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MAYOR

§ 30.01 ELECTION; QUALIFICATIONS; TERM.

(A) The Mayor shall be elected as provided in the Election Act. The Mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. The Mayor shall be a resident and registered voter of the city.
(Neb. RS 17-107)

(B) The Mayor shall serve for a term of 4 years or until his or her successor is elected and qualified.

(Neb. RS 32-533) (1986 Code, § 1-101) (Am. Ord. 1142, passed 11-28-2011)

§ 30.02 POWERS AND DUTIES.

(A) The Mayor shall preside at all meetings of the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council on any pending matter, legislation, or transaction, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. He or she shall have superintendence and control of all the officers and affairs of the city, and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with.

(Neb. RS 17-110)

(B) The Mayor shall have the power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the Mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the Mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council stating that the measure is vetoed. The Mayor may issue the veto at the meeting at which the measure passed or within 7 calendar days after the meeting. If the Mayor issues the veto after the meeting, the Mayor shall notify the City Clerk of the veto in writing. The Clerk shall notify the City Council in writing of the Mayor's veto. Any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The Mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the Council over the veto as in other cases.

(Neb. RS 17-111)

(C) The Mayor shall, from time to time, communicate to the City Council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the city.

(Neb. RS 17-112)

(D) The Mayor shall have the power, when he or she deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers, and to make reports to the Council, in writing, touching any subject or matter pertaining to his or her office.

(Neb. RS 17-113)

(E) The Mayor shall have such jurisdiction as may be vested in him or her by ordinance, over all places within 5 miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within one-half mile of the corporate limits of the city.
(Neb. RS 17-114)

(F) The Mayor shall have the power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the city.
(Neb. RS 17-117)

(G) The Mayor shall hold no other elective or appointive office or employment with the city.

(H) The Mayor shall sign the City Clerk's minutes of all meetings of the City Council, and he or she shall sign all resolutions that have been passed and warrants for the payment of money when ordered by the Council.

(I) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State of Nebraska or as the Council may by resolution confer upon the Mayor.
(1986 Code, § 1-101) (Am. Ord. 1172, passed 4-14-2014; Am. Ord. 1183, passed 8-10-2015)

Statutory reference:

Restrictions on holding other office or employment, Neb. RS 17-108.02, 32-109, 32-603, and 32-604

§ 30.03 VACANCY.

(A) The office of Mayor shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561.
(Neb. RS 32-560)

(B) In case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the City Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.
(Neb. RS 32-568)

(C) If the President of the Council assumes the office of Mayor for the unexpired term, there shall be a vacancy on the Council.
(Neb. RS 17-107, 32-568) (1986 Code, § 1-106)

Statutory reference:

Additional and similar provisions, Neb. RS 32-560 through 32-572
Ineligibility of person subjected to recall, Neb. RS 32-1308

CITY COUNCIL**§ 30.30 ELECTION; TERMS; QUALIFICATIONS.**

(A) The City Council shall consist of six members who shall be elected by ward on a nonpartisan ballot. Each ward shall have 2 members of the Council.

(B) Members of the Council shall be elected in the manner provided in the Election Act. The term of office shall begin on the first regular meeting of the Council in December following the statewide general election. No person shall be eligible to the office of member of the Council who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter. (Neb. RS 17-104)

(C) Members of the Council shall serve for terms of 4 years or until their successors are elected and qualified.

(Neb. RS 32-533) (1986 Code, §§ 1-103, 1-104, 1-702, 1-715, 1-720)

Statutory reference:

General provisions, Neb. RS 17-102 through 17-104

Restrictions on holding other office or employment, Neb. RS 17-108.02, 32-109, 32-603, 32-604

Election Act, Neb. RS 32-101

Ability to elect council members at large or by ward, Neb. RS 32-554

Ability to provide for a partisan ballot, Neb. RS 32-557

§ 30.31 WARDS.

(A) The city shall redistrict as often as necessary using the most recent federal decennial census to insure that each ward is substantially equal in population.

(B) The city shall be divided into the following wards:

(1) First Ward, or Beaver I. All territory within the corporate limits of the city being the remainder of Beaver Precinct not included in Beaver II or Beaver III;

(2) Second Ward, or Beaver II. All property contained within the boundary herein described: Beginning at the assumed southern intersection of Hartley Street and the south corporate city limits, point of beginning, all property located east of the center line of Hartley Street traveling north to the 2nd Street intersection, thence beginning at the Hartley Street and 2nd Street intersection, all property located north of the center line of 2nd Street traveling west to the Converse Street intersection; thence beginning at the 2nd Street and Converse Street intersection, all property west of the center line of Converse Street traveling north to the 6th Street intersection; thence beginning at the Converse Street and 6th Street

intersection, all property north of the center line of 6th Street traveling west to the Bloom Street intersection; thence beginning at the 6th Street and Bloom Street intersection, all property east of the center line of Bloom Street traveling north to the 8th Street intersection; thence beginning at the Bloom Street and 8th Street intersection, all property south of the center line of 8th Street traveling east to the Washington Street intersection; thence beginning at 8th Street and Washington Street intersection, all property located east of the center line of Washington Street traveling north to 13th Street intersection; thence beginning at the Washington Street and 13th Street intersection, all property located south of the center line of 13th Street traveling east to the Montana Street intersection; thence beginning at 13th Street and Montana Street intersection, all property located east of the center line of Montana Street traveling north to the 15th Street intersection, thence beginning at the Montana Street and 15th Street intersection, all property located south of the center line of 15th Street traveling east to the corporate city limits, thence beginning at the assumed 15th Street and corporate city limits intersection traveling south along the corporate city limits to back to the point of beginning; and

(3) Third Ward, or Beaver III. All property contained within the boundary herein described: Beginning at the assumed intersection of 8th Street and the west corporate city limits, point of beginning, all property located north of the center line of 8th Street traveling east to the Washington Street intersection; thence beginning at 8th Street and Washington Street intersection, all property located west of the center line of Washington Street traveling north to the 13th Street intersection; thence beginning at the Washington Street and 13th Street intersection, all property located north of the center line of 13th Street traveling east to the Montana Street intersection; thence beginning at 13th Street and Montana Street intersection, all property located west of the center line of Montana Street traveling north to the 15th Street intersection, thence beginning at the Montana Street and 15th Street intersection, all property located north of the center line of 15th Street traveling east to the corporate city limits, thence beginning at the assumed 15th Street and corporate city limits intersection traveling north along the corporate city limits back to the point of beginning.

(C) The city shall have on file an up-to-date official ward map to be referred to in the instance of any and all discrepancies with the ward boundary descriptions.

(1986 Code, § 1-714) (Am. Ord. 795, passed 8-12-1991; Am. Ord. 1137, passed 11-17-2011)

Statutory reference:

Requirements for wards, Neb. RS 17-102, 32-552, 32-553

§ 30.32 PRESIDENT; ACTING PRESIDENT.

(A) The City Council shall elect one of its own body who shall be styled the President of the Council and who shall preside at all meetings of the Council in the absence of the Mayor.

(B) In the absence of the President, the Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council.

(C) The President, and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the city as if done by the Mayor. (Neb. RS 17-148) (1986 Code, § 1-102)

§ 30.33 STANDING COMMITTEES.

(A) At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the Council may create by ordinance or resolution. The membership of such standing committees may be changed at any time by the Mayor. The Mayor may assign each committee with specific objectives. The Mayor shall be an ex officio member of each standing committee. The members of the standing committees shall serve a term of office of 1 year, unless reappointed.

(B) The following standing committees shall be appointed or reappointed each year until changed by the Council:

- (1) Solid Waste Disposal;
- (2) Public Relations;
- (3) Finance;
- (4) Building Maintenance;
- (5) Streets and Alleys;
- (6) Personnel;
- (7) Lottery; and
- (8) Auditorium.

(C) The above listed committees shall be responsible for making recommendations to the City Council. The City Council shall make the final decisions. (1986 Code, § 2-101) (Am. Ord. 932, passed 6-23-1997; Am. Ord. 1023, passed 1-14-2002)

§ 30.34 VACANCY; GENERAL PROVISIONS.

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561.

(B) (1) Except as otherwise provided in division (C) or (D), vacancies in municipal elected offices shall be filled by the governing body for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the governing body at a regular or special meeting and shall appear as a part of the minutes of that meeting. The governing body shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the municipality or by posting in three public places in the municipality the office vacated and the length of the unexpired term.

(2) The Mayor shall call a special meeting of the governing body or place the issue of filling the vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent, or within four weeks after the meeting at which such notice of vacancy has been presented. The governing body shall vote upon the nominee, and if a majority votes in favor of the nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at that meeting to submit the names of qualified registered voters in nomination and the governing body shall continue to vote upon the nominations at such meeting until the vacancy is filled. All members of the governing body present shall cast a ballot for or against the nominee. Any member of the governing body who has been appointed to fill a vacancy on the governing body shall have the same rights, including voting, as if that person were elected.

(C) The Mayor and governing body may, in lieu of filling a vacancy in a village elected office as provided in division (B), call a special election to fill that vacancy.

(D) If vacancies exist in the offices of one-half or more of the members of the governing body, the Secretary of State shall conduct a special municipal election to fill those vacancies. (Neb. RS 32-569) (1986 Code, § 1-105) (Am. Ord. 787, passed 12-10-1990; Am. Ord. 1031, passed 5-13-2002; Am. Ord. 1186, passed 2-22-2016)

Statutory reference:

Additional and similar provisions, Neb. RS 32-560 through 32-572

Ineligibility of person subjected to recall, Neb. RS 32-1308

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.45 GRANT OF POWER.

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government, and welfare of the municipality and its trade, commerce, and manufactories. (Neb. RS 17-505) (1986 Code, § 1-601) (Am. Ord. 937, passed 6-23-1997)

§ 30.46 INTRODUCTION OF ORDINANCES.

Ordinances shall be introduced by members of the City Council in 1 of the following ways:

(A) With the recognition of the Mayor, a member may, in the presence and hearing of a majority of the members elected to the City Council, read aloud the substance of the proposed ordinance and file a copy with the Municipal Clerk for future consideration; or

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk, who, in the presence and hearing of a majority of the members elected to the City Council, shall read aloud the substance of the ordinance and file it for future consideration. (1986 Code, § 1-602) (Am. Ord. 938, passed 6-23-1997)

§ 30.47 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in 1 of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read 1 time in the presence and hearing of a majority of the members elected to the City Council. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the City Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote. (1986 Code, § 1-603)

§ 30.48 ORDINANCES; STYLE, TITLE.

(A) *Style.* The style of all municipal ordinances shall be: “Be it ordained by the Mayor and Council of the City of Superior, Nebraska:” (Neb. RS 17-613) (1986 Code, § 1-604)

(B) *Title.* No ordinance shall contain a subject which is not clearly expressed in the title. (Neb. RS 17-614) (1986 Code, § 1-605)

§ 30.49 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.

(A) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. Ordinances of a general or permanent nature shall be read by title on 3 different days unless 3/4 of the City Council vote to suspend this requirement, except that this requirement shall not be suspended for any ordinance for the annexation of territory. In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.
(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made viva voce, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.
(Neb. RS 17-616)
(1986 Code, § 1-606) (Am. Ord. 877, passed 2-13-1995; Am. Ord. 939, passed 6-23-1997; Am. Ord. 1172, passed 4-14-2014)

§ 30.50 PUBLICATION OR POSTING OF ORDINANCES.

