

TITLE III: ADMINISTRATION

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CHAPTER 30: GENERAL ADMINISTRATION

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GENERAL PROVISIONS**§ 30.01 SEAL; OFFICIAL CORPORATE.**

The official corporate seal of the municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription: “Seal, City of Alma, Harlan County, Nebraska”. The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances and all other official papers issued by order of the governing body and countersigned by the Municipal Clerk. (1993 Code, § 1-401)

Statutory reference:

Related provisions, see Neb. RS 17-502

§ 30.02 NOTICES; PUBLICATION.

If the municipality is required to publish a notice or advertisement in a legal newspaper in or of general circulation in the municipality, and if there is no legal newspaper in or of general circulation in the municipality, then the municipality shall publish such notice or advertisement in a legal newspaper in or of general circulation in the county in which the municipality is located. If there is no legal newspaper in or of general circulation in such county, then the municipality shall publish such notice or advertisement by posting a written or printed copy thereof in each of three public places in the municipality for the same period of time the municipality is required to publish the notice or advertisement in a legal newspaper.

(Ord. 2018-7, passed July 2, 2018)

ORDINANCES, RESOLUTIONS, MOTIONS**§ 30.15 GRANT OF POWER.**

The governing body 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.

(1993 Code, § 1-601) (Ord. 07-017-4, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-505

§ 30.16 INTRODUCTION.

Ordinances shall be introduced by members of the governing body in one 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 governing body, 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 governing body, shall read aloud the substance of the ordinance and file it for future consideration.
(1993 Code, § 1-602) (Ord. 07-017-5, passed 7-1-1997)

§ 30.17 PROCEDURE.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the members elected to the Council/Board. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council/Board. 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.
(1993 Code, § 1-603)

§ 30.18 STYLE.

The style of all municipal ordinances shall be: “Be it ordained by the Mayor and Council of the City of Alma, Nebraska”.
(1993 Code, § 1-604)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.19 TITLE.

No ordinance shall contain a subject not clearly expressed in its title.
(1993 Code, § 1-605)

Statutory reference:

Related provisions, see Neb. RS 17-614

§ 30.20 BYLAWS; READING; PASSAGE.

(A) Ordinances of a general or permanent nature shall be read by title on three different days, unless three-fourths of the governing body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory.

(B) In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the governing body may require a reading of any ordinance in full before enactment under either procedure set out in this section.

(C) 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 governing body. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the governing body, the yeas and nays shall be called and recorded.

(D) 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 governing body shall be required. All appointments of the officers by the governing body 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.

(E) The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.

(1993 Code, § 1-606) (Ord. 01-175-2, passed 1-17-1995; Ord. 07-017-6, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614, 17-616

§ 30.21 ORDINANCES; PUBLICATION

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

(A) In newspaper in or of general circulation in the city; or

(B) In book or pamphlet form.

(1993 Code, § 1-607) (Ord. 07-017-7, passed 7-1-1997) (Ord. 2018-5, passed 7.2.18)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.22 CERTIFICATE OF PUBLICATION OR POSTING.

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

(1993 Code, § 1-608)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 30.23 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in division (B) below, an ordinance for the government of the municipality which has been adopted by the governing body without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(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 three of the most public places in the municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the governing body, and be entered of record on the Municipal Clerk's minutes.

(1993 Code, § 1-609) (Ord. 07-017-8, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-613, 19-3701

§ 30.24 AMENDMENTS AND REVISIONS.

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.

(1993 Code, § 1-610) (Ord. 07-017-9, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-614

MEETINGS**§ 30.35 MEETINGS GENERALLY.**

MEETINGS, as used in this subchapter, shall mean all regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action.

(1993 Code, § 1-501)

Statutory reference:

Related provisions, see Neb. RS 84-1409(2)

§ 30.36 PUBLIC BODY DEFINED.

(A) ***PUBLIC BODY***, as used in this subchapter, shall mean:

(1) The governing body of the municipality;

(2) 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

(3) Advisory committees of the bodies listed above.

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

(1993 Code, § 1-502)

Statutory reference:

Related provisions, see Neb. RS 84-1409(1)

§ 30.37 PUBLIC MEETINGS.

(A) All public meetings as defined by law shall be held in a municipal public building, which shall be open to attendance by the public.

(B) All meetings shall be held in the public building in which the governing body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place.

(C) The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the governing body and to the public by a method designated by the governing body or by the Mayor if the governing body has not designated a method.

(D) Such notice shall contain the time and specific place for each meeting, and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk.

(E) 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 governing body scheduled outside the corporate limits of the municipality.

