spouse” will be defined as in Iowa Law this includes common law marriage.
- Son or Daughter includes: biological, adopted, foster, stepchild, a legal ward, or a child of a person standing “in loco parentis”. The son or daughter must be under the age of 18 or incapable of self-care because of a physical or mental disability.
- The City may require the employee to provide documentation of the family relationship.
- Parent includes: a biological parent or an individual who stands or stood “in loco parentis” to an employee when the employee was a son or daughter as defined above.
- Loco Parentis: mean to assume the responsibilities and duties of a parent.
- FMLA does not provide leave to care for parents-in-law, grandparents, siblings, aunts, uncles, nieces or nephews.
- Leave to care for a family member may be on a continuous, intermittent, or reduced schedule basis if medically necessary.

3. For a serious health condition (as defined by the FMLA, and summarized above) that makes the employee unable to perform his/her job.

- Leave for an employee's serious health condition may be on a continuous, intermittent, or reduced schedule basis if medically necessary
4. Service Member Family Leave. To care for a spouse, son, daughter, parent or next of kin (defined as the nearest blood relative of that individual) who is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- Serious illness or injury, in the case of a service member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.
 - During a single 12-month period, an eligible employee taking Service member Family Leave shall be entitled to a combined total of 26 workweeks of leave, which shall include any FMLA leave time such employee has already taken during the year, or for which the employee takes for any of the other FMLA-qualifying reasons. Thus, for example, an eligible employee may, during the "single 12-month period," take 16 weeks of FMLA leave to care for a covered service member and 10 weeks of FMLA leave to care for a newborn child. However, the employee may not take more than 12 weeks of FMLA leave to care for the newborn child during the "single 12-month period," even if the employee takes fewer than 14 weeks of FMLA leave to care for a covered service member.
 - If a leave qualifies for both leave to care for a covered service member and leave to care for a family member with a serious health condition during the "single 12-month period" the City will designate such leave as leave to care for a covered service member in the first instance.
 - A husband and wife who are eligible for FMLA leave and are both employed by the City may be limited to a combined total of 26 workweeks of leave during the "single 12-month period" if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service member with a serious injury or illness.
 - If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered service member during this "single 12-month period," the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.
 - Service member Family Leave may be taken intermittently or on a reduced schedule when medically necessary.
5. Qualifying Exigency Leave. For the employee's spouse, son, daughter, or parent on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Qualified exigency leave is available to a family member of a military member in the National Guard or Reserves lot does not extend to family members of military members in the Regular Armed Forces.

Qualified exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during deployment.
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and the City agree is a qualifying exigency.

CONTINUOUS, INTERMITTENT OR REDUCED SCHEDULE LEAVE

- Continuous Leave: is FMLA leave that is not broken by periods of work
- Intermittent Leave: Involves the use of FMLA leave in blocks of days or hours for a single qualifying reason. Only leave actually taken is counted against an employee's annual FMLA leave.
- Reduced Schedule Leave: Reduction in an employee's work schedule from the usual number of working hours per workweek or per workday. Only leave actually taken is counted against an employee's FMLA leave.
- Intermittent or reduced schedule leave may be taken because of one's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness which requires treatment by a health care provider periodically, rather than for one continuous period time, and may include leave of periods from an hour or more to several weeks.
- Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a

chronic serious health condition or a serious injury or illness of a covered service member, even if he or she does not receive treatment by a health care provider.

- Intermittent leave or reduced schedule leave may be taken after the birth of a healthy child or for placement of a healthy child for adoption or foster care only if the City agrees.
- Intermittent leave or reduced schedule leave may be taken due to a qualifying exigency.
- If Intermittent or Reduced Schedule Leave is used for planned medical treatment, employees must consult with their supervisor and make a reasonable effort to schedule the leave in a manner that will cause the least disruption in facility function.
- In the case of foreseeable intermittent or reduced schedule leaves, the City may require the employee to transfer temporarily during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. The alternative position must have equivalent pay and benefits. An alternative position does not have to have equivalent duties. A transfer may not be made in order to discourage the employee from taking leave (e.g. transfer from a day shift to a graveyard shift). As soon as the employee no longer needs leave the employee will be placed in the same or equivalent job as the job as he/she had when the leave commenced.
- Employees taking leave of an intermittent or reduced leave schedule basis will not have their FMLA leave entitlements reduced by more than the amount of leave actually taken.

NOTIFICATION OF CITY/ REQUESTING FMLA LEAVE

An employee or an employee's spokesperson must provide at least verbal notice sufficient to make the City aware that the employee needs FMLA qualifying leave, and the anticipated timing and duration of the leave. Employees do not need to expressly request FMLA leave; however, the employee will need to provide sufficient information to establish an FMLA qualifying reason for the needed leave.

Human Resources has the responsibility to determine whether a leave qualifies under the FMLA and to provide written notice to the employee that the employee's leave will qualify as FMLA leave, which notice will also include a reference to this policy and/or a summary of the employee's rights and responsibilities under the FMLA, as well as other pertinent information regarding the employee's expectations and obligations related to taking FMLA leave.

When an employee seeks leave due to a FMLA qualifying reason, which the City previously provided FMLA protected leave, the employee must again specifically reference the qualifying reason for leave or the need for FMLA leave. In any circumstance where the City does not have sufficient information about the reason for an employee's use of leave, the City should inquire further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-qualifying.

Foreseeable Leave: Employees should provide Human Resources with at least 30 days verbal notice in the case of a foreseeable leave based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or a family member or the planned medical treatment for a serious injury or illness of a covered service member. If the foreseeable leave is to begin in less than 30 days, the employee must provide notice as soon as practicable. When the necessity for leave is due to the employee's or family member's serious health condition, and is foreseeable based on planned medical treatment, the employee must consult the City and make a reasonable effort to

schedule the treatment so as not to unduly disrupt the operations of the City. For foreseeable leave due to a qualifying exigency notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable. Whether FMLA leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee will advise the City as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

When the need for FMLA leave is foreseeable at least 30 days in advance and an employee fails to give timely advance notice with no reasonable excuse, the City may delay FMLA coverage until 30 days after the date the employee provides notice.