All ordinances of a general nature shall, before they take effect, be published 1 time, within 15 days after they are passed:

(A) In some newspaper published in the municipality, or, if no paper is published in the municipality, then by posting a written or printed copy in each of 3 public places in the municipality; or

(B) In book or pamphlet form.
(Neb. RS 17-613) (1986 Code, § 1-607) (Am. Ord. 746, passed 8-25-1986; Am. Ord. 940, passed 6-23-1997)

Statutory reference:

Additional provisions, see Neb. RS 18-131

§ 30.51 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Municipal Clerk showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613) (1986 Code, § 1-608)

§ 30.52 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.50 and division (B) of this section, an ordinance for the government of the municipality which has been adopted by the City Council without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least 3 of the most public places in the municipality. The emergency ordinance shall recite the emergency, be passed by a 3/4 vote of the City Council, and be entered of record on the Municipal Clerk's minutes.

(Neb. RS 17-613)

(1986 Code, § 1-609) (Am. Ord. 941, passed 7-14-1997)

§ 30.53 AMENDMENTS AND REVISIONS OF ORDINANCES.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the municipality and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. RS 17-614) (1986 Code, § 1-610) (Am. Ord. 942, passed 7-14-1997)

Statutory reference:

Ordinances revising all the ordinances of the city, see Neb. RS 17-614

Modifications to zoning or building districts, see Neb. RS 19-915

CHAPTER 31: APPOINTED CITY OFFICIALS

Section

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§ 31.01 APPOINTMENT; TERMS; REMOVAL; POWERS; DUTIES.

(A) (1) The Mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor.

(2) The terms of office for all officers, except regular police officers, appointed by the Mayor and confirmed by the Council shall be established by the City Council by ordinance. The ordinance shall provide that either:

(a) The officers hold the office to which they have been appointed until the end of the Mayor's term of office and until their successors are appointed and qualified unless sooner removed; or

(b) The officers hold office for 1 year unless sooner removed.
(Neb. RS 17-107)

(B) (1) The city may enact ordinances or bylaws to regulate and prescribe the powers and duties of officers not provided for in state law.
(Neb. RS 17-604)

(2) If the Mayor and City Council appoint any of the officials specified in this chapter or any other officials, the officials shall have the powers and duties, if any, provided in this chapter or as otherwise provided by city ordinances and state law.

(C) The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law.
(Neb. RS 81-1438) (1986 Code, § 1-201) (Am. Ord. 936, passed 6-23-1997; Am. Ord. 1142, passed 11-28-2011)

Statutory reference:

Removal of Water Commissioner or members of the Board of Public Works, Neb. RS 17-541 and 17-801

§ 31.02 QUALIFICATION FOR OFFICE.

(A) Within 30 days after the date of his or her appointment, each appointive officer who is required to give bond shall qualify by filing the required bond, approved by the City Council, in the office of the City Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of the office. Endorsed on the bond shall be the same oath as is required of a council member.

(B) Within 30 days after the date of his or her appointment, each appointive officer who is not required to give bond shall qualify by taking and subscribing an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, and the laws of the city and to perform faithfully and impartially the duties of the office, such oath to be filed in the office of the Clerk.

Statutory reference:

Bonds, Neb. RS 11-103 through 11-118 and 17-604

§ 31.03 MERGER OF OFFICES.

The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Councilmember, with any other elective or appointive office or employment so that 1 or more of those offices or employments or any combination of duties of any of those offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in

excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. RS 17-108.02) (1986 Code, § 1-202) (Am. Ord. 789, passed 2-11-1991)

§ 31.04 CITY CLERK.

(A) The City Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the City Council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the Clerk may transfer the journal of the proceedings of the City Council to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the city.

(Neb. RS 17-605)

(B) (1) It shall be the duty of the Clerk to prepare and publish the official proceedings of the City Council within 30 days after any meeting of the Council. The publication shall be in a newspaper of general circulation in the city, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in Neb. RS 23-122.

(Neb. RS 19-1102)

(2) Publication under division (B)(1) shall be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then the publication shall be made in 1 legal newspaper published or of general circulation within the county in which the city is located. The cost of publication shall be paid out of the general funds of the city.

(Neb. RS 19-1103)

(C) The Clerk shall dispose of or destroy city public records when the records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to Neb. RS 84-1201 through 84-1220, provided the provisions of this division shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.

(Neb. RS 18-1701)

(D) (1) The Clerk shall permit any person to examine and copy the public records in the Clerk's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(2) The Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council.

(E) The Clerk shall permit no records, public papers, or other documents of the city kept and preserved in his or her office to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefor, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of

the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

(F) The Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at such officers, employees, or committees. With the seal of the city, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

(G) The Clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances. He or she shall collect all occupation taxes and license money, except where some other city officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the city and the purpose for which they have been issued.

(H) The Clerk shall keep in a book with a proper index, copies of all notices required to be published or posted by the Clerk by order of the City Council or under the ordinances of the city. To each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

(I) The Clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the city, and in the event that the claim is disallowed in part or in whole, the Clerk shall notify the claimant or his or her agent or attorney by letter within 5 days after the disallowance, and the Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(1986 Code, § 1-204) (Am. Ord. 818, passed 2-8-1993; Am. Ord. 1172, passed 4-14-2014)

Statutory reference:

Additional duties, see Neb. RS 17-605

Examination of public records free of charge, see Neb. RS 84-712 et seq.

Penalty for failure to perform duties, see Neb. RS 19-1104

Publication of official proceedings, see Neb. RS 19-1102 et seq.

Publication rates, see Neb. RS 23-122 and 33-141 through 33-143

Records Management Act, see Neb. RS 84-1201 through 84-1227

§ 31.05 CITY TREASURER.

(A) (1) The City Treasurer shall be the custodian of all money belonging to the city. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the City Council, the Mayor with the advice and consent of the Council may use this failure as cause to remove the Treasurer from office.

(2) The Treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The Treasurer shall accompany the annual statement submitted pursuant to Neb. RS 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.
(Neb. RS 17-606)

(B) (1) The Treasurer shall prepare and publish annually within 60 days after the close of the city fiscal year a statement of the receipts and expenditures of funds of the city/village for the preceding fiscal year. The statement shall also include the information required by Neb. RS 16-318(3) or Neb. RS 17-606(2). Not more than the legal rate provided for in Neb. RS 33-141 shall be charged and paid for such publication.
(Neb. RS 19-1101)

(2) Publication shall be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then such publication shall be made in 1 legal newspaper published or of general circulation within the county in which the city is located.
(Neb. RS 19-1103)

(C) (1) All warrants upon the Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215.
(Neb. RS 77-2201)

(2) The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date, and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest, and the

total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed.

(Neb. RS 77-2202)

(3) The Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver 1 of the duplicates to the person making the payment and retain the other in his or her office.

(Neb. RS 77-2209)

(4) The Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess.

(Neb. RS. 77-2210)

(5) The cash book, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(Neb. RS 77-2212)

(D) The Treasurer shall permit any person to examine and copy the public records in the Treasurer's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

(E) The Treasurer shall keep all money belonging to the city separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the city, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

(1986 Code, §§ 1-205, 1-206 and 1-207) (Am. Ord. 1032, passed 5-13-2002; Am. Ord. 1172, passed 4-14-2014)

Statutory reference:

Other statutory duties, see Neb. RS 17-607 through 17-609

Records open to inspection, see Neb. RS 77-2212, 84-712, and 84-712.01

§ 31.06 MUNICIPAL ATTORNEY.

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the City Council, he or she shall attend meetings of the City Council and shall advise any municipal official in all matters of

law in which the interests of the municipality may be involved. He or she shall draft those ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts, and documents on which the City Council will be required to act and attach thereto a brief statement in writing to all such instruments and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend, and prosecute violations of the municipal ordinances when directed to do so by the City Council. Without direction, he or she shall appear and prosecute all cases for violation of the municipal ordinances that have been appealed to and are pending in any higher court. He or she shall also examine, when requested to do so by the City Council, the ordinance records, and advise and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that it will be a valid and subsisting local law in so far as its passage and approval are concerned. The City Council shall have the right to compensate the Municipal Attorney for legal services on terms as the City Council and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.

(Neb. RS 17-610) (1986 Code, § 1-208)

Statutory reference:

Authorizing and similar provisions, see Neb. RS 17-610

§ 31.07 MUNICIPAL UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed in the event that there is more than 1 municipal utility and the Governing Body determines that it is in the best interest of the municipality to appoint 1 official to have the immediate control over all the municipal utilities and municipal streets. The Utilities Superintendent shall be bonded in the sum of \$5,000 under the direction of the Governing Body before entering upon his or her duties.

(B) The Utilities Superintendent's duties over the following departments shall be as stated herein.

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions, and procedures of the Utilities Superintendent shall be subject to the general directives and control of the Governing Body. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the Governing Body may from time to time hire to operate and maintain the system. He or she shall make a detailed report to the Governing Body at least once every 6 months on the condition of the water system, of all mains, pipes, hydrants, reservoirs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding 6 months. No money shall be expended

for improvements, repairs, or extension of the water system in excess of \$5,000 except upon the approval of the Governing Body. The Utilities Superintendent shall perform those additional duties as may be prescribed by the Governing Body.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the Governing Body. The Utilities Superintendent shall have the general control and supervisory authority over Sewer Department contractors, which the Governing Body may from time to time hire to operate and maintain the system. He or she shall at least every 6 months make a detailed report to the Governing Body on the condition of the sewer system and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. No money shall be expended for improvements, repairs, or extension of the sewer system in excess of \$5,000 except on the approval of the Governing Body. The Utilities Superintendent shall have those other duties as the Governing Body may delegate to him or her. He or she shall issue permits for all connections to the municipal sewer system and inspect and supervise all repairs made to the system.

(3) *Electrical Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal electrical system, subject to the general control and directives of the Governing Body. The Utilities Superintendent shall have the general control and supervisory authority over Electrical Department contractors, which the Governing Body may from time to time hire to operate and maintain the system. He or she shall at least every 6 months make a detailed report to the Governing Body on the condition of the electrical system and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. No money shall be expended for improvements, repairs, or extension of the electrical system in excess of \$5,000 except on the approval of the Governing Body. The Utilities Superintendent shall have those other duties as the Governing Body may delegate to him or her.

(4) *Gas Department.* The Utilities Superintendent shall have general supervision and control over all the employees and property that make up the municipal gas system, subject to the general control and directives of the Governing Body. The gas system shall include, but not be limited to, the border station, district regulator stations, and all gas system associated hardware, devices, and equipment used in connection with municipal gas distribution. The Utilities Superintendent shall have the general control and supervisory authority over Gas Department contractors, which the Governing Body may from time to time hire to operate and maintain the system. He or she shall make a detailed report to the Governing Body at least once every 6 months on the condition of the municipal gas system, all mains, pipes, regulators, meters, and equipment, and all those improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding 6 months. No money shall be expended for improvements, repairs, or extension of the gas system in excess of \$5,000 except on the approval of the Governing Body. The Utilities Superintendent shall have those other duties as the Governing Body may delegate to him or her.

(5) *Street Department.* The Utilities Superintendent shall, subject to the orders and directives of the Governing Body, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the municipality and shall perform those other duties as the City Council may require. It shall be his or her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He or she shall, at the request of the Governing Body, make a detailed report to the Governing Body on the condition of the streets, sidewalks, culverts, alleys, and bridges of the municipality and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality, along with an estimate of the cost thereof. He or she shall issue those permits and assume those other duties as the Governing Body may direct. (1986 Code, § 1-215) (Am. Ord. 1-215, passed 11-9-1999)

Statutory reference:

Incentive payments to street superintendents, see Neb. RS 39-2512

Overseer of streets, see Neb. RS 17-119

Water Commissioner, see Neb. RS 17-541

§ 31.08 POLICE CHIEF.