(F) The governing body shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(G) The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the governing body present or absent at each convened meeting.

(H) The minutes of the governing body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk.

(I) Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the governing body in open session.

(J) The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote.

(1993 Code, § 1-503)

Statutory reference:

Related provisions, see Neb. RS 84-1408, 84-1409, 84-1411, 84-1413

§ 30.38 CLOSED SESSIONS.

(A) 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 such individual has not requested a public meeting.

(1) 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 such 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 vote to hold a closed session shall be taken in open session.

(1) The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes.

(2) The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session.

(3) The meeting shall be reconvened in open session before any formal action may be taken.

(4) For purposes of this section, **FORMAL ACTION** shall mean 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) above.

(C) Any member of the 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 challenge shall be overruled only by a majority vote of the members of the public body. Such 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. 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 the provisions of this subchapter. No closed session, informal meeting, chance meeting, social gathering or electronic communication shall be used for the purpose of circumventing the provisions of this subchapter.

(E) The provisions of this subchapter shall 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 and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power.

(1993 Code, § 1-504) (Ord. 01-175-1, passed 1-17-1995)

Statutory reference:

Related provisions, see Neb. RS 84-1410

§ 30.39 EMERGENCY MEETINGS.

(A) 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 such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment.

(B) The provisions of § 30.42 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.

(1993 Code, § 1-505)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 30.40 MEETING 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.

(B) The minutes shall be public records and open to public inspection during normal business hours.

(C) Minutes shall be written and available for inspection within ten working days, or prior to the next convened meeting, whichever occurs earlier.

(1993 Code, § 1-506)

Statutory reference:

Related provisions, see Neb. RS 84-1412, 84-1413

§ 30.41 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 the municipality utilizing an electronic voting device which allows the yeas and nays of each member of the governing body 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.

(1993 Code, § 1-507)

Statutory reference:

Related provisions, see Neb. RS 17-616, 84-1413

§ 30.42 NOTICE TO NEWS MEDIA.

The Municipal Clerk, 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.

(1993 Code, § 1-508)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 30.43 PUBLIC PARTICIPATION.

(A) Subject to the provisions of this subchapter, the public shall have 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 meetings called pursuant to § 30.38, 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 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.

(C) A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(D) No public body shall require members of the public to identify themselves as a condition for admission to the meeting.

(E) The body may require any member of the public desiring to address the body to identify himself or herself.

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

(G) 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.

(H) An agency which contracts with municipalities outside the state may hold meetings of any committee outside the state if such meetings are held only in such contracting municipalities.

(I) Final action on any agenda item shall only be taken by the agency at a meeting in the state, which meeting shall comply with Neb. RS 84-1408 to 84-1414.

(J) 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.

(K) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. (1993 Code, § 1-509)

Statutory reference:

Related provisions, see Neb. RS 84-1412, 18-2438

§ 30.44 ORDER OF BUSINESS.

(A) All meetings of the governing body shall be open to the public.

(B) Promptly at the hour set by law on the day of each regular meeting, the members of the governing body, the Municipal Clerk, the Mayor, and such other municipal officials that may be required shall take their regular stations in the meeting place, and the business of the municipality shall be taken up for consideration, and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

(1993 Code, § 1-510)

§ 30.45 PARLIAMENTARY PROCEDURE.

(A) The Mayor shall preserve order during meetings of the governing body, and shall decide all questions of order, subject to an appeal to the governing body.

(B) When any person is called to order, he or she shall be seated until the point is decided.

(C) When the Mayor is putting the question, no person shall leave the meeting room.

(D) Every person present, previous to speaking, shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself or herself to the question.

(E) When two or more persons rise at once, the Mayor shall recognize the one who spoke first.

(F) All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Municipal Clerk, or any member of the governing body.

(G) Every member of the governing body who is present when a question is voted upon, shall cast his or her vote, unless excused by a majority of the governing body present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable.

(H) In all cases where a motion or resolution is entered on the minutes, the name of the member of the governing body making the motion, or resolution shall be entered also.

(I) After each vote, the “yeas” and “nays” shall be taken, and entered in the minutes upon the request of any member of the governing body. Before the vote is actually taken, any resolution, motion or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the governing body seconding the said resolution, motion or ordinance.

(J) 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 such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question.

(K) 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 said motions shall be decided without debate. Any of the rules of the governing body for meetings may be suspended by a two-thirds vote of the members present.

(L) In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the governing body shall decide all procedural disputes that may arise. (1993 Code, § 1-511)

§ 30.46 CHANGE IN OFFICE.