When the need for FMLA leave is foreseeable fewer than 30 days in advance and an employee fails to give notice as soon as practicable under the particular facts and circumstances, the extent to which the City may delay FMLA coverage for leave depends on the facts of the particular case.

Unforeseeable Leave: When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to the City as soon as practicable under the facts and circumstances of the particular case and in accordance with the City's regular call-in policy and procedure. Notice for leave may be given by the employee's spokesperson (e.g. spouse, adult family member or other responsible party) if the employee is unable to do so personally.

When the need for FMLA leave is unforeseeable and an employee fails to give notice as soon as practicable, the extent to which the City may delay FMLA coverage for leave depends on the facts of the particular case.

NOTIFICATION TO EMPLOYEES

Each employee requesting leave which meets FMLA requirements will be provided the "Employer Response to Employee Request for Family Medical Leave Act" form, which is published by the Department of Labor from time to time as Form WH-381, attached hereto. The City will inform the employee of the City's response to the employee's request for FMLA-qualifying leave, or upon learning that the employee's absence from work is for an FMLA reason, within five (5) business days, if practicable. If the employee is not eligible for FMLA leave, the employee shall be informed of that fact and must state at least one reason why the employee is not eligible, including, as applicable the number of months the employee has been employed by the City, and the number of hours of service worked for the City during the 12-month period.

CERTIFICATIONS

The City will provide a medical certification request at the time the employee gives notice of the need for FMLA leave or within 5 business days thereafter, or, in the case of unforeseen leave, within five business days after the leave commences. The City may request certification at some later date if the City later has reason to question the appropriateness of the leave or its duration. The medical certification is at the employee's expense.

At the time the City requests certification, the City will also advise the employee of the anticipated consequences of an employee's failure to provide adequate medical certification. The City may deny the taking of FMLA leave if proper certification is not provided. The City will advise employees in writing what additional information is necessary to make the certification complete and sufficient. The employee

will be provided seven (7) calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure any deficiency.

Qualifying Exigency Certifications: The City requires that an employee leave due to a qualifying exigency or to care for a covered service member with a serious injury or illness be supported by a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates for the covered military member's active duty service. If a different qualifying exigency arises the City will be provided with the updated information. To ensure that certification meets FMLA certification requirements the City will use DOL Form WH-384; used when an employee's need for leave is due to a qualifying exigency.

The City may not request any information from the employee or the employee's health care provider beyond that which is included in the aforementioned form, however, the City may contact the appropriate unit of the Department of Defense to request verification that a covered military member is on active duty or call to active duty status.

Certifications from Health Care Providers: The City requires that an employee requesting leave for his or her own serious health condition, or the health condition of a family member, or for Service member Family Leave, provide a certification issued by a health care provider. To obtain medical certification the City will use:

- DOL Form WH-380F: used when the employee needs leave to care for a family member with a serious health condition
- DOL Form WH-380E: used when the employee's need for leave is due to the employee's own serious health condition.

The City may not request any information from the employee or the employee's health care provider beyond that which is included in the medical certification form. When the employee's leave is foreseeable, the medical certification should be completed and turned in to the City before the leave begins. When this is not possible, the employee must be provided at least 15 days after the City's request for medical certification to turn in the certification, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith, efforts. When leave is not foreseeable, employees should provide the City with a health care provider certification within 2 business days of the commencement of leave, or as soon as practicable under the circumstances. In the case of foreseeable and unforeseeable leave, failure to provide the health care provider certification in a timely manner under the circumstances may result in denial of the leave until the certification is provided.

Certifications to care for a Covered Service member. The City requests that employees requesting leave to care for a covered service member with a serious injury or illness complete DOL Form WH-385; used when an employee has requested leave to care for a covered service member with a serious injury or illness. The City reserves the right to seek confirmation of a covered family relationship to the seriously injured or ill service member. The City may seek authentication and/or clarification in accordance with this policy section, entitled "Authentication and Clarification". Recertification and second and third opinions are not permitted for leave to care for a covered service member.

Second/Third Opinions. The City may require a second opinion for leaves based on serious health condition. Any second opinions required by the City will be paid for by the City, and the health care provider may be designated by the City, however, the health care provider may not be employed by or regularly contracted with the City. If the second opinion differs from the first health care certificate, the City may require, at its expense, that the employee obtain the opinion of a third health care provider, designated or approved jointly by the City and the employee. The opinion of the third health care is binding. The third health care provider must be designated or approved jointly by the City and the employee. The City and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the City does not attempt in good faith to reach agreement, the City will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification.

The City is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within five business days unless extenuating circumstances prevent such action.

Refusals in obtaining a second or third opinion may result in denial of the FMLA leave.

Recertification. The City may require that employees on FMLA leave obtain subsequent recertification's if:

- The employee requests an extension of leave beyond the duration stated in the medical certificate;
- Circumstances described by the previous certification have changed significantly; or
- the City receives information that casts doubt upon the employee's stated reason for the absence of the continuing validity of the certification; or
- If the condition was described as being indefinite, the City may request a recertification every six months in conjunction with an absence.

The City will give written notice of a requirement for certification each time a certification is required.

The employee will have 15 days to provide the City with recertification, unless not practicable under particular circumstances despite the employee's diligent, and good faith efforts.

Recertification requested by the City will be at the employee's expense. No second or third opinion on recertification will be required.

AUTHENTICATION AND CLARIFICATION OF CERTIFICATIONS:

“Authentication” means providing the health care provider with a copy of the certification and requesting verification that the information contained on the certification form was completed and/or authorized by the health care provider who signed the document; no additional medical information may be requested.

“Clarification”: means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of a response. No additional information may be asked beyond that required by the certification form.