The Municipal Police Chief shall direct the police work of the municipality and shall be responsible for the maintenance of law and order. The Chief of Police shall devote his or her whole time to the municipal affairs and interest of the city to the preservation of peace, order, safety, and cleanliness thereof, and to this end shall execute and enforce all ordinances and also the orders of the Mayor. It shall be the Chief of Police's duty to protect the rights of persons and property, and provide a proper police force at fires. The Chief of Police shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, and business places of the city. He or she shall act as Health Inspector, and Building Inspector, except in the event the municipality appoints another person. The Chief of Police shall file the necessary complaints in cases arising out of violations of municipal ordinances, and shall make all necessary reports required by the municipal ordinances, or the laws of the state.

(1986 Code, § 1-210)

§ 31.09 MUNICIPAL POLICE OFFICERS.

The municipal police shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render that assistance shall be deemed an offense punishable upon conviction by a fine. Every municipal police officer shall be expected to be conversant and knowledgeable with the municipal and state laws, and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal police officers shall have the duty to file those complaints and reports as may be required by the municipal ordinances and the laws of the state. Any municipal police officer who shall willfully fail, neglect, or refuse to

make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made, shall be deemed guilty of an offense, and upon conviction shall be fined. It shall be unlawful for the City Council to retain any municipal police officer in that position after he or she shall have been duly convicted of the willful violation of any federal law, law of the state, or any ordinance of the municipality, except minor traffic violations. It shall be the duty of every municipal police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and to carefully keep, and produce to the proper judicial official upon the trial, everything found upon the person of those prisoners. All personal effects so taken from prisoners as aforementioned shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the municipal police by the municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the Police Chief. The City Council may from time to time provide the municipal police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties.

(1986 Code, § 1-211) (Am. Ord. 1142, passed 11-28-2011) Penalty, see § 10.99

Cross-reference:

Arrest and enforcement jurisdiction, see § 32.62

§ 31.10 POLICE JURISDICTION.

The jurisdiction of the Chief of Police and police officers for enforcing all municipal codes and ordinances shall include all territory within the corporate limits and all territory adjacent to the corporate limits of the municipality within 1 mile thereof.

(1986 Code, § 1-211)

Cross-reference:

Arrest and enforcement jurisdiction, see also § 32.62

§ 31.11 MUNICIPAL FIRE CHIEF.

(A) The Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes.

(B) He or she shall within 2 days investigate the cause, origin, and circumstances of fires arising within his or her jurisdiction.

(Neb. RS 81-506)

(C) He or she shall, on or before the first day in April and October of each year, cause the secretary to file with the City Clerk and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

(Neb. RS 35-102)

(D) He or she shall have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist or any person for hindering the department's efforts, conducting himself or herself in a noisy and disorderly manner, or who refuses to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or an assistant in charge of operations at a fire, may command the services of any person present at any fire in extinguishing the same or in the removal and protection of property. Failure to obey such an order shall be an offense punishable by a fine.

(E) The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his or her jurisdiction for the purpose of examining the same for fire hazards and related dangers.

(Neb. RS 81-512) (1986 Code, § 1-212) Penalty, see § 10.99

§ 31.12 SPECIAL ENGINEER.

The Mayor and City Council may employ a Special Engineer to make, or assist the Municipal Engineer in making, any particular estimate, survey, or other work. The Special Engineer shall make a record of the minutes of his or her surveys and all other work done for the municipality. He or she shall, when directed by the Mayor and City Council, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the City Council. He or she shall, upon request of the City Council, make estimates of the costs of labor and material which may be done or furnished by contract with the municipality and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform those other duties as the City Council may require. All records of the Special Engineer shall be public records which shall belong to the municipality and shall be turned over to his or her successor.

(1986 Code, § 1-213)

Statutory reference:

Authority to employ special engineers, see Neb. RS 17-568

Duties related to annexation, see Neb. RS 17-405

Duties related to public works, see Neb. RS 17-568.01

Duties related to sewers, see Neb. RS 17-150 and 17-919

Engineers and Architects Regulation Act, see Neb. RS 81-3401 through 81-3455

§ 31.13 MUNICIPAL PHYSICIAN.

The Municipal Physician shall be a member of the Board of Health of the municipality and perform the duties devolving upon the position as the medical advisor of that Board. In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the injuries, the extent thereof, and the circumstances. He or she shall then report the results of the investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto and issue those health certificates as are required by ordinance. For the purpose of making

examinations of the sanitary conditions of the property and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the municipality. He or she shall perform those other duties as may be required by the laws of the state and the ordinances of the municipality. When ordered to do so by the City Council, he or she shall disinfect or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and shall call upon indigent sick persons and perform other professional services at the direction of the City Council. The Municipal Physician shall receive as compensation for services that sum as the City Council may from time to time set. He or she shall receive no compensation for services as a member of the Municipal Board of Health.

(1986 Code, § 1-209)

Statutory reference:

Board of Health created, see Neb. RS 17-121

§ 31.14 BUILDING INSPECTOR.

The Municipal Building Inspector shall conduct surveys and make inspections in any area of the municipality to determine whether all buildings and structures are in compliance with the municipal ordinances. He or she shall investigate all complaints, whether they are verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation. The Building Inspector is authorized upon properly identifying himself or herself to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m., or at any time if an emergency exists, or if requested by the owner or occupant thereof. He or she shall keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection, and he or she shall prepare an annual report including statistics based on the records kept. The Building Inspector shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner of a building, and he or she shall not act as an agent for any dealer of this type, or as an agent for the sale, lease, or rental of any real estate. The Building Inspector shall report to the Governing Body as often as it may deem necessary and shall have those other duties and issue those permits as it may direct.

(1986 Code, § 1-216) Penalty, see § 10.99

§ 31.15 ELECTRICAL INSPECTOR.

(A) The office of Electrical Inspector in and for the city is hereby created. The Electrical Inspector shall hold an Electrical Inspector's certificate of qualification. The Municipal Electrical Inspector shall enforce all laws relating to the installation of electrical wiring and connections thereto.

(B) The Electrical Inspector, unless the Superintendent shall serve in that capacity, shall file with the Council a bond of a surety company to be approved by the Council, in the sum of \$1,000, conditioned that he or she will indemnify and keep harmless the city from all liabilities from accident or damage arising from negligence or carelessness in performing his or her work or for any inadequate work done in pursuance of his or her appointment and office, and that he or she will keep all records of

the office, as provided herein, which shall be the property of the city and shall be filed and preserved by the Electrical Inspector in the office of the Treasurer and which shall be delivered to his or her successor in office. He or she shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He or she shall perform those other duties and issue any permits that the Governing Body may direct. It shall be unlawful for the Electrical Inspector, unless as Utilities Superintendent he or she shall install electric wiring and devices as agent for the city, to engage in the business of the installation and maintenance of electric wiring, electric devices, and electrical materials, either directly or indirectly, and he or she shall have no financial interest in any concern engaged in this type of business in the city at any time while holding the office of Electrical Inspector. Any violation of the provisions of this section by the Electrical Inspector shall be sufficient cause for his or her removal from office, but he or she may be removed for other just cause.
(1986 Code, § 1-217) Penalty, see § 10.99

§ 31.16 ZONING ENFORCEMENT OFFICER.

The zoning and subdivision regulations shall be administered and enforced by the Zoning Enforcement Officer, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of the zoning and subdivision regulations.
(1986 Code, § 1-219)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

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Cross-reference:

Meetings, see §§ 33.01 et seq.

BOARDS AND COMMISSIONS

§ 32.01 LIBRARY BOARD.

(A) (1) The Library Board shall consist of 5 appointed members who shall serve terms of 4 years. The Board members shall be appointed by a majority vote of the members of the City Council. Neither the Mayor nor any member of the City Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In cases of vacancies by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board.

(Neb. RS 51-202)

(2) The City Council may require the members of the Library Board to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.

(B) (1) The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a president, a secretary, and other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business.

(Neb. RS 51-204)

(2) No member of the Board shall serve in the capacity of both the president and secretary of the Board. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.

(3) The Board shall meet at those times as the Board may designate. Special meetings may be held upon the call of the president or a majority of the members of the Board.

(1986 Code, § 2-201)

§ 32.02 PLANNING COMMISSION.

(A) The Planning Commission shall consist of 7 regular members who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the City Council. Two

of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, 1 regular member of the Commission shall be a resident from that area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, a sufficient number of residents shall mean 500 residents. The term of each regular member shall be 3 years, except that approximately 1/3 of the regular members of the first Commission shall serve for terms of 1 year, 1/3 for terms of 2 years, and 1/3 for terms of 3 years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council, for inefficiency, neglect of duty, or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.

(B) All regular members of the Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the Council, and conditioned upon the faithful performance of their duties. The Commission shall elect its chairperson and a secretary from its members and create and fill such other of its offices as it may determine. The term of the chairperson and the secretary shall be 1 year, and they shall be eligible for re-election. No member of the Commission shall serve in the capacity of both the chairperson and secretary of the Commission. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection during office hours. The Commission shall be funded by the City Council from time to time out of the General Fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures nor agreements for expenditures shall be valid in excess of those amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least 1 regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently and the chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any 3 members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Mayor and City Council. The Commission shall make its recommendations to the City Council so that they are received by the City Council within 30 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The

Commission shall be responsible for making those reports and performing those other duties as the City Council may, from time to time, designate.

(C) The Mayor, with the approval of a majority vote of the elected members of the City Council, shall appoint 1 alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other municipal office. The term of the alternate member shall be 3 years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Mayor with the approval of a majority vote of the elected members of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

(1986 Code, § 2-202) (Am. Ord. 869, passed 5-23-1994; Am. Ord. 880, passed 2-13-1995; Am. Ord. 901, passed 2-12-1996; Am. Ord. 980, passed 8-10-1998; Am. Ord. 991, passed 9-28-1998)

Statutory reference:

Planning Commission; general provisions, see Neb. RS 19-924 through 19-929

§ 32.03 BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of 5 regular members plus 1 additional member designated as an alternate who shall attend and serve only when 1 of the regular members is unable to attend for any reason. Each member shall be appointed for a term of 3 years and shall be removable for cause by the Mayor and City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within that area. Thereafter, at all times, at least 1 member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

(Neb. RS 19-908)

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council, and conditioned upon the faithful performance of their duties. The Board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and elect from its membership a chairperson and secretary. No member of the Board of Adjustment shall serve in the capacity of both chairperson and secretary of the Board.

(C) The Board shall adopt rules in accordance with the provisions of Neb. RS 19-901 through 19-914. Meetings of the Board shall be held at the call of the chairperson and at other times as the Board may determine. Special meetings may be also held upon the call of any 3 members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. It shall be the duty of the secretary to keep complete and accurate minutes of all Board meetings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making those reports and performing those other duties as the Mayor and City Council may designate.
(Neb. RS 19-908)

(D) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
(Neb. RS 19-909)

(E) The Board shall have only the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

(2) To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and

(3) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of a piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of that property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship, if that

relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.
(Neb. RS 19-910)

(F) (1) No variance shall be authorized by the Board unless it finds that:

(a) The strict application of the zoning regulation would produce undue hardship;

(b) That hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(c) The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

(d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(2) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
(Neb. RS 19-910)

(G) In exercising its powers, the Board may, in conformity with Neb. RS 19-901 through 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in the regulation. Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912.
(Neb. RS 19-910)

(H) Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912.
(1986 Code, § 2-203) (Am. Ord. 902, passed 2-12-1996)

Statutory reference:

Appointments; powers, see Neb. RS 19-907

Authority to request county board to serve as municipal board, see Neb. RS 19-912.01

§ 32.04 BOARD OF HEALTH.