The change in office shall be made as follows: the Mayor and Council shall meet on the first regular meeting date in December of each year in which a municipal election is held, and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his or her successor in office all property, records, papers and moneys, belonging to the same. (1993 Code, § 1-512)

§ 30.47 ORGANIZATIONAL MEETINGS.

(A) The newly elected Council shall convene at the regular place of meeting in the city on the first regular meeting in December of each year in which a municipal election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year.

(B) The Mayor elected for the new municipal year shall call the meeting to order.

(C) The Council shall then proceed to examine the credentials of its members and other elective officers of the city to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required.

(D) After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council".

(E) The Mayor shall then nominate his or her candidates for appointive offices. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December following his or her election.

(F) All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the state, the laws of the municipality and to perform faithfully and impartially the duties of his or her office, said oath to be filed in the office of the Municipal Clerk.

(G) Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

(1993 Code, § 1-513)

§ 30.48 REGULAR MEETINGS.

(A) (1) During the months of September through April of each year, regular City Council meetings shall be held on the first and third Wednesday of each month at 5:30 p.m.

(2) During the months of May through August of each year, regular City Council meeting shall be held on the first and third Monday of each month at 5:30 p.m.

(B) At all meetings of the Council a majority of the Council members shall constitute a quorum to do business.

(1993 Code, § 1-514) (Ord. 05-02-11-2, passed 5-2-2011)

Statutory reference:

Related provisions, see Neb. RS 17-105

§ 30.49 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor, or by three 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.

(1) On filing the call for a special meeting, the Municipal Clerk shall notify the Council members of the special meeting, stating the time and its purpose.

(2) Notice of a special meeting need not be given to a Council member known to be out of the state, or physically unable to be present.

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

(4) Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(B) 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.

(1) 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.

(2) In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President Pro Tempore.

(3) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.15 through 30.24.

(1993 Code, § 1-515)

Statutory reference:

Related provisions, see Neb. RS 17-106

§ 30.50 VIDEOCONFERENCING, WHEN ALLOWED.

(A) (1) A meeting of an organization created under the Interlocal Cooperation Act or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or advisory committee organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference;

(d) At least one member of the governing body or advisory committee is present at each site of the videoconference; and

(e) No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

(2) Videoconferencing shall not be used to circumvent any of the public government purposes established in this subchapter.

(B) For purposes of this section, **VIDEOCONFERENCING** shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

(1993 Code, § 1-516) (Ord. 07-017-3, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 84-1409, 84-1411

§ 30.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense, and upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 1-1001) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 31: OFFICIALS AND EMPLOYEES

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*ELECTED OFFICIALS***§ 31.01 CITY MAYOR; 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 seven 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 five 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 the extraterritorial zoning jurisdiction of the city.
(Neb. RS 17-114) (Ord. 2018-4, passed 7-2-2018)

(E) 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)

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

(G) 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.

(H) 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.
(Ord. 2015-14, passed 5-4-2015)

Statutory reference:

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

§ 31.02 ACTING PRESIDENT OF COUNCIL.

The City Council shall elect one of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the municipality as if done by the elected Mayor.

(1993 Code, § 1-102)

Statutory reference:

Related provisions, see Neb. RS 17-148

§ 31.03 SELECTION OF CITY COUNCIL; DUTIES.

The members of the City Council shall be elected and serve for a four-year term. The City Council shall be the legislative division of the municipal government, and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions.

(1993 Code, § 1-103)

Statutory reference:

Related provisions, see Neb. RS 17-103, 17-104

§ 31.04 ORGANIZATION OF CITY COUNCIL.

(A) City Council members of this municipality shall take office, and commence their duties on the first regular meeting in December following their election.

(B) The newly elected Council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment.

(C) After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call.

(D) Each ward of the municipality shall be represented by at least two Council members.

(E) No person shall be eligible who is not at the time of his or her election an actual resident of the ward for which he or she is qualified and should any City Council member move from the ward from which he or she was elected, his or her office shall thereby become vacant.

(1993 Code, § 1-104)

Statutory reference:

Related provisions, see Neb. RS 17-104

§ 31.05 VACANCY.

(A) Vacancies in city elected offices shall be filled by the Mayor and Council for the balance of the unexpired term. Notice of a vacancy, except that resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting, and shall appear as a part of the minutes of such meeting.

(B) The City Council shall at once give public notice of the vacancy by causing to be published in a legal newspaper of general circulation within the city or by posting in three public places in the city the office vacated and the length of the unexpired term.