The City may contact the health care provider for purposes of clarification and authentication of the medical certification/recertification after the City has given the employee an opportunity to cure any deficiencies. In order to make contact with the health care provider, the City must use a health care provider, a human resources professional, or a management official. Under no circumstances, however, may the employee's direct supervisor contact the employee's health care provider.

The HIPAA Privacy Rule, which governs release of individually-identifiable health information, must be satisfied when information is shared with the City by a health care provider. If an employee chooses not to provide the City with authorization allowing the City to clarify the certification with the health care provider, and does not otherwise clarify the certification, the City may deny the taking of FMLA leave if the certification is unclear.

FITNESS FOR DUTY REPORTS:

In cases where an employee takes continuous FMLA leave for his or her own serious health condition, the City will require the employee, as a condition to restoring the employee to his or her job, to obtain and present a certification from the employee's health care provider which states that the employee is able to resume work. The City may require a fitness for duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave, and any return-to-work physicals must be job-related and consistent with business necessity (i.e., relate to the essential functions of the employee's job).

The City will provide an employee with a list of essential functions of the employee's job at the time the City provides notice of the need for a fitness for duty exam. The notice will indicate that a fitness-for-duty certification is required and that the certification addresses the employee's ability to perform the essential functions of the employee's job. The cost of the fitness for duty report is borne by the employee.

Under the same conditions as aforementioned for clarifying and authenticating, clarification may be requested only for the serious health condition for which FMLA leave was taken.

For employees on an intermittent or reduced schedule leave, the City will require a fitness to return to duty for such absences up to one every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took such leave (or more frequently if circumstances warrant).

The City may not request, and is not entitled to, a second or third opinion on the fitness for duty certification. The City may delay restoration to employment until an employee submits a required fitness for duty certification, as long as the City gave the employee proper notice that a fitness for duty certification would be required prior to returning to work. However, the City will not delay the employee's return to work while contact with the health care provider is being made.

BENEFITS

Employees are entitled to continued coverage under the group health plan during FMLA leave under the same conditions as active employees.

During FMLA leave, the City will continue to pay its portion of the health insurance premiums and the employee must continue to pay his or her share of the premium. The City will provide the employee with

advance written notice of the terms and conditions under which these payments must be made. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage as follows: If the employee fails to timely pay the employee's share of health insurance premium, the employee will have a grace period of 30 days. At least 15 days prior to the end of the grace period, the City will mail a written notice to the employee informing the employee of the date the insurance will expire if the employee's share of the premium is not paid. The City's responsibility to provide insurance coverage stops if the employee's premium payment is more than 30 days late.

If an employee does not return to work following FMLA leave the City may exercise its right to recover any amounts paid by the City for health and dental benefits during the FMLA period. An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. Exceptions to this include but are not limited to: onset of serious health condition, factors beyond the employee's control, recurrence or continuation of illness or injury, or a spouse's transfer to a job location more than 75 miles from the employee's worksite.

An employee returning from FMLA leave will be reinstated to all benefits, with no change in coverage, even if coverage has lapsed during leave due to failure to pay required premiums. Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms prior to taking leave.

Contributions to IPERS will not continue during FMLA leave; however, it shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate.

During FMLA leave, the City will continue to pay the following in the same manner as prior to leave as applicable: Life Insurance. Optional benefits _____ may be continued at employee expense under FMLA.

During FMLA leave, the employee shall not accrue employment benefits such as vacation pay, sick pay, pension, etc. Employment benefits accrued by the employee up to the day on which the FMLA leave begins will not be lost.

PAID AND UNPAID LEAVE

FMLA does not guarantee paid time off. However, employees eligible for FMLA leave must use accrued Sick Leave, and when exhausted, accrued Vacation Leave, and other accrued leaves concurrently with FMLA leave. Employees without accrued paid leave will be unpaid during FMLA leave.

HOLIDAYS

A holiday occurring within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave.

If an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

EMPLOYEE RECORDS

All medical documents, including the medical certifications, recertification's or medical histories of employees or employees' family members, created for purposes of taking FMLA leave, shall be maintained in the employee's separate confidential medical file and not in the employee's personnel file. Documents which also pertain to ADA requirements will be maintained in accordance with such confidentiality requirements. All other documents shall be maintained in the employee's personnel file.

The City will keep FMLA records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon their request.

DISPUTES

If there is a dispute between the City and an employee as to whether leave qualifies as FMLA leave, it should be resolved through discussions between the employee and HR. Such discussions and the decision must be documented.

POSTER

The FMLA poster, published by the Department of Labor from time to time as publication WH-1420, will prominently be displayed in the employee lounge.

FAMILY MEDICAL LEAVE ACT AND AMERICANS WITH DISABILITIES ACT

If an employee's serious health condition may also be a disability within the meaning of the Americans with Disabilities Act (ADA) the FMLA does not prevent the City from following the procedures for requesting medical information under the ADA. Any information received pursuant to FMLA/ADA may be considered in determining the employee's entitlement to FMLA leave.

FAMILY MEDICAL LEAVE ACT AND WORKERS' COMPENSATION

FMLA leave will run concurrently with a workers' compensation absence when the injury or illness meets the criteria for a serious health condition of the employee. However, "light" or restricted duty assignments may be substituted for an employee's regular job if approved by the health care provider and if the City has a suitable assignment available. And such "light duty" assignments do not count against the employee's FMLA leave. An employee has the right to decline the restricted duty assignment; however, in that case the employee may no longer be eligible for worker's compensation, but is entitled to remain on FMLA leave if qualified and until the employee's FMLA leave entitlement is exhausted.

REINSTATEMENT

- Upon return from FMLA leave, employees must be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms. An employee is entitled to such reinstatement even if the employee's position has been filled or his or her position has been restructured to accommodate the employee's absence.
- Benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return an employee will not be required to re-qualify for any benefits the employee enjoyed prior to taking an FMLA leave.