(A) A Board of Health is created consisting of 4 members: The Mayor, who shall serve as chairperson, the President of the City Council, and 2 other members appointed by the Mayor with the consent of the City Council. One member shall be a physician or health care provider, if 1 can be found

who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as secretary and quarantine officer.

(B) The members of the Board of Health shall serve without compensation and, except for the Mayor, President of the Council, and Chief of Police, shall serve a 1-year term of office, unless reappointed. The Board shall reorganize at the first meeting each year after the annual appointments are made. No member of the Board shall hold more than 1 position on the Board.

(C) The secretary shall keep full and correct minutes and records of all meetings and file the same with the City Clerk where they shall be available for public inspection during office hours. The Board of Health shall be funded by the City Council from time to time out of the general fund. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or any 2 members of the Board.

(D) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the city, may enforce them, and may provide fines and punishments for the violation thereof. The Board shall have power to and shall make all needful rules and regulations relating to matters of sanitation of the city. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances or to matters of sanitation of the city. The Board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of the city.

(Neb. RS 17-121)

(E) The Board of Health shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

(1986 Code, § 2-204) (Am. Ord. 947, passed 7-28-1997)

§ 32.05 AIRPORT AUTHORITY BOARD.

The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the municipality for the purpose of aviation operation, air navigation, and air safety operation. The Board is a body corporate and politic, constituting a public corporation, and an agency of the municipality. The Board shall consist of 5 members. Members of the Board shall be nominated and elected in the manner provided by law for the election officers of the city and shall take office at the same time as officers of the city. Members of the Board shall be residents of the municipality and shall serve a term of 6 years. Two members of the Board shall be elected in each municipal election year; provided, that in each third election year, 1 member only shall be elected to the Airport Authority Board. Any vacancy on the Board resulting from any other cause than the expiration of a term of office, shall be filled by temporary appointment by the Mayor, with the approval of the City Council, until a successor can be elected at the next general municipal election to serve the unexpired portion of the term. A member of the Board may be removed from office for incompetence, neglect of

duty, or malfeasance in office. An action for the removal of that officer may be brought, upon resolution of the City Council, in the District Court of the county. The Board shall have those other powers and duties as may be prescribed by state law.

(Neb. RS 3-502, 32-547) (1986 Code, § 2-216) (Am. Ord. 762, passed 10-24-1988)

§ 32.06 PARK AND CEMETERY BOARD.

The Governing Body shall appoint the Board of Park Commissioners and Cemetery Board which shall consist of 6 members and be called the Park and Cemetery Board. Its members shall be residents of the municipality and shall serve a 3-year term without compensation unless reappointed. The members shall in the discretion of the Governing Body give bond in a sum set by resolution of the Governing Body, and condition upon the faithful performance of their duties. At the time of the Board's first meeting in December of each year, the Board shall organize by selecting from their number a chairperson and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at those times as the Governing Body may designate. Special meetings may be held upon the call of the chairperson, or any 3 of the Board members. It shall be the duty of the Board to take immediate charge of all parks, swimming pools, and recreational facilities belonging to the municipality. The Board shall establish appropriate rules and regulations for the management, use, and operation of the same. All employees of the municipality doing work in or for the municipal park shall be under the supervision and direction of the Board. The Board shall have the general care, management, and supervision of the municipal cemetery with the power and authority to limit and regulate the number of cemetery lots that may be owned by the same person; to prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots; and to prohibit any diverse or improper use thereof; provided, no religious tests shall be made as to the ownership of lots, the burial therein, and the ornamentation of graves. The Board shall pass rules and regulations for the proper use of the cemetery and prescribe penalties and fines for violations thereof. The Board shall use all revenue received from the sale of lots, gifts, or by devise for the care, management, and administration of the cemetery. All actions of the Board shall be subject to the review and supervision of the Governing Body and it shall be responsible for making those reports and performing those additional duties as the Governing Body may, from time to time, designate. No member of the Park and Cemetery Board shall hold more than 1 Board office.

(1986 Code, § 2-217) (Ord. 832, passed 11-22-1993)

§ 32.07 HOUSING AUTHORITY BOARD.

(A) *Establishment; Commissioners.* The Governing Body shall appoint 5 persons who shall constitute the Housing Authority, and those persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a 5-year term of office or until his or her successor is duly appointed; provided, that all vacancies shall be filled for the unexpired terms. The Governing Body may appoint 1 of its members to serve as 1 of the 5 members of the Housing Authority for such a term as the Governing Body may determine. No person shall serve as a

Commissioner unless he or she resides within the area of operation of that Housing Authority. A certificate of the appointment or reappointment of any Commissioner shall be filed with the Municipal Clerk, and this certificate shall be conclusive evidence of the proper appointment of that Commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties. A majority of Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the Commissioners present unless in any case the bylaws of the Authority shall require a larger number. The Commissioners shall elect a chairperson and vice chairperson from among the Commissioners and shall have the power to employ an executive director who shall serve as ex officio secretary of the Authority. The Authority may also employ legal counsel, or it may call upon the chief law officer of the municipality, for such services as it may require. It may employ technical experts and other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Authority may delegate other powers and duties to its agents or employees as it may deem proper.

(1) During his or her tenure, and for 1 year thereafter, no Commissioner, officer, or employee of the Municipal Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such Commissioner, officer, or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as Commissioner, officer, or employee, he or she shall immediately disclose his or her interest in writing to the Authority, and that disclosure shall be entered upon the minutes of the Authority, and he or she shall not participate in any action by the Authority relating to the property or contract in which he or she has any interest; provided, that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency. The Mayor may remove a Commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The Mayor shall send a notice of removal to that Commissioner which notice shall contain a statement containing the charges against him or her. Unless within 10 days from the receipt of the notice, that Commissioner files with the Clerk a request for a hearing before the Governing Body, the Commissioner shall be deemed as removed from office. If a request for a hearing is filed with the Clerk, the Governing Body of the municipality shall hold a hearing at which the Commissioner shall have the right to appear in person or by counsel and the Governing Body shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the Commissioner shall continue to hold his or her position.

(2) The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the Governing Body on all such information. (Neb. RS 71-1524 through 71-1526 and 71-1552) (1986 Code, § 2-210)

(B) Operation and management.

(1) The Authority shall at all times observe the following duties with respect to rentals and tenant selection.

(a) It may rent or lease dwelling accommodations therein only to persons of low income, elderly, or handicapped persons of low income, and displaced persons in need.

(b) There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color, creed, national origin, or ancestry.

(c) The Authority shall not accept any person as a tenant in any dwelling in the housing project if the persons who occupy the dwelling have an aggregate annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary, and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.

(d) The Authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants without overcrowding.

(e) The Authority shall fix income limits for occupancy and rents after taking into consideration:

1. The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person; and

2. The economic factors which affect the financial stability and solvency of the project.

(f) The Authority may accept as a tenant any displaced person or persons in need, regardless of income, but in no event shall that person or persons remain as a tenant or tenants of the Authority for more than a period of 6 months unless those persons also qualify as persons of low income, elderly, or handicapped persons of low income.

(g) All persons of low income, elderly, or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this section, and the Authority may establish rules and regulations consistent with the purposes of this section concerning eligibility and occupancy of the housing project or other shelter.

(h) Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, medical, personal, and employment history of any tenant or prospective tenant.

(i) The Authority shall prohibit subletting by tenants.

(2) The Authority may establish from time to time rules and regulations consistent with federal and state laws and regulations and the purposes of this section concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice of termination setting out the reasons for the termination and any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing, except that tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or Authority employees need not be given such a hearing by the Authority. The notice may provide that if the tenant fails to pay his or her rent or comply with any covenant or condition of his or her lease, or the rules and regulations of the Authority, or cure a violation or default thereof, as the case may be, as specified in the notice, or follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in the notice, the tenancy shall then be automatically terminated and no other notice or notices need be given of the termination or the intent to terminate the tenancy, and upon that termination, and without any notice other than as provided for in this section, the Authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

(3) The Authority may establish from time to time rules and regulations consistent with the purposes of this section concerning personal property of tenants and other persons located in projects of the Authority, and if that personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the Authority may remove the same and store that property at the tenant's risk and expense. In the event that possession of the personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after the termination, vacation, or abandonment, and any storage removal charges remain unpaid, then the Authority may, at its option, dispose of the personal property in any manner which the Authority deems fit, except that any proceeds from the disposal of the personal property shall be paid to the General Fund of the body which created the Authority. No tenant or other person shall have any cause of action against the Authority for this removal or disposition of that personal property.

(Neb. RS 71-1536) (1986 Code, § 2-211)

(C) *Reports.* The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the Governing Body. This report shall include all mortgages and other interests in real property held by the Housing Authority, including options to purchase and land sale contracts; a listing of all bond issues and their essential terms and obligations; and all other financial obligations of the Housing Authority over \$50,000. These reports shall be considered public records. If there has been no change from the last report in the status of any of the items reported pursuant to this section, the Housing Authority may file a statement to that effect in lieu of the report.

(Neb. RS 71-1552) (1986 Code, § 2-212)

(D) *Rules and regulations.* The Housing Authority may establish from time to time rules and regulations consistent with the purposes of this section concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are servicemen or veterans, relatives of servicemen or veterans, to disabled servicemen or veterans, the elderly or disabled, those in urgent need of adequate housing, or who have no adequate source of income; provided, that in any system of priority, displaced persons in need shall have a priority ahead of all other persons; and

provided further, that no tenant in good standing then in occupancy and qualified for continued occupancy shall have his or her tenancy terminated in order to provide dwelling units for classes or categories of applicants as the Authority may establish.

(Neb. RS 71-1547) (1986 Code, § 2-213)

(E) *Ownership.* The Municipal Housing Authority is owned by the municipality and operated through the Housing Authority Commission. The Housing Authority shall constitute a body corporate and politic, and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law.

(Neb. RS 71-1529) (1986 Code, § 2-214)

(F) *Definitions.* Except as otherwise specifically provided, the definitions and terms set out in the state statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

(Neb. RS 71-1522) (1986 Code, § 2-215)

(G) *Continued existence as Housing Agency.*

(1) The local Housing Authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a Housing Agency under the Nebraska Housing Agency Act.

(2) The local Housing Agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of the Authority belong to the Agency as successor. All obligations, debts, commitments, and liabilities of the Authority are obligations, debts, commitments, and liabilities of the successor Agency.

(3) Any resolution by the Authority and any action taken by the Authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor Agency and binding upon the successor Agency and enforceable by or against the Agency notwithstanding that the resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

(4) All Commissioners of the local Housing Agency and all officers, legal counsel, technical experts, directors, and other appointees or employees of the Agency holding office or employment by virtue of any prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(Neb. RS 71-1576) (1986 Code, § 2-215.1) (Ord. 2-215, passed 10-23-2000)

§ 32.08 COMMUNITY DEVELOPMENT AGENCY.

(A) There is hereby established, pursuant to Neb. RS 18-2101.01, a Community Development Agency for the City of Superior, Nebraska.

(B) The Mayor and City Council of the city are hereby designated to be the Community Development Agency for the city.

(C) The Mayor of the city shall be the chairperson of the Community Development Agency; the president of the City Council shall be the vice chairperson; and the City Clerk shall be the secretary of the Community Development Agency.