(C) The Mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee the vacancy shall be declared filled. If a majority vote is not reached, the nomination shall be rejected and the Mayor shall at the next regular or special meeting submit the name of another qualified elector to fill the vacancy. If the vote on the nominee fails to carry by a majority vote, the Mayor shall continue at such meeting to submit the names of qualified electors in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council.

(D) All Council members present shall cast a ballot for or against the nominee.

(E) Any member of the City Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person was elected.

(F) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided above in this section, call a special municipal election to fill such vacancy.

(G) If there is a vacancy in the offices of a majority of the members of a City Council, there shall be a special municipal election conducted by the Secretary of State to fill such vacancies.

(1993 Code, § 1-105) (Ord. 05-211-1, passed 5-21-1991)

Statutory reference:

Related provisions, see Neb. RS 32-1406

§ 31.06 MAYOR; VACANCY.

(A) Whenever a vacancy occurs in the office of Mayor, or in case of his or her disability or absence, the President of the 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.

(B) When the successful candidate for Mayor shall be prevented from assuming office, the incumbent Mayor shall not be entitled to hold over the term, but such office shall automatically become vacant and the President of the Council shall exercise the office of Mayor until such vacancy is filled.

(C) If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in § 31.05.

(1993 Code, § 1-106)

Statutory reference:

Related provisions, see Neb. RS 17-107

§ 31.07 INDEMNIFICATION.

(A) All elected officials of the city, including, but not limited to, the Mayor, City Council members and other elected officials shall be indemnified by the city if they are sued individually in a civil suit or if they incur any administrative penalties imposed by any individual, state or federal agency as a result of alleged violations of any county, state or federal regulations by acts of the city, it being the intent of the city to hold its Mayor, City Council members and other elected officials harmless for civil liability which may be imposed upon them as a result of their actions as elected officials of the city. The city shall also reimburse said elected officials for attorney fees incurred in defending any such lawsuits on administrative actions.

(B) The city is further authorized to enter into contracts with each elected member of city government to hold those elected officials harmless as a result of any acts, errors or omissions done by the city which may result in civil liability against any elected official individually as a result of their being an elected officer of the city.

(1993 Code, § 1-107)

§ 31.08 ELECTED OFFICIALS; VACANCY.

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

(B) If a vacancy occurs in the office of Council member, a successor Council member shall be elected at the next regular city election to serve for the remainder of the term, except that a majority of

the remaining members of the Council shall appoint a registered voter to serve as Council member until the successor is so elected and has qualified. If the Council members are elected by ward, the Council Member elected or appointed to fill the vacancy shall be a registered voter of the ward in which the vacancy exists. If for any reason the seats of a majority of the Council become vacant, the Secretary of State shall conduct a special election to fill the vacancies for the unexpired portion of each term. A vacancy in any office to which the Council elects shall be filled by the Council for the unexpired term.

(C) (1) Except as otherwise provided in division (B) above or (E) below, vacancies in city elected offices shall be filled by the Mayor and City Council for the balance of the unexpired term.

(2) Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting, and shall appear as a part of the minutes of such meeting.

(3) The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or by posting in three public places in the city the office vacated and the length of the unexpired term.

(D) The Mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented, or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such 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.

(1) The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled.

(2) 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.

(3) If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled.

(4) The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

(E) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in divisions (B) through (D) above, call a special city election to fill such vacancy.

(F) No official who is removed at a recall election or 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 same governing body during the remainder of his or her term of office.

(1993 Code, § 1-108) (Ord. 07-078-01, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 32-560 through 32-572, 32-1308

APPOINTED OFFICIALS

§ 31.20 APPOINTMENT; REMOVAL.

(A) The Mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. The Mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law.

(B) All police officers and other appointed officials may be removed at any time by the Mayor, except that if the municipality has a Municipal Water Commissioner, he or she may at any time, for sufficient cause, be removed from office by a two-thirds vote of the City Council.

(1993 Code, § 1-201) (Ord. 07-017-2, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-541, 81-1438

§ 31.21 MERGER OF OFFICES.

The governing body 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 Council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such 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.

(1993 Code, § 1-202)

Statutory reference:

Related provisions, see Neb. RS 17-108.02

§ 31.22 MUNICIPAL CLERK.

(A) The Municipal Clerk shall attend the meetings of the governing body, the Municipal Planning Commission, Board of Zoning Adjustment, Board of Health, and such other Municipal meetings as required by the City and keep a correct journal of the proceedings of that body.

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

(C) The Municipal Clerk shall permit no records, public papers or other documents of the municipality kept, and preserved in his or her office to be taken therefrom, except by such officers of the municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. 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 governing body 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, 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. Nothing herein shall be construed to prevent any citizen, official or other person from examining any public records at all reasonable times.