- Employees on FMLA leave will receive any unconditional pay raises that were granted during their absence.
- Pay increases based on periodic performance reviews and seniority may be delayed by the amount of unpaid FMLA leave taken by the employee.

LIMITATIONS OF REINSTATEMENT

- An employee who took FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA period,
- Key Employees who are among the highest paid 10 percent of all the employees employed by the City within 75 miles of the City may have limitations including but not limited to denial of that employee's reinstatement. Notice of this possible denial must be given at the time the employee gives of the need for FMLA leave or when FMLA leave commences, whichever is earlier.
- The City may require that an employee on FMLA leave report periodically on the employee's status and intent to return to work. If an employee unequivocally advises the City (either before or during the taking of leave) that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health insurance benefits, and job restoration ceases unless the employment relationship continues, for example, by the employee remaining on paid leave.

NON RETALIATION

- The City will not interfere, restrain, or deny the exercise or attempted exercise of FMLA rights.
- The City will not discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice or any practice which they reasonably believe to be a violation under FMLA.
- All persons are prohibited from discharging or in any other way discriminating against any person because that person has:
 - Filed a charge or instituted a proceeding under the FMLA;
 - Given, or is about to give, any information in connection with an inquiry or proceeding relating to FMLA; or
 - Testified or is about to testify in any inquiry or proceeding relating to FMLA

11.7 Special Leave:

Upon approval of the City Administrator, special leaves of absence with or without pay may be granted for employees in established positions for any period or periods for purposes deemed beneficial to the City Service. (i.e. letting a lineman help another City through a disaster; allowing a police officer to attend special training).

11.8 Leave Without Pay for other reasons:

a. Leave without pay may or may not be granted at the sole discretion of the City. Granting of such leave at a minimum shall ensure that it does not adversely affect the interest of the City and shall be on a case-by-case basis. Requests under 1 month may be determined by the City Administrator. Requests over 1 month shall be required to be submitted to the City Administrator and approved by the City Council.

b. Employees desiring a leave without pay exceeding one month shall at a minimum meet the following criteria:

1. Five years of employment with the City of Hawarden prior to leave of absence.
2. One year of employment with the City of Hawarden upon completion of the employee's most recent leave of absence.
3. A maximum leave of absence of 12 months.
4. Requests for a leave of absence to be considered on an individual basis.
5. A one-year salary freeze during a leave of absence.

c. Any request for a leave of absence shall be submitted in writing by the employee to the Employer at least thirty (30) calendar days in advance, whenever possible. The request shall state the reason for and the length of the leave of absence being requested. The City shall submit a response as timely as possible.

d. An employee on leave without pay who wishes to return to work before the end of the leave period must submit a written request to the Department Head one week in advance of the date desired to return to work. The employee may be permitted to return to work early at the discretion of the Department Head. Failure to return to work at the end of approved leave shall be considered as absent without leave and shall be grounds for disciplinary action.

e. For periods over 1 month, vacation leave and credit toward service with the City shall not be earned while on leave without pay; the employee shall be responsible for all insurance costs during the period of absence, unless the leave is granted under the Family and Medical Leave Act according to the terms stated above.

f. While on authorized leave without pay, any employee shall not obtain other employment elsewhere, either full-time or part-time.

g. For periods over 1 month, upon returning to work following leave without pay, an employee shall be assigned to the position or equivalent occupied at the time the period of absence was approved; however, the employee may be assigned to another Department at the discretion of the City Administrator.

f. Special Conditions may be placed on such leave to include recall in the event of a major emergency.

11.9 Absence Without Leave:

a. The absence of an employee from duty, regardless of length of time that is not authorized by the Department Director shall be deemed as absent without pay and shall be cause for disciplinary action.

b. The Department Director shall notify the City Administrator of an employee's absence without leave during the first day absent; in addition, such absence shall be noted on the employee's time-card.

c. When an employee is absent from work due to circumstances beyond the employee's control and the employee is unable to notify the Department Director of the absence, the Department Director may, with the consent of the City Administrator, grant emergency leave. Such leave shall be charged to vacation leave or may be granted on the basis of leave without pay.

ARTICLE XII INSURANCE

12.1 Health Insurance:

- a. Health Insurance benefits will be provided to all full-time employees as defined herein.
- b. The City will pay the full cost of the employee's personal insurance premium. If the employee elects to cover the employee's family, the City will pay seventy (70) percent of the premium for family coverage. The City shall insure a plan is in place to allow employees to pay their portion of the family health insurance premium on a pre-tax basis.
- c. Coverage and benefits will begin and end at such times as are set out in the policies, and an employee and his/her family, if such coverage is elected, will be covered only in accordance with and to the extent provided under the terms of the policy.
- d. Participants in the health insurance plan who plan to terminate employment with the City are encouraged to see the City Clerk regarding options for continued coverage under COBRA.
- e. Employees in a leave without pay status for more than 1 month, other than reasons covered under the Family Medical Leave Act, shall be responsible for the full amount of their health insurance coverage.
- f. Retiring full-time Employees age 55 and older that have worked for the City at least 20 years in a full-time capacity are eligible for the single employee rate at the time of retirement. Retiree Family members shall be at the full rate.

12.2 Life Insurance:

- a. Life Insurance benefits will be provided to all full-time employees. The Employer will pay the full cost of the employee's premium for the basic coverage.
- b. Coverage will begin and end at such times as are set out in the policies, and an employee will be covered only in accordance with and to the extent provided under the terms of the policy.
- c. The City shall agree to provide life insurance benefits for all full-time employees in an amount as follows:
Personnel covered under the Union Contract will receive coverage in the amount of \$10,000.00.
All Non-Union hourly personnel hired after January 1, 2021, will receive coverage in the amount of \$10,000.00.
All department heads will be covered in an amount of equal to one year's salary rounded to the nearest \$1,000.00.
- d. The employee may, to the extent permitted by the insurance company and in accordance with the requirements of the insurance company, purchase additional life insurance at the employee's expense, which shall be deducted from the employee's wages.
- e. Employees in a leave without pay status for more than 1 month, other than reasons covered under the Family Medical Leave Act shall be responsible for the full amount of their life insurance coverage.