(D) The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. RS 18-2101 to 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities, and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee, or as an agent or otherwise, under the provisions of the Federal Housing and Community Development Act of 1974, as amended through the Housing and Community Development Amendments of 1981. The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

(Ord. 1155, passed 1-28-2013)

UTILITY DEPARTMENTS**§ 32.20 WATER DEPARTMENT; OPERATION AND FUNDING.**

The municipality owns and operates the Water Department through the Utilities Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of the office. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the review and supervision of the City Council. The City Council shall set the rates to be charged for services rendered and shall file a copy of the rates in the office of Utilities for public inspection at any reasonable time.

(1986 Code, § 3-101)

Cross-reference:

Water, see Ch. 51

Statutory reference:

Taxing authority, see Neb. RS 17-534

Waterworks acquisition and construction authorized, see Neb. RS 17-531

§ 32.21 SEWER DEPARTMENT; OPERATION AND FUNDING.

(A) The municipality owns and operates the municipal sewer system through the Utilities Superintendent.

(B) The City Council, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the municipal sewer system may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

(1) Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;

(2) Generate adequate revenues to pay the costs of OM&R;

(3) Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

(C) The revenue from the user charge system based on actual use shall be known as the Sewer Maintenance Fund. The Utilities Superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of the office. He or she shall have the

authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the City Council.

(1986 Code, § 3-201)

Cross-reference:

Sewers, see Ch. 52

Statutory reference:

Sewage system authorization, see Neb. RS 17-149

Taxing authority, see Neb. RS 17-925.01

§ 32.22 ELECTRICAL SYSTEM; OPERATION AND FUNDING.

The municipality owns and operates the municipal electrical system through the Utilities Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal electrical system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from this tax shall be known as the Electrical Fund and shall remain in the custody of the municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the municipal electrical system. He or she shall have the authority to adopt rules and regulations for the safe and efficient management of the electrical system subject to the supervision and review of the City Council.

(1986 Code, § 3-301)

§ 32.23 GAS DEPARTMENT; OPERATION AND FUNDING.

The municipality owns and operates the Municipal Gas Department through the Utilities Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Gas Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Gas Fund and shall remain in the custody of the Municipal Treasurer. This Fund shall be audited annually. The Utilities Superintendent shall have the direct management and control of the Municipal Gas Department and shall faithfully carry out the duties of his or her office. The Utilities Superintendent shall have the authority to adopt rules and regulations for the efficient management of the Gas Department subject to the supervision and review of the City Council. The City Council shall set the rates to be charged for services rendered by resolution and shall file a copy of the rates in the office of the municipal Clerk for public inspection at any reasonable time.

(Neb. RS 17-905, 19-1305, 19-1306, 19-1307, 19-1308, and 19-1402) (1986 Code, § 3-350) (Ord. 3-350, passed 10-25-1999)

FIRE DEPARTMENT**§ 32.35 OPERATION AND FUNDING.**

The municipality operates the Municipal Fire Department through the Municipal Fire Chief and firefighters. The City Council, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.

(1986 Code, § 3-501)

Statutory reference:

Authority to create; operation, see Neb. RS 17-147

Fire station creation and maintenance, see Neb. RS 17-953

Taxing authority, see Neb. RS 17-718

§ 32.36 FIRE CHIEF.

The Fire Chief shall manage the Fire Department, and it shall be his or her duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the City Council, the Fire Chief shall cause the repair, improvement, or maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the City Council at the regular meeting in January of each year to give an annual report to the City Council of the general condition and the proposed additions or improvements recommended by him or her.

(1986 Code, § 3-502)

§ 32.37 MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each Fire Department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

(B) All members of the Fire Department shall be subject to those rules and regulations, and shall perform those duties, as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of this code or the laws of the state.

(C) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.

(D) Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

(E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the city's active volunteer fire and rescue personnel, except that when any such person serves more than 1 municipality or rural or suburban fire protection district, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of the policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department of the city.
(Neb. RS 35-108)

(F) For purposes of Neb. RS 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the city.
(Neb. RS 33-139.01)
(1986 Code, § 3-503)

§ 32.38 RECORDS.

The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of these records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he or she shall include the information of whether the losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.
(1986 Code, § 3-504)

§ 32.39 FIRES.

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the municipality, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.
(1986 Code, § 3-505)

§ 32.40 DISTANT FIRES.

(A) Upon the permission of the Mayor, that fire equipment of the municipality as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

(B) The firefighters of the municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the municipality when directed to do so by the Mayor or Fire Chief or some person authorized to act for the Chief, and in so doing, may take that fire equipment of the municipality as may be designated by the City Council.

(1986 Code, § 3-506)

§ 32.41 REGULAR INSPECTIONS.

It shall be the duty of the Fire Chief, when directed to do so by the City Council, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than 2 times a year in outlying districts and 4 times a year within the fire limits, all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

(1986 Code, § 3-510)

Statutory reference:

Authority to conduct inspections, Neb. RS 81-512

§ 32.42 NOTICE OF VIOLATION.

(A) Upon the finding that this municipal code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance of the premises. Whenever it may be necessary to serve such an order upon the owner, the order may be served personally, or by mailing a copy to the owner's last known post office address if the owner is absent from the jurisdiction.

(B) Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within 5 days after the order by the Fire

Chief or his or her agent, appeal the order with the City Council requesting a review, and it shall be the duty of the City Council to hear the same within not less than 5 days nor more than 10 days from the time when the request was filed in writing with the Municipal Clerk. The City Council shall then affirm, modify, or rescind the order as safety and justice may require, and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

(1986 Code, § 3-511) Penalty, see § 10.99

§ 32.43 POWER OF ARREST.

The Municipal Fire Chief or the Assistant Fire Chief shall have the power, during the time of a fire and for a period of 36 hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the firefighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The officials shall be severally vested with the usual powers and authority of municipal police officers to command all persons to assist them in the performance of their duties.

(1986 Code, § 3-513)

§ 32.44 FIRE INVESTIGATION.

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the municipality in which property has been destroyed or damaged in excess of \$50. All fires of unknown origin shall be reported, and the officers shall especially make an investigation and report as to whether such a fire was the result of carelessness, accident, or design. The investigation shall be begun within 2 days of the occurrence of the fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he or she deems it expedient or necessary. The officer making the investigation of fires occurring within the municipality shall immediately notify the State Fire Marshal and shall within 1 week of the occurrence of the fire furnish him or her with a written statement of all the facts relating to the cause and origin of the fire, and that further information as he or she may call for.

(1986 Code, § 3-514)

Statutory reference:

Investigation and report required, see Neb. RS 81-506

POLICE DEPARTMENT**§ 32.60 DUTIES.**

The Police Department shall consist of the Police Chief and a further number of regular police officers as may be duly ordered by resolution of the Council. The Police Chief shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. The Chief shall devote his or her whole time to the municipal affairs and interests of the municipality and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Police Chief and all regular and special police officers shall become thoroughly conversant with the laws of the municipality and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

(1986 Code, § 3-601)

§ 32.61 RESERVE OFFICER BOND.

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the city, has been filed with the Municipal Clerk by the individual appointed or a blanket surety bond arranged and paid for by the City Council and bonding all such officers of the City Council has been filed. The bonds shall be subject to the provisions of Neb. RS Ch. 11, art. 1.

(Neb. RS 81-1444) (1986 Code, § 3-602) (Ord. 747, passed 8-25-1986)

§ 32.62 ARREST AND ENFORCEMENT JURISDICTION.

(A) The police officers of the municipality shall have the power to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as the County Sheriff and to keep such offenders in the municipal prison or other place to prevent their escape until trial can be had before the proper officer.

(Neb. RS 17-118)

(B) Every municipal law enforcement officer has the power and authority to enforce the laws of this state and the municipality or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

(C) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.

- (a) A law enforcement officer whose life is in danger; or
- (b) A law enforcement officer who needs assistance in making an arrest and the suspect:
 - 1. Will not be apprehended unless immediately arrested;
 - 2. May cause injury to himself or herself or others or damage to property unless immediately arrested; or
 - 3. May destroy or conceal evidence of the commission of a crime.

PRIMARY JURISDICTION. The geographic area within territorial limits of the municipality.

(D) Any municipal law enforcement officer who is within this state, but beyond his or her primary jurisdiction, has the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction in the following cases:

- (1) Any municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow that person into any other jurisdiction in this state and there arrest and detain that person and return that person to the officer's primary jurisdiction;
- (2) Any municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow that person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain that person and return that person to the officer's primary jurisdiction;
- (3) Any municipal law enforcement officer has this enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance; and
- (4) If the municipality, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have this enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the municipality shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. RS 13-1802.

(E) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, a municipal law enforcement officer has the power and authority to do any of the following or any combination thereof:

(1) Transport that person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(3) With respect to that person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.
(Neb. RS 29-215)

(F) If municipal law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the municipality in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for a disaster, emergency, or civil defense emergency when that program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The municipality shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division.

(Neb. RS 81-829.65)

(1986 Code, § 3-603) (Ord. 881, passed 2-13-1995; Am. Ord. 983, passed 8-24-1998; Am. Ord. 1142, passed 11-28-2011)

§ 32.63 OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY.

(A) No police officer, including the Police Chief, shall be disciplined, suspended, demoted, removed, or discharged except upon written notice stating the reasons for the disciplinary action, suspension, demotion, removal, or discharge. This notice shall also contain a statement informing the police officer of his or her right to a hearing before the City Council.

(B) Any police officer so disciplined, suspended, demoted, removed, or discharged may, within 10 days after being notified of the disciplinary action, suspension, demotion, removal, or discharge, file with the Municipal Clerk a written demand for a hearing before the City Council. The City Council shall set the matter for hearing not less than 10 nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than 7 nor more than 14 days prior to the hearing.

(C) At the hearing, the police officer shall have the right to:

- (1) Respond in person to the charges and to present witnesses and documentary evidence;
- (2) Confront and cross-examine available adverse witnesses; and
- (3) To be represented by counsel.

(D) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the disciplinary action, suspension, demotion, removal, or discharge. The failure of the City Council to act within 30 days or the failure of a majority of the elected Councilmembers to vote to reverse or modify the disciplinary action, suspension, demotion, removal, or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal, or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal, or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

(E) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.
(Neb. RS 17-107)

CHAPTER 33: GENERAL PROVISIONS

Section

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MEETINGS**§ 33.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MEETINGS. All regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.

(Neb. RS 84-1409(2)) (1986 Code, § 1-501)

PUBLIC BODY.

(1) (a) The City Council of the municipality;

(b) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by constitution, statute, ordinance, or otherwise pursuant to law; and

(c) Advisory committees of the bodies listed above.

(2) This subchapter shall not apply to subcommittees of those bodies unless a quorum of the public body attends a subcommittee meeting or unless the subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body.

(Neb. RS 84-1409(1)) (1986 Code, § 1-502) (Am. Ord. 820, passed 2-8-1993)

§ 33.02 PUBLIC MEETINGS.

(A) The formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open the public.

(B) In order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

(C) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. The notice shall be transmitted to all members of the public body and to the public. The notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the municipal Clerk during

normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the city. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(Neb. RS 84-1411) (1986 Code, § 1-503) (Am. Ord. 756, passed 8-24-1987)

§ 33.03 NOTICE TO NEWS MEDIA.

The municipal Clerk, and in the case of the Board of Trustees, the secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(Neb. RS 84-1411(4))

§ 33.04 REGULAR MEETINGS; TIME AND PLACE; QUORUM.

(A) Meetings are at the City/Utility Office, on the second and fourth Mondays of each month at the hour of 7:30 p.m.

(B) (1) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

(2) On the request of any 2 members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(C) Unless a greater vote is required by law, an affirmative vote of at least 1/2 of the elected members shall be required for the transaction of any business.