12.3 Other Insurance:

The City shall maintain and/or participate in providing other insurances and benefits as required by law.

ARTICLE XIII MISCELLENOUS POLICIES

13.1 Access to Personnel Files:

Employees shall have the right to inspect their personnel files. The employee may respond to any item in the personnel file in writing. Such response by the employee shall become part of the permanent record. Access to personnel files shall be limited to authorized personnel which are: the Deputy Clerk/ Finance Officer, applicable Department Head, City Administrator the employee, and an employee's representative, if so designated in writing by the employee. Upon previous notification and at the employee's expense, the Employer shall make a copy of such files for the employee.

13.2 Dress Code/Uniform Policy:

The City of Hawarden is proud of the service attitude that its employees exhibit toward its citizens. When people see our employees or come to Hawarden facilities they expect that they will be assisted by approachable, responsible, caring workers. Personal appearance should reflect this policy and a neat and business-like image of the City and various departments. Cleanliness is also important so as to not offend others. Employee appearance is considered a vital part of the total impression made on the public.

Outside Dress Code:

Outside employees are provided City logo T-shirts and sweatshirts for uniforms and are expected to wear them at all times. Modifications to uniforms (cut-off sleeves or collar) are not permitted.

Office Dress Code:

Employees (Office employees) not issued uniforms may dress in casual business wear. Casual business wear means clothing that is comfortable, yet neat and professional, such as Khaki skirts and trousers, dress pants or slacks, sweaters and blazers. Jeans and t-shirts are permissible to be worn provided they are clean, not tattered or frayed, don't contain religious, political, or offensive material, are not multicolored and otherwise present a neat, clean and business like appearance. Casual business wear does not include jogging suits, sweats, shorts, beachwear, slippers or clothing of a provocative nature. Open collar shirts are acceptable. Shirts, blouses, and dresses should not have low-cuts or cutouts such that breasts, hips thighs, or substantial sections of the back are visible. Tank tops and tube tops are not acceptable. Dresses and skirts shall not be so short that undergarments are routinely revealed when the employee is walking or bending. Employees are expected to report to work with clean clothes.

Exceptions: These regulations may be suspended or modified in the case of severe weather (i.e. severe cold or severe heat) or due to a particular job, at the Department Heads or City Administrator discretion. In addition for office employees each Friday is considered informal dress day. Clerical and Professional employees may wear sneakers, casual or blue jeans and are encouraged to wear their City of Hawarden shirts.

13.3 General Code of Behavior:

It is expected that all employees will treat customers courteously, and handle all complaints quickly, and channel those complaints to the management on or off normal business hours. Personal behavior and work habits should enhance the employee's image to the general public. The Mayor and City Council will welcome constructive criticism by or about City employees or procedures if channeled through the Department Head and City Administrator or presented by the public. It is expected that all departments will cooperate with one another in completing the work load for any given department.

13.4 Telephone Usage

- a. Your voice represents you, the department and the City. When answering the telephone, always answer promptly, identifying yourself and your department, and ask if you may leave a message if the caller wishes to speak to someone else in the office who is unavailable at that time.
- b. City phones are primarily for business use. Personal calls should be kept at a minimum. Under no circumstances should you make long distance personal calls through a city phone, except in any emergency where said call is approved by your immediate supervisor and charged to your home phone or credit card, or made collect.

13.5 Solicitations

No salesperson or organization will be permitted to solicit any City employee regarding a personal matter during the employee's working hours.

13.6 Smoking on City Property.

Smoking is prohibited on all public grounds, public buildings and in public vehicles. Smoking is prohibited inside city offices, and the city car. Be alert to observe "No Smoking" rules where they are posted. Be particularly careful about not smoking where it would be a fire hazard.

13.7 Personal Financial Responsibility:

City employees are expected to manage their financial affairs in a manner, which will protect the City from becoming involved in your legal proceedings or collection actions.

13.8 Incompatible Activities:

A City employee shall not engage in any employment, activity, or enterprise, which is inconsistent, incompatible, or in conflict with his duties, functions and responsibilities of the department by which he is employed. The following activities shall be considered inconsistent, incompatible, or in conflict with City employment.

- a. Any employment, activity, or enterprise which involve the use for private gain or advantage of the City's time, facilities, equipment, or supplies, prestige, or influence of a City office or equipment.
- b. Any activity which involves the receipt or acceptance by the officer or employee of any money or

other consideration from anyone other than the City for the performance of an act which the officer or employee would be required or expected to render in the regular course of his City employment or a part of his duties as a City officer or employee.

c. Any activity which involves so much of the employees' time that it impairs his attendance or efficiency in the performance of his duties as a City officer or employee.

d. The Department Head or City Administrator as the case may be, shall make a final determination when necessary, as to whether a specific activity is prohibited.

13.9 Use of City Property, Vehicles, and Equipment:

a. City owned property, vehicles and equipment shall be used only in the performance of official City business, except those specifically designated by the City Administrator to have such use of vehicles and equipment during off-duty hours as part of their required duties or in the furtherance of a community goal or event.

b. Any employee operating or responsible for the operation of a City vehicle or other equipment shall do so in a safe and responsible manner.