(1986 Code, § 1-515) (Am. Ord. 897, passed 2-12-1996)

(D) At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Councilmembers shall elect a President pro tempore.

(1986 Code, § 1-516)

Cross-reference:

Vote requirements for ordinances, orders, appointments and other matters, see § 30.49

§ 33.05 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor or by 3 members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk.
(Neb. RS 17-106)

(B) On filing the call for a special meeting, the Municipal Clerk shall notify the Councilmembers of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state or physically unable to be present.

(C) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.40 through 30.48 of this code.
(1986 Code, § 1-516)

§ 33.06 EMERGENCY MEETINGS.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in that meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of § 33.03 shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.
(Neb. RS 84-1411) (1986 Code, § 1-505)

§ 33.07 ATTENDANCE OTHER THAN IN PERSON.

A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.
(Neb. RS 84-1411)

§ 33.08 CLOSED SESSIONS.

(A) (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if that individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if that person has not requested a public meeting.

(2) Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(B) The entire motion, the vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter at the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) of this section.

(C) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual. Such a challenge shall be overruled only by a majority vote of the members of the public body. The challenge and its disposition shall be recorded in the minutes.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. (Neb. RS 84-1410) (1986 Code, § 1-504) (Am. Ord. 821, passed 2-8-1993; Am. Ord. 876, passed 2-13-1995)

§ 33.09 PROHIBITED ACTS; EXEMPT EVENTS.

(A) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing

this subchapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this subchapter or the Act.

(B) This subchapter and the Open Meetings Act do not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.
(Neb. RS 84-1410)

§ 33.10 PUBLIC PARTICIPATION.

(A) Subject to this subchapter and the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to § 33.08, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of division (A) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(C) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(D) No public body shall, for the purpose of circumventing the provisions of this subchapter or the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

(G) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(H) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least 1 copy of all reproducible written material to be discussed at an open meeting.

(I) Public bodies shall make available at least 1 copy on the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

(Neb. RS 84-1412) (1986 Code, § 1-509) (Am. Ord. 757, passed 8-24-1987)

§ 33.11 ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the Mayor, the City Clerk, and such other city officials that may be required shall take their regular stations in the meeting place, and the business of the city shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the City Clerk. (1986 Code, § 1-510)

§ 33.12 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

(B) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
(Neb. RS 17-616 and 84-1413)

Statutory reference:

Voting procedure generally, see Neb. RS 17-105 and 17-616

§33.13 PARLIAMENTARY PROCEDURE.

The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the Council. When any person is called to order, he or she shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his or her seat and address the presiding officer and while speaking shall confine his or her comments to the question. When 2 or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the City Clerk or any member of the Council. Every member of the Council who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the members of the Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Council making the motion or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor with the consent of the member of the Council seconding the resolution, motion, or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but the motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be

made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the motions shall be decided without debate. Any of the rules of the Council for meetings may be suspended by a 2/3 vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the Council shall decide all procedural disputes that may arise.

§ 33.14 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall also include a record of the manner and time by which the advance publicized notice was given and a statement of how the availability of an agenda of the then-known subjects was communicated.

(B) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection at the office of the City Clerk during normal business hours.

(C) Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that the city may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(Neb. RS 84-1413) (1986 Code, § 1-506)

§ 33.15 CHANGE IN OFFICE.

(A) The Mayor and City Council shall meet at the time and place of the first regular meeting in December in each election year, and the outgoing officers and the outgoing members of the Council shall present their reports. Upon the outgoing Council having completed its business, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to their successors in office all property, records, papers, and moneys belonging to the same.

(B) The newly elected members of the Council and those continuing in office shall convene immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor shall call the meeting to order. The Clerk shall report to the Council the names of all Councilmembers-elect who have qualified for their respective offices. The Council shall examine the credentials of its members and any other elective officers of the city to see that each has been duly and properly elected and to see that such oaths and bonds as are required have been given. The Clerk's report shall be spread upon the minutes of the meeting preceding the roll call.

(C) After ascertaining that all Councilmembers and officers are duly qualified and after the Clerk has called the roll, the Council shall elect a President of the Council. The Mayor shall nominate his or her candidates for appointive offices in which the terms of incumbents are expired and call for a vote on approval of the candidates. The Mayor shall then proceed with the regular order of business. (1986 Code, § 1-513)

BONDS AND OATHS

§ 33.30 BONDS; REQUIREMENTS.

(A) The city may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The city may pay the premium for such bonds or insurance coverage. (Neb. RS 17-604)

(B) (1) All official bonds of officers of the city shall be in form joint and several and made payable to the city in such penalty as the City Council may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the City Council, and with such terms and conditions as may be required. (Neb. RS 11-104)

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the City Clerk's office within the following time:

(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within 30 days after their appointment; and

(c) Of officers elected at any special election and city officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, section 5, of the Constitution of Nebraska.
(Neb. RS 11-105)

(D) All official bonds of city officers shall be executed by the principal named in such bonds and by at least 2 sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a city officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety, or by 2 or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a city officer.
(Neb. RS 11-109)

(E) The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.
(Neb. RS 11-110)

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved.
(Neb. RS 11-111)

(2) No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the instrument by the Mayor and City Clerk pursuant to the approval of the City Council.

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds.
(Neb. RS 11-112)

(H) No official bond shall be rendered void by reason of any informality of irregularity in its execution or approval.
(Neb. RS 11-113)

(I) No city official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required.
(Neb. RS 11-114)

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within 10 days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within 10 days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office.

(Neb. RS 11-115)

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided.

(Neb. RS 11-116)

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the nonelection or nonappointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within 10 days from the time at which his or her successor, if elected, should have qualified.

(Neb. RS 11-117)

(M) No person shall be surety for the same officer for more than 2 successive terms of the same office, but this provision shall not apply to incorporated surety companies.

(Neb. RS 11-118)

(N) If the sureties on the official bond of any appointed officer of the city, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the office.

(1986 Code, § 1-301) (Am. Ord. 1172, passed 4-14-2014)

Statutory reference:

Bonds generally and similar provisions, see Neb. RS 11-103 through 11-118

Power to regulate offices, see Neb. RS 17-604

§ 33.31 OATH OF OFFICE; MUNICIPAL OFFICIALS.

(A) All officials of the municipality, whether elected or appointed, except when a different oath is specifically provided herein, shall before entering upon their respective duties take and subscribe the following oath, which shall be endorsed upon their respective bonds:

“I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____, according to law and to the best of my ability. And I do further swear that I do not advocate nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God.”

(B) If any officer is not required to give bond, the oath shall be filed with the Municipal Clerk. (Neb. RS 11-101) (1986 Code, § 1-302)

COMPENSATION**§ 33.45 MUNICIPAL OFFICIALS.**

(A) The officers and employees of the city shall receive such compensation as the Mayor and Council shall fix by ordinance. (Neb. RS 17-108)

(B) No officer shall receive any pay or perquisites from the city other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the city. (Neb. RS 17-611)

(C) The emoluments of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices, except that when there are officers elected to the Council, or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same

during the time for which he or she was elected if during the same time the emoluments thereof were increased. (Neb. RS 17-612)

(1986 Code, § 1-901)

Statutory reference:

Compensation for merged offices, see Neb. RS 17-108.02

§ 33.46 CONFLICT OF INTEREST INVOLVING CONTRACTS.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ASSOCIATION.

(a) A business:

1. In which the individual is a partner, limited liability company member, director, or officer; or
2. In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(b) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.
(Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.
(Neb. RS 49-1425)

OFFICER.

(a) Includes:

1. A member of the Board of Directors of a natural resources district;
2. A member of any board or commission of the municipality which spends and administers its own funds, who is dealing with a contract made by that board or commission; or

3. Any elected municipal official.

4. A member of any board of directors or trustees of a hospital district as provided by the Nebraska Local Hospital District Act or a county hospital as provided by sections 23-3501 to 23-3519.

(b) **OFFICER** does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her Governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the County Attorney, the Governing body, or any resident within the jurisdiction of the Governing body and shall be brought within 1 year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the Governing body has benefitted thereby.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse, or child:

(a) Has a business association with the business involved in the contract; or

(b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the Governing body and the interested officer:

(1) Makes a declaration on the record to the Governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(2) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the Governing body declaring an interest in the contract would prevent the Body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(3) Does not act for the Governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who has no business association with the business involved in the contract, or will not receive a direct pecuniary fee or commission as a result of the contract, shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(F) If an officer's parent, spouse, or child is an employee of the officer's Governing body, the officer may vote on all issues of the contract which are generally applicable to all employees, or all employees within a classification, and do not single out his or her parent, spouse, or child for special action.

(G) Neb. RS 49-14,102 shall not apply to contracts covered by this section.
(Neb. RS 49-14,103.01)

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (H)(1)(a) through (H)(1)(e) of this section about every contract entered into by the Governing body in which an officer of the Body has an interest and for which disclosure is made pursuant to division (C) of this section. This information shall be kept in the ledger for 5 years from the date of the officer's last day in office and shall include:

- (a) The names of the contracting parties;
- (b) The nature of the interest of the officer in question;
- (c) The date that the contract was approved by the governing body;
- (d) The amount of the contract; and
- (e) The basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than 10 days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept.
(Neb. RS 49-14,103.02)

(I) An open account established for the benefit of any Governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within 10 days after the account is opened. Thereafter, the person charged with keeping records for the Governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.
(Neb. RS 49-14,103.03)

(J) Notwithstanding divisions (A) through (I) of this section, the Governing body may prohibit contracts over a specific dollar amount in which an officer of the Governing body may have an interest.
(Neb. RS 49-14,103.05)

(K) The Governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of that Body may have an interest.
(Neb. RS 49-14,103.06)
(1986 Code, § 1-902) (Am. Ord. 750, passed 8-25-1986; Am. Ord. 1033, passed 5-13-2002)

CHAPTER 34: ELECTIONS

Section

General Election Provisions

- 34.01 Generally
- 34.02 Notice
- 34.03 Registered voters; qualifications
- 34.04 Special elections
- 34.05 Election of officers; certification
- 34.06 Partisan ballot; when allowed; requirements
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- 34.08 Primary election; number of candidates filing
- 34.09 Petition, write-in, and other candidates for general election ballot; procedures
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§ 34.01 GENERALLY.

(A) All city issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if city offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election.
(Neb. RS 32-556)

(B) When the city holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the city shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the city.
(Neb. RS 32-556) (1986 Code, § 1-701)

§ 34.02 NOTICE.

The notice of election required to be published by the Election Commissioner or County Clerk no less than 40 days prior to an election shall serve as the notice requirement for all city elections which are held in conjunction with the statewide primary or general election.
(1986 Code, § 1-707)

Statutory reference:

Notice of election requirements, see Neb. RS 32-802

§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

REGISTERED VOTER. An elector who has a current voter registration record on file with the Election Commissioner or County Clerk.
(Neb. RS 32-115)

(B) All registered voters residing within the corporate limits of the city on or before election day shall be entitled to vote at all city elections.
(Neb. RS 17-602) (1986 Code, § 1-713)

Statutory reference:

Definition of elector, see Neb. RS 32-110

§ 34.04 SPECIAL ELECTIONS.

(A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at a special election, the city may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the City Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and

issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council.

(Neb. RS 32-559)

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.

(Neb. RS 32-405)

(1986 Code, § 1-708) (Am. Ord. 943, passed 7-14-1997)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or the County Clerk, on forms prescribed by that official, the name of the city, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(Neb. RS 32-404)

§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective municipal offices shall be nominated and elected on a nonpartisan basis unless the City Council provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Any ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline.

(Neb. RS 32-557)

§ 34.07 FILING FEE.

(A) Except as provided in division (D) or (E) of this section, a filing fee shall be paid to the City Treasurer by or on behalf of each candidate for city office prior to filing for office. The fee shall be placed in the general fund of the city. No candidate filing forms shall be filed until the proper payment

or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the City Treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(B) Except as provided in division (D) or (E) of this section, the filing fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate.

(C) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within ten days after the canvass of votes by the county canvassing board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

(D) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.

(E) (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.

(2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AVAILABLE RESOURCES. Includes every type of property or interest in property that an individual owns and may convert into cash except:

1. Real property used as a home;
2. Household goods of a moderate value used in the home; and
3. Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

PAUPER. A person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

(F) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the City Council prior to the date of the election. Upon approval of the claim by the City Council, the filing fee shall be refunded.

(Neb. RS 32-608) (1986 Code, § 1-709) (Am. Ord. 1183, passed 8-10-2015)

§ 34.08 PRIMARY ELECTION; NUMBER OF CANDIDATES FILING.

If the names of candidates properly filed for nomination at the primary election for officers of the municipality do not exceed 2 candidates for each position to be filled, any such candidates shall be declared nominated and their names shall not appear on any primary election ballots.

(Neb. RS 32-811) (1986 Code, § 1-703)

§ 34.09 PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

(A) (1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee pursuant to Neb. RS 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) of this section, files as a write-in candidate as prescribed in Neb. RS 32-615, or is nominated by political party convention or committee pursuant to Neb. RS 32-710.

(Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the city, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in § 34.11. Petition signers and petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election.

(Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the city or in the ward in which the officer is to be elected, not to exceed 2,000.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the city or in the ward in which the officer is to be elected, as appropriate, not to exceed 2,000.

(Neb. RS 32-618)

(1986 Code, § 1-710) (Am. Ord. 1142, passed 11-28-2011; Am. Ord. 1183, passed 8-10-2015)

§ 34.10 EXIT POLLS.

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth.

(Neb. RS 32-1525) (1986 Code, § 1-721) Penalty, see § 10.99

§ 34.11 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B). If a candidate is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between December 1 and March 1 prior to the date of the general election.

(Neb. RS 32-606)

(B) Candidate filing forms shall be filed in the office of the Election Commissioner or County Clerk.

(Neb. RS 32-607) (Ord. 1142, passed 11-28-2011)

Statutory reference:

Filling of vacancy on ballot, see Neb. RS 32-625 and 32-627

Withdrawal after filing, see Neb. RS 32-622

§ 34.12 RECALL PROCEDURE.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FILING CLERK. The Election Commissioner or County Clerk.

(Neb. RS 32-1301)

(B) Any member of the governing body may be removed from office by recall pursuant to this section.
(Neb. RS 32-1302)

(C) (1) A petition demanding that the question of removing a member of the governing body be submitted to the registered voters shall be signed by registered voters equal in number to at least 45% of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the Council member sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the Council member by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the affidavit at the Council member's usual place of residence and mailing a copy by first-class mail to the Council member's last-known address. If the Council member chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the Council member receives the copy of the affidavit. The principal circulator or circulators shall gather the petition papers within 20 days after the receipt of the official's defense statement. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of Neb. RS 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.
(Neb. RS 32-1303)

(D) Each petition paper shall conform to the requirements of Neb. RS 32-1304.

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) of this section.

(2) Within 15 days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

(Neb. RS 32-1305)

(F) (1) If the recall petition is found to be sufficient, the filing clerk shall notify the Council member whose removal is sought and the governing body that sufficient signatures have been gathered. Notification of the Council member may be by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving such notice at the Council member's usual place of residence and mailing a copy by first-class mail to the Council member's last-known address.

(2) The governing body shall order an election to be held not less than 30 nor more than 75 days after the notification of the Council member whose removal is sought under division (F)(1) of this section, except that if any other election is to be held in the city within 90 days after such notification, the Council shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in Neb. RS 32-562. If the Council member whose removal is sought resigns before the recall election is held, the Council may cancel the recall election if the Council notifies the Election Commissioner or County Clerk of the cancellation at least 16 days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the governing body fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the Council member serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

(Neb. RS 32-1306)

(G) The form of the official ballot at a recall election held pursuant to division (F) of this section shall conform to the requirements of Neb. RS 32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the Council member named on the ballot or the election results in a tie, the Council member shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) of this section.

(2) If a majority of the votes cast at a recall election are for the removal of the Council member named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the Council member is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. RS 32-567 to 32-570 and 32-574.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the Council member in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the Council member files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of one-half or more of the members of the governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No Council member who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the governing body during the remainder of his or her term of office. (Neb. RS 32-1308)

(I) No recall petition shall be filed against an elected Council member within 12 months after a recall election has failed to remove him or her from office or within 6 months after the beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for the office. (Neb. RS 32-1309)
(Ord. 1142, passed 11-28-2011; Am. Ord. 1186, passed 2-22-2016)

CHAPTER 35: FINANCE AND REVENUE

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GENERAL PROVISIONS

§ 35.01 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BIENNIAL BUDGET. A budget by the city that provides for a biennial period to determine and carry on the city's financial and taxing affairs.

BIENNIAL PERIOD. The 2 fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by the city in determining and carrying on its financial and taxing affairs.

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If the city has a lottery established under the Nebraska County and Village Lottery Act, only those net proceeds which are actually received by the city from a licensed lottery operator shall be considered ***PUBLIC FUNDS***, and ***PUBLIC FUNDS*** shall not include amounts awarded as prizes.

(Neb. RS 13-503)

(1986 Code, § 1-801.01) (Ord. 878, passed 2-13-1995; Am. Ord. 1172, passed 4-14-2014)

§ 35.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the city, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the governing body.

(B) Except as provided in Neb. RS 18-412.01, before the governing body makes any contract in excess of \$30,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the governing body. In advertising for bids as provided in divisions (C) and (E) of this section, the governing body may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of the enlargement or general improvements.

(D) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

(1) \$30,000 or less;

(2) \$60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) \$90,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) \$120,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the municipality, and if there is no legal newspaper published in or of general circulation in the municipality, then in some newspaper of general circulation published in the county in which the municipality is located, and if there is no legal newspaper of general circulation published in the county in which the municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the municipality at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the governing body and entered of record.

(F) If, after advertising for bids as provided in this section, the governing body receives fewer than two bids on a contract or if the bids received by the governing body contain a price which exceeds the estimated cost, the governing body may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the governing body or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the governing body or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. (Neb. RS 17-568.01)

(H) Any bidding procedure may be waived by the governing body or Board of Public Works:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162; or

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan, or program. (Neb. RS 17-568.02)

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a municipality which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

(2) For the purpose of this division (I), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL PROPERTY. Includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease, or other contractual means.

(Neb. RS 18-1756)

(1986 Code, § 1-809) (Am. Ord. 981, passed 8-24-1998; Am. Ord. 1142, passed 11-28-2011)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

§ 35.03 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNTANT. A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the city.

ANNUAL AUDIT REPORT. The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs, or financial condition of the city and its proprietary functions for the fiscal year immediately prior to the making of such annual report.

FISCAL YEAR. The fiscal year for the city or the fiscal year established in Neb. RS 18-2804 for a proprietary function if different than the municipal fiscal year.
(Neb. RS 19-2902)

(2) The City Council shall cause an audit of the city's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the city for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City Council. Such audit shall be completed and the annual audit report made by such accountant shall be submitted within 6 months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the City Council. If the city owns or operates any type of public utility or other enterprise which substantially generates its own revenue, that phase of the affairs of the city shall be audited separately from other functions of the city and the result shall appear separately in the annual audit report made by the accountant to the city and such audit shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.
(Neb. RS 19-2903)

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the city. When the accrual method is selected for the annual audit report, such report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.
(Neb. RS 19-2904)

(4) At least 3 copies of such annual audit report shall be properly signed and attested by the accountant; 2 copies shall be filed with the City Clerk and 1 copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the City Clerk and shall at all times thereafter be open and subject to public inspection.
(Neb. RS 19-2905)

(B) The City Council shall provide and file with the City Clerk, not later than August 1 of each year, financial statements showing the city's actual and budgeted figures for the most recently completed fiscal year.
(Neb. RS 13-606)
(1986 Code, § 1-810)

Statutory reference:

Other provisions on audits, Neb. RS 19-2901 through 19-2909

§ 35.04 CLAIMS; WARRANTS.

(A) All claims against the municipality shall be presented to the City Council in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the municipality in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the municipal treasury for the appropriate fund against which it is to be drawn; provided, that in the event there exist obligated funds from the federal or state government for the general purpose of the warrant, then the warrant may be drawn in excess of 85%, but not more than 100%, of the current levy for the purpose for which the warrant is drawn.

(1986 Code, § 1-811)

(B) All warrants drawn upon the municipal treasury must be signed by the Mayor and countersigned by the Municipal Clerk, stating the particular fund to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of that fund.

(Neb. RS 17-711) (1986 Code, § 1-812)

Statutory reference:

Similar provisions, see Neb. RS 17-714 and 17-715

§ 35.05 EXPENDITURES.

(A) No municipal official shall have the power to appropriate, issue, or draw any order or warrant on the municipal treasury for money, unless the same has been appropriated or ordered by ordinance.

(Neb. RS 17-708)

(B) No expenditure for any improvement to be paid for out of the General Fund of the municipality shall exceed in any 1 year the amount provided for that improvement in the adopted budget statement.

(1986 Code, § 1-808)

§ 35.06 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(A) The municipality shall have the authority to collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure.

(B) If the municipality elects to collect its special assessments, notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom the special assessments are assessed or to the lending institution or other party responsible for paying the

special assessments. Failure to receive the notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.

(C) A municipality that elects to collect its special assessments shall:

(1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and

(2) File a release of assessment upon final payment of each assessment with the Register of Deeds.

(Neb. RS 18-1216) (1986 Code, § 1-821) (Ord. 960, passed 7-28-1997)

§ 35.07 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Municipal Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and that money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for any such improvement.

(Neb. RS 17-710) (1986 Code, § 1-814)

§ 35.08 SINKING FUNDS.

(A) The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all taxable property within the municipality for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law.

(Neb. RS 19-1302)

(B) To initiate the sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal election. The resolution shall set forth a clear description of the improvement, the estimated cost, the amount of the annual levy over a definite period of years (not exceeding 10 years) required to pay the cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the proposition shall be published in its entirety 3 times on successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so

established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring such a change in the use of the sinking fund. (1986 Code, § 1-815)

Statutory reference:

Investment of funds, see Neb. RS 77-2337 and 77-2339

Similar provisions, see Neb. RS 19-1301 through 19-1304

§ 35.09 DEPOSIT OF FUNDS.

(A) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as City Treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as Mayor, as a member of the City Council, or as any other officer of the city shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds.

(B) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.
(Neb. RS 17-607)

(C) The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured or guaranteed by such corporation, and for deposits so insured or guaranteed, no other surety bond or other security shall be required.
(Neb. RS 77-2362)

(D) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.
(Neb. RS 17-607, 77-2362)
(1986 Code, § 1-817) (Am. Ord. 978, passed 8-10-1998; Am. Ord. 1063, passed 4-28-2003)

Statutory reference:

Deposits of public funds regulated, Neb. RS 77-2362 through 77-2364

Public Funds Deposit Security Act, Neb. RS 77-2386

§ 35.10 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 to 16-716. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. RS 17-720)

(1986 Code, § 1-817.01) (Ord. 979, passed 8-10-1998)

§ 35.11 INVESTMENT OF FUNDS.