13.10 Electronic Equipment/Systems:

a. Expectation of Privacy - Computers, phone, fax machines, copies, access to the Internet and electronic mail etc. has been installed by the City of Hawarden to facilitate City business. The City of Hawarden respects the individual privacy of its employees. However, employee privacy does not extend to the employee's work-related conduct or to the use of city-provided equipment or supplies. All activities performed on the electronic equipment systems is the property of the City and may be treated such. Although each employee may have an individual password to access these system, the password and the contents of all files belong to the City of Hawarden and are accessible at all times by the System Administrator, Department Head, or City Administrator. These systems may be subject to periodic unannounced inspections, and should be treated like other share filing systems. All system passwords and encryption keys must be available to the System Administrator, and you may not use passwords that are unknown to your supervisor or install encryption programs without approval of your supervisor and the system administrator.

b. Uses of Systems - Incidental and occasional personal use of these systems is permitted by the City of Hawarden within the context on privacy mentioned above. However, you may not use any of these systems in any way that may be seen as insulting, disruptive, or offensive by other persons or harmful to morale. Examples of improper use include sexually-explicit messages, cartoons, jokes, or unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparagement of others based on their sex, race, sexual orientation, age, national origin, or religious or political beliefs. Additionally, for such purposes as soliciting or proselytizing for commercial ventures, religious or personal causes or outside organizations or other similar, non-job-related solicitations. Use of the City of Hawarden provided electronic systems in violation of this guideline will result in disciplinary action, up to and including termination.

13.11 Political Activity.

1. City employees shall not engage in political activity during the employee's assigned duty hours or while wearing uniforms issued by the City;
2. No employee, as a condition of employment or continued employment, shall be required to contribute to or campaign for any candidate for political office.

13.12 Travel and Training.

The City of Hawarden wishes to improve the abilities and supplement the skills of its employees to promote the most efficient and effective delivery of quality services to its citizens. Accordingly, the City may reimburse or fund the cost of tuition and required books and materials for courses of study undertaken by employees to improve their skills or abilities. All such courses must be approved by the City. Approval is subject to available funding.

- a. Regular attendance and completion of courses with a Grade of C (average) or better is required, and when no grade is assigned, a certificate of satisfactory completion shall be required. Employees will be expected to share knowledge gained with fellow employees at staff meetings or as otherwise appropriate.
- b. All travel and training shall be subject to advance authorization by the Department Head or City Administrator.
- c. Travel expenses while on official City business shall be allowed as follows:
 1. Public transportation shall be utilized if feasible. For air travel, less than first class shall be used if available.
 2. Rental car use shall be reimbursed only when the use of such vehicle is more feasible than other types of transportation.
 3. Official travel in privately owned vehicles shall be reimbursed at the appropriate IRS mileage rate.
 4. Taxi, parking, tolls, and other travel related costs will be reimbursed at actual costs.
 5. Room costs: Reimbursement for actual costs.
 6. Training Costs: Reimbursement for actual costs.
 7. Meal costs: Meal cost will be reimbursed for travel trips in excess of two hours one-way where a meal is not already provided. Reasonable receipts will be necessary for any and all reimbursements. Where higher prices exist as part of a seminar or event the City shall pay the higher price.
 8. Telephone, copying, service charges, etc.: Reimbursement for actual costs, provided the expenditures were for official city business.

- c. The employee shall be responsible for all costs associated with additional non-City sponsored individuals accompanying the employee on a training trip. Also the employee shall insure that additional individuals on the trip do not interfere with any of the training of the City employee.
- d. The City Council shall amend said rates of re-imbursement from time to time by resolution.
- e. Overtime for travel time to and from training seminars shall not be paid, excluding time off may be permitted from the normal workday for travel on longer trips.
- f. Requests for advance travel funds shall be requested through the Department Head, approved by the City Administrator, and forwarded to the Deputy City Clerk
- g. Upon returning from said travel/training, a travel voucher shall be submitted within five working days with all required receipts for expenses attached to the travel voucher. The travel voucher must be signed by the employee requesting reimbursement, the Department Head and the Deputy City Clerk or City Administrator.
- h. Employees wishing to complete education/certification costing more than \$1,000 shall be required to enter into an “Educational Benefits Reimbursement Agreement” prior to take such training. The agreement states that if an employee, who has received this benefit, leaves employment with the City within 4 years after the completion of training, the following pro-rated schedule of repayment will apply:

Termination within 12 months -	80% repayment
Termination within 24 months -	60% repayment
Termination within 36 months -	40% repayment
Termination within 48 months -	20% repayment

13.13 Residency Requirement.

- a. The City of Hawarden wishes to offer positions with the City first and foremost to its current and future citizens. In addition, due to the limited staff of the City every employee serves a critical role in the functioning and service of the City and therefore must be able to reach work in difficult weather and emergency situations. Lastly, living in a small town and having citizen neighbors brings a certain level of community involvement and responsibility and care to the work of City employees, that otherwise might not be present.
- b. Physical residency within 10 miles of the City limits of Hawarden is required within six (6) months of accepting a position with the City of Hawarden. Distance will be determined by the most direct route from the place of residence to the City limits. Individual department heads in the case of critical emergency and utility positions may establish a shorter residency requirement consisting of both time and distance from the City limits. The City Administrator may waive the residency requirement when necessary to fill positions with non-city residents, who currently own residences (farmsteads) within a 10-mile radius of the City limits or who live in a neighboring community. For critical employees, inclement weather and flooding will not constitute an excuse for missing work.

ARTICLE XIV EMPLOYEE CONDUCT/MISCONDUCT

14.1 Employment at Will

Solely for purposes of helping the employee understand what is expected of the employee on the job, and without in any way making an exception to the status of each employee as an employee at will, the following acts shall not be considered satisfactory conduct by an employee:

14.2 Examples of Employee Misconduct:

- a) failure to perform the duties of the position because of inadequate knowledge, skills or abilities;
- b) inability to plan, organize, and direct the work of subordinates;
- c) inability to perform in positions requiring initiative and independent judgment;
- d) failure to perform the duties of the position because of physical, emotional, or mental incapacity;
- e) habitual tardiness and/or absenteeism. Habitual tardiness or absenteeism occurs when an employee is tardy for or absent from work.
- f) unauthorized absence from duty;
- g) abuse of sick leave;
- h) failure to maintain a satisfactory working relationship with other employees or with the public;
- i) failure to observe departmental regulations;
- j. failure or inability to meet established standards of performance, including either qualitative or quantitative standards;
- k) failure to meet residency requirements;
- l) insubordination, refusal or failure to comply with the proper orders of an authorized supervisor or refusal to do work assigned by the authorized supervisor;
- m) Any act or conduct detrimental to the good of the City;
- n) Violation of safety rules;

- o) Theft, destruction, gross neglect, unauthorized or improper use in the use of government property, equipment, and /or resources;
- p) Being under the influence of alcohol or drugs while on duty in violation of the City of Hawarden substance abuse policy;
- q) Discourtesy to the public or the use of profanity to the public;
- r) Acceptance of a gift of valuable consideration given with the intent of influencing the employee in the performance of the employee's official duties;
- s) Use of the employee's official position or authority for personal profit or advantage;
- t) Betraying of confidential information in the employee's possession;
- u) Falsification of any records, including the falsification of the application papers for the employment with the City;
- v) Conviction of a felony or of a misdemeanor involving moral turpitude;
- w) Failure to follow the City of Hawarden dress code listed herein.
- y) Lying to a Superior officer or chronic lying.
- z) Fighting or Horseplay on City premises at any time.
- aa) Loitering, loafing or sleeping on the job.
- bb) Not attending training paid for by the City.
- cc) Unsatisfactory work or attitude.
- dd) Failure to attend meetings.
- ee) Deliberate waste, deliberate interruption of work or other intentional acts.
- ff) Committing Sexual Harassment or Violating the Civil Rights of Others.
- gg) Abusive or Obscene Language.
- hh) Any other offense against a public interest.

14.3 Remedies/Action for Misconduct:

Disciplinary action may occur in any form from oral reprimands to termination from City employment depending on the necessary action to correct the misconduct, if correctable. Any of these actions may be taken by the City Administrator or by the Department Head with approval of the City Administrator. Warnings/reprimands may be done by any Immediate Supervisor or Department Head without the City Administrators approval. A brief explanation of each remedy/action is provided below:

- a. Warning/Reprimand: These may be oral or written and seek to warn an employee against a particular action or to specifically counsel them on minor misconduct.
- b. Suspension: This may be paid or unpaid. If utilized as a punishment it shall be without pay. If used to investigate misconduct it may be with or without pay depending on the initial facts available.
- c. Demotion: Lowering of positions or pay grades. This may involve removing a supervisor to a lesser position or moving an employee from one position of greater responsibility to a position of a lesser one.
- d. Dismissal or Termination: This is removal from City employment.

14.4 Records: Any written record of disciplinary action taken against an employee shall be filed in the affected employee's personnel record. A written statement of reasons for the action shall be submitted to the employee affected and the City Council shall be notified at the regular next meeting.

ARTICLE XV

NON-DISCIPLINARY SEPERATIONS

15.1 Layoff:

a. The City Council or City Administrator may lay off any employee in the City's service whenever such action is made necessary by reason of shortage of work or funds, abolition of a position, or changes in the organization.

b. In the event the employer decided to lay off employees it will retain the most qualified employees in the areas designated by the employer for reduction. When the choice is between two equally qualified employees performing in the job, the most senior employee will be retained.

c. However, no regular employee in a class of work shall be laid off while there are temporary, probationary or part-time employees serving in the same class for which the regular employee is eligible. Temporary, probationary, and part-time employees shall be laid off first in that order. If additional reductions are necessary, permanent employees shall be laid off according to seniority and job proficiency qualifications.

d. Employees, other than probationary, laid off under this procedure, shall be eligible to be recalled to the position he/she held at the time of lay-off for up to one (1) year from the date of lay-off. If his/her position has been eliminated, that employee will be considered for any vacancy, which in the discretion of the employer, that employee is qualified.

e. At least two weeks before the effective date of any layoff, the affected employee shall be given written notice inclusive of the reasons therefore. A copy of the notice shall be retained in the employee's personnel file.

f. An employee who is laid-off must keep the City advised, in writing, of his/her current address. An employee who fails to notify the employer of his/her intent to report for work and/or report for work upon being recalled will be considered to have resigned. An employee who is employed at the time of such notice shall have fourteen (14) calendar days, from receiving his/her recall notice, to report back to work.

15.2 Resignation/Retirement:

a. An employee desiring to resign from City service may do so by notifying his Department Head or the City Administrator as the case may be, in writing of the reasons therefore and the effective date.

b. To resign in good standing, the employee shall give notice of the resignation at least two weeks in advance of the effective date. Failure to give at least two weeks' notice, except in the case of extenuating circumstances so recognized by the appointing authority, may be cause for denying subsequent employment with the City.

c. Such resignation may be withdrawn by the employee at any time prior to the effective date with the acceptance of the City Administrator.

15.3 Mandatory Retirement:

All persons in the service of the City shall be retired upon reaching the age of seventy years or as required by Iowa Statutes. Their retirement shall occur on the first day of the month following reaching the age of 70.

15.4 Loss of Job Requirements:

Any employee who is unable to perform the duties and requirements of his or her position because of loss of necessary license or other requirements shall be separated from the City's service.

15.5 Disability or Medical Separation:

- a. If there is reasonable cause to believe that it is warranted, the City Administrator may require any employee to submit to a physical or mental examination by a medical doctor or psychiatrist selected by the City to insure competency to complete assigned duties.
- b. The City of Hawarden has adopted a Drug & Alcohol Testing Program and may require employees to submit to random testing for Drug or Alcohol abuse.
- c. The City shall pay the costs (including necessary travel costs) for all required examinations.
- d. Any employee who is unable to perform the duties and requirements of his or her position because of a disability or medical condition shall be separated from the City's service in accordance with the Americans With Disabilities Act.