Whenever the city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in that sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the City Council may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

(Neb. RS 77-2341(1)) (1986 Code, § 1-818) (Am. Ord. 775, passed 11-27-1989)

§ 35.12 BOND ISSUES.

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for those purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law.

(1986 Code, § 1-819)

Statutory reference:

Bonds in general, see Neb. RS 18-1801 through 18-1805

Boundary bridge bonds, see Neb. RS 39-835 through 39-842.01

Cemetery bonds, see Neb. RS 12-1001 through 12-1004 and 17-939

Cold storage plant bonds, see Neb. RS 17-958

Compromise of indebtedness, see Neb. RS 10-301 through 10-305

Dikes, see Neb. RS 17-529.01

Flood control project bonds, see Neb. RS 17-529.08

Funding and refunding bonds, see Neb. RS 10-606 through 10-614

General provisions, see Neb. RS 10-101 through 10-143

Internal improvement bonds, see Neb. RS 10-401 through 10-411

Joint power plant bonds, see Neb. RS 17-911

Library bonds, see Neb. RS 17-968

Medical and multiunit facility bonds, see Neb. RS 23-3513

Power plant bonds, see Neb. RS 17-908

Tax anticipation bonds, see Neb. RS 18-1202

Uniform registration and cancellation of bonds, see Neb. RS 10-201 through 10-209

Utilities bonds, see Neb. RS 17-905

Waterworks bonds, see Neb. RS 17-534

§ 35.13 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

(A) The municipality may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the municipality.

(B) No debt owed pursuant to division (A) of this section may be assigned to a collection agency unless both:

(1) There has been an attempt to advise the debtor by first class mail, postage prepaid, at the last known address of the debtor, of the existence of the debt, and that the debt may be assigned to a collection agency for collection if the debt is not paid; and

(2) At least 30 days have elapsed from the time the notice was sent.

(C) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

(D) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. RS 45-623)

§ 35.14 CREDIT CARDS; AUTHORITY TO ACCEPT.

(A) The Governing body may authorize municipal officials to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.

(B) The total amount of the taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the municipal official.

(C) With respect to a facility which it operates in a proprietary capacity, the Governing body may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

(D) The municipal official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing the service.

(E) The Governing body may choose to participate in the state contract for this type of payment services. If the Governing body chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with 1 or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of these services.

(F) When authorizing acceptance of credit card or charge card payments, the Governing body shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the municipality, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(G) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ELECTRONIC FUNDS TRANSFER. The movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. RS 13-609)

(1986 Code, § 1-825) (Ord. 982, passed 8-24-1998; Am. Ord. 1062, passed 4-28-2003)

ANNUAL BUDGET**§ 35.25 FISCAL YEAR.**

The fiscal year of the municipality and any public utility of the municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

(Neb. RS 17-701) (1986 Code, § 1-801) (Am. Ord. 898, passed 2-12-1996)

§ 35.26 BUDGET PROCEDURES.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.

(1986 Code, § 1-805)

§ 35.27 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the city. Except as provided in division (B) of this section, the expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. The expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the city to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the city in excess of that authorized by any other statutory provision.

(Neb. RS 13-509.02)

(1986 Code, § 1-804.01) (Ord. 879, passed 2-13-1995; Am. Ord. 1172, passed 4-14-2014)

§ 35.28 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The City Council shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. RS 31-506. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued by the City Council; and

(b) For all other purposes.

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the city as well as any funds held by the County Treasurer for the city and shall be accurately stated on the proposed budget statement.

(C) The city shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

(Neb. RS 13-505)

(1986 Code, § 1-802) (Am. Ord. 837, passed 4-25-1994; Am. Ord. 944, passed 7-14-1997; Am. Ord. 972, passed 8-10-1998; Am. Ord. 1-802, passed 5-14-2001; Am. Ord. 1058, passed 4-28-2003; Am. Ord. 1172, passed 4-14-2014)

§ 35.29 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

(A) The City Council shall each year or biennial period conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least 5 days prior to the date set for hearing in a newspaper of general circulation within the city's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the City Council's principal headquarters.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from

personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the City Council and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.

(D) Upon approval by City Council, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the Council of such errors. The Council shall correct any such error as provided in Neb. RS 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the Council.
(Neb. RS 13-506)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.
(Neb. RS 13-507)

(1986 Code, § 1-803) (Am. Ord. 973, passed 8-10-1998; Am. Ord. 1059, passed 4-28-2003; Am. Ord. 1172, passed 4-14-2014)

§ 35.30 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the City Council; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under § 35.28.

(C) The City Council shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The City Council may designate 1 of its members to perform any duty or responsibility required of the Council by this section.

(Neb. RS 13-508) (1986 Code, § 1-804) (Am. Ord. 838, passed 4-25-1994; Am. Ord. 899, passed 2-12-1996; Am. Ord. 945, passed 7-14-1997; Am. Ord. 974, passed 8-10-1998; Am. Ord. 1172, passed 4-14-2014)

§ 35.31 APPROPRIATION BILL.

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed the "Annual Appropriation Bill," in which are appropriated those sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the municipality.

(Neb. RS 17-706) (1986 Code, § 1-806) (Am. Ord. 840, passed 4-25-1994; Am. Ord. 900, passed 2-12-1996)

§ 35.32 REVISION OF BUDGET.

(A) (1) Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on that proposal whenever during the current fiscal year it becomes apparent to the City Council that:

(a) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(b) The budget adopted violated Neb. RS 13-518 through 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 through 13-522; or

(c) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(2) The public hearing requirement shall not apply to emergency expenditures pursuant to Neb. RS 81-829.51.

(B) Notice of the time and place of the hearing shall be published at least 5 days prior to the date set for hearing in a newspaper of general circulation within the Council's jurisdiction. This published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

(C) At the hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the City Council shall file with the County Clerk of the county or counties in which the City Council is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under § 35.29, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the City Council shall correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk of the county or counties in which the City Council is located and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511)

(1986 Code, § 1-813.1) (Ord. 1-813, passed 10-10-2000; Am. Ord. 1060, passed 4-28-2003; Am. Ord. 1186, passed 2-22-2016)

§ 35.33 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

(A) (1) Pursuant to the Municipal Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its municipal budget statement prepared pursuant to the Nebraska Budget Act.

(2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PROPRIETARY FUNCTION. A water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the municipality.
(Neb. RS 18-2803(5))

(B) (1) The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the municipality's General Fund shall have the same fiscal year as the municipality.

(2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SUBSIDIZATION. The costs of operation of a proprietary function are regularly financed by appropriations from the municipality's General Fund in excess of the amount paid by the municipality to the proprietary function for actual service or services received.
(Neb. RS 18-2804)

(C) (1) At least 30 days prior to the start of the fiscal year of each proprietary function, a proposed proprietary budget statement shall be prepared in writing and filed with the Municipal Clerk containing the following information:

(a) For the for the immediately preceding fiscal year, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources, separately stated as to each source: the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, separately stated as to each source: the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

(2) The statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(3) Each proprietary budget statement shall be filed on forms prescribed and furnished by the Auditor of Public Accounts following consultation with representatives of such governing bodies as operate proprietary functions subject to the provisions of the Municipal Proprietary Function Act. (Neb. RS 18-2805)

(D) (1) After the proposed proprietary budget statement is filed with the Municipal Clerk, the City Council shall conduct a public hearing on the statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the Municipal Clerk during normal business hours shall be published at least 5 days prior to the hearing in a newspaper of general circulation within the City Council's jurisdiction or by mailing each resident within the City Council's jurisdiction.

(2) After the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of the hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the Municipal Clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. (Neb. RS 18-2806)

(E) If the actual expenditures for a proprietary function exceed estimated expenditures in proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for that fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Municipal Clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures

and revenues for that fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

(Neb. RS 18-2807)

(F) Any income from a proprietary function which is transferred to the General Fund of the municipality shall be shown as a source of revenue in the municipal budget statement created pursuant to the Nebraska Budget Act.

(Neb. RS 18-2808)

(1986 Code, § 1-820) (Ord. 839, passed 4-25-1994)

TAX LEVIES

§ 35.45 ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.

(A) The City Council has decided to certify to the County Clerk for collection 1 all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be levied upon the taxable valuation of all taxable property in the municipality.

(Neb. RS 19-1309)

(B) (1) The amount of the all-purpose levy shall be certified as a single amount for General Fund purposes.

(Neb. RS 19-1312)

(2) The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best.

(Neb. RS 19-1310)

(C) The municipality shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon the method in succeeding fiscal years.

(Neb. RS 19-1311)

(D) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the municipality may be made by the municipality in addition to the all-purpose levy.

(Neb. RS 19-1309)

§ 35.46 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the city's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport, are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C).
(Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal levy limit provided by division (A), except that the limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For off-street parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (C).

(2) On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political

subdivision to make a preliminary request shall preclude that political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(3) (a) The City Council shall:

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

2. Forward a copy of the resolution to the chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

(Neb. RS 77-3443)

(C) (1) The city may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5% of the registered voters residing in the city.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than 5 years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8), whichever is earliest.

(6) The City Council may pass no more than 1 resolution calling for an election pursuant to this division (C) during any 1 calendar year. Only 1 election may be held in any 1 calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of the tax, the County Board shall authorize a tax in excess of the limits in division (A), but the tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to the tax, the City Council shall not impose the tax.

(8) (a) The city may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(b) The City Council may call for the submission of the issue to the voters:

1. By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

2. Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5% of the registered voters residing in the city.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than 5 years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. RS 77-3444)

(1986 Code, § 1-823) (Ord. 976, passed 8-10-1998; Am. Ord. 1-804.2, passed 10-10-2000; Am. Ord. 1061, passed 4-28-2003)

§ 35.47 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the municipality which the municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. RS 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. RS 17-702. (Neb. RS 17-702) (1986 Code, § 1-807) (Am. Ord. 975, passed 8-10-1998)

§ 35.48 PROPERTY TAX REQUEST; PROCEDURE FOR SETTING.

(A) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. RS 77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. That resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least 5 days prior to the hearing.

(B) The hearing notice shall contain the following information:

(1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and

(3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

(C) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk on or before October 13 of the year for which the tax request is to apply.

(D) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.

(Neb. RS 77-1601.02)

(1986 Code, § 1-822) (Ord. 946, passed 7-14-1997; Am. Ord. 977, passed 8-10-1998; Am. Ord. 1-804.1, passed 10-10-2000)

§ 35.49 MOTOR VEHICLE FEE.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LIMITS OF THE CITY. Includes the extraterritorial zoning jurisdiction of the city.

PERSON. Includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. **PERSON** does not include any federal, state, or local government or any political subdivision thereof.

(B) Except as otherwise provided in division (D) of this section, the governing body of the city shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the city and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this section shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(C) No motor vehicle fee shall be required under this section if:

(1) A vehicle is used or stored but temporarily in the city for a period of 6 months or less in a 12-month period;

(2) An individual does not have a primary residence or a person does not own a place of business within the limits of the city and does not own and operate a motor vehicle within the limits of the city; or

(3) An individual is a full-time student attending a postsecondary institution within the limits of the city and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(D) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of the city.

(E) The fee shall be paid to the County Treasurer of the county in which the city is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These fees shall be credited by the County Treasurer to the road fund of the city.

(Neb. RS 18-1214) (Am. Ord. 1142, passed 11-28-2011; Am. Ord. 1161, passed 3-22-2013)

Statutory reference:

Designation of county official, see Neb. RS 23-186

Motor Vehicle Registration Act, see Neb. RS 60-301