ARTICLE XVI GRIEVANCE POLICY AND APPEALS

16.1 Grievance Policy:

It shall be the policy of the City of Hawarden to provide the opportunity for individual employees to discuss with the administration any grievance concerning the interpretation and application of the expressed provisions of the Personnel Rules and Regulations to include the union contract in order to find mutually satisfactory solutions as rapidly as possible. A grievance is defined as a perceived violation of the expressed provisions of the union contract or the personnel policies herein.

16.2 General Grievance Provisions:

- a. Presentation, discussion and processing of grievances shall occur at reasonable times during the day. In no event shall such matters interfere with the work of the employees.
- b. Arbitration hearings shall be scheduled outside the workday. However, the employer may agree to hearings during work hours when circumstances warrant. An employee required to attend such hearing will not suffer a loss of wages.
- c. The failure of an employee to process a grievance within the applicable times specified above shall bar an appeal of such grievance and that grievance shall be considered settled.
- d. The failure of the City to reply within the applicable times specified shall be deemed a denial of the grievance which may then be appealed to the next step.
- e. Time limits may be extended by mutual agreement of the parties.
- f. A representative of the City will be available to discuss issues or concerns which arise during the year. The Union may request a meeting after the written answer in Step 2 to discuss the grievance.
- g. An employee shall be entitled to have a representative during Step 2 and above.
- h. In the case of absence of the aggrieved employee's Department Head, the City Administrator shall also be utilized for steps one. In the event of absence of City Administrator, the aggrieved employee's Department Head shall also be utilized in step two.
- i. In the presentation of grievances at any level, employees shall be free of restraint, interference and discrimination, or reprisal.

16.3 Grievance Procedure:

a. Oral Report (Step One): An employee who claims a grievance shall present such grievance orally to his/her department head within five (5) calendar days after the date of the event which gave rise to the grievance. The department head shall give an oral answer to the employee within five (5) calendar days after the grievance was presented to him/her.

b. Written Report (Step Two): If the oral grievance presentation (step one) to the Department Head fails to settle the grievance, the employee and/or his authorized representative may submit a written grievance, within seven (7) calendar days from the answer of the Department Head or the expiration of the five (5) calendar days in which the Department Head had to provide the oral answer in Step One, whichever is the latter. The grievance shall be reduced to writing, signed by the employee, specifically stating the facts, which gave rise to the grievance and the section of this document which is alleged to have been violated. The grievance will be given to the City Administrator within the aforementioned period. The City Administrator shall then provide the employee a written answer within seven (7) calendar days after the grievance was presented to him/her. A copy of this answer will be sent to the employee and employee's representative or the Union President as applicable.

c. Non- Union Appeals (Step 3): If the written reply from the City Administrator fails to settle the grievance the employee may within ten (10) working days after receiving the reply submit a written request for reconsideration. The request shall state the factual reasons why he/she disagrees with the written decision. The City Administrator shall reconsider the grievance and shall then provide a final response within ten (10) working days. The City Administrator may conduct any additional investigations/consultation, which he/she deems necessary. The decision of the City Administrator shall be final, subject only to judicial appeal in accordance with the provisions of the Code of Iowa.

d. Union Appeals (Step 3): If the grievance is not settled in Step Two, it may be appealed to arbitration by the Union by sending to the City Administrator within ten (10) calendar days after the receipt of the City Administrator's answer in Step Two. Said written notice shall be signed by the appropriate Union representative. When a timely request for arbitration has been made above, the employee and the Union shall, within ten (10) calendar days from the Employee's receipt of arbitration notice, request a list of seven (7) names from the Federal Mediation and Cancellation Service. Either party may strike all or any of the names from said list. If after such striking a common name appears on the list, that person will be the arbitrator. Should no common name remain, the parties will request a second list of seven (7) names from the Mediation and Cancellation Service. After determining who shall strike first, the parties shall alternately strike names until one name remains. The remaining person shall be the arbitrator. The parties shall arrange a mutually acceptable date to have the arbitration hearing. The arbitration hearing shall be limited to the grievance(s), appropriate representative(s) and witnesses.

The arbitrator, after the hearing and filing of briefs, shall render a written opinion and award. The arbitrator shall not have the authority to add to, subtract from, modify, alter, or amend any terms of this agreement. The arbitrator shall have no authority to substitute his/her discretion for that of the City in any matter reserved to the City by law or the terms of this agreement. The decision of the arbitrator shall be final and binding on both parties unless the arbitrator has exceeded his/her authority granted under this contract. The arbitrator may not hear more than one grievance unless the presentation of more than one grievance is mutually agreed to by the City and the Union. The City and the Union will share equally any costs of the arbitration hearing including hearing room costs and fees and expenses of the arbitrator. Any other expenses shall be paid by the party incurring the expense.

ARTICLE XVII: DISCLAIMER

- a. Information included in these personnel policies and procedures, and compensation plan is not intended to represent a contract between any employee and the City, and may be changed by the Council without notice.
- b. The term "established position" indicates position(s) created by ordinance. The number of positions may be changed by the Council without notice, and employee(s) occupying the position(s) may be affected by such changes.

ARTICLE XVIII: SEVERABILITY AND REPEALER

1. If any provision of these personnel policies and procedures is held invalid, such invalidation shall not affect the remainder of these policies or their application.
2. All ordinances that conflict with the contents of this document are hereby repealed.

**CITY OF HAWARDEN
STATEMENT OF UNDERSTANDING AND
RECEIPT OF PERSONNEL POLICY**

THE UNDERSIGNED acknowledges that he/she has been provided with a copy of the Personnel Policy for the City of Hawarden and further that that they have read and understand its contents.

The contents of this manual are presented for information only. The plans, policies, and procedures described are not conditions of employment. The City of Hawarden reserves the right to modify, revoke, suspend, terminate or change any or all plans, policies, or procedures, in whole or in part, at any time with or without notice. The language, which appears in this manual, is not intended to create nor is it to be construed to constitute a contract between the City of Hawarden and any one or all of its employees.

Dated this _____ day of _____, 20__.

Employee's Signature

Employee's Printed Name