(D) The Municipal 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 said officers, employees or committees. With the seal of the municipality, 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 governing body. Within 30 days after any meeting of the governing body, the Municipal Clerk shall prepare, and publish the official proceedings of the governing body in a legal newspaper of general circulation in the municipality, and which was duly designated as such by the governing body. Said publication shall set forth a statement of the proceedings thereof 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 such publication shall not exceed the rates provided by the statutes of the state. Said publication shall

be charged against the General Fund. He or she shall then keep in a book with a proper index, copies of all notices required to be published, or posted by the Municipal Clerk by order of the governing body, or under the ordinances of the municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

(E) The Municipal 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 municipality, and in the event that the said claim is disallowed in part, or in whole, the Municipal Clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance, and the Municipal Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(E) The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the governing body. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to Neb. RS 84-1201 through 84-1220; provided, the governing body shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board.

(1993 Code, § 1-203) (Ord. 2018-1, passed 10-4-17)

Statutory reference:

Related provisions, see Neb. RS 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712

§ 31.23 MUNICIPAL TREASURER.

(A) The Municipal Treasurer shall be the custodian of all moneys belonging to the municipality. He or she shall keep all money belonging to the municipality separate, and distinct from his or her own money. He or she shall keep a separate account of each fund or appropriation, and the debits, and credits belonging thereto. He or she shall issue duplicate (two) receipts for all moneys received by him or her for the municipality. He or she shall give to every person paying money into the Municipal Treasury, a receipt therefor, specifying the date of payment, and the account paid. One of the receipts shall be filed with his or her monthly report, and the last copy of the said receipt shall be kept on file in his or her office. His or her books, and accounts shall always be open for inspection by any citizen of the municipality whenever any municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. He or she shall cancel all bonds, coupons, warrants and other evidences of debt against the municipality, whenever paid by him or her, by writing, or stamping on the face thereof, "Paid by the Municipal 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 shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. The Treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such bookkeeping methods as the governing body shall prescribe. He or she shall invest and collect all money owned by, or owed to, the municipality as directed by the governing body.

(B) The Municipal Treasurer shall keep a record of all outstanding bonds against the Municipality and when any bonds are sold, purchased, paid, or cancelled, said record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the Municipality transacted through his or her office for the year. That record shall describe particularly the bonds issued and sold during the year and the terms of the sale with each and every item and expense thereof. He or she shall file all official bonds after the same shall have been properly executed and approved. He or she shall make the property certificate of passage which shall be attached to the original copies of all bond Ordinances hereafter enacted by the governing body.

(1993 Code, § 1-204) (Ord. 2018-1, passed 10-4-17)

Statutory reference:

Related provisions, see Neb. RS 17-606 through 17-609, 84-712

§ 31.24 CLERK AND TREASURER.

The Offices of Municipal Clerk and Municipal Treasurer are separate offices, and the Mayor, subject to the provisions of the city municipal code, shall appoint separate individuals to each office and that each individual appointed to such office shall perform the official duties of such office as set forth in the municipal code of the city and such additional duties as directed by the governing body.

(1993 Code, § 1-205) (Ord. 01-106-1, passed 1-10-2006)

§ 31.25 TREASURER'S MONTHLY REPORT.

The Municipal Treasurer shall at the end of each, and every month, and such other times as the governing body may deem necessary, render an account to the governing body under oath showing the financial state of the municipality at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the Treasury. He or she shall accompany the said account with a statement of all receipts, and disbursements, together with all warrants redeemed, and paid by him or her. He or she shall also produce depository evidence that all municipal money is in a solvent, and going bank in the name of the municipality. If the Municipal Treasurer shall neglect, or fail for the space of ten days from the end of each and every month to render his or her accounts as aforesaid, the governing body shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy. The Municipal Treasurer shall be present at each regular meeting of the governing body, at which time he or she shall read, and file his or her monthly report.

(1993 Code, § 1-206)

Statutory reference:

Related provisions, see Neb. RS 17-606

§ 31.26 TREASURER'S ANNUAL REPORT.

The Municipal Treasurer shall publish in a legal newspaper having general circulation within the municipality, within 60 days following August 1 of each year, a report of the activities of his or her

office which said report shall show in detail. Said report shall include all receipts, disbursements, warrants outstanding, and the debit, or credit balance of the municipality.

(1993 Code, § 1-207)

Statutory reference:

Related provisions, see Neb. RS 19-1101

§ 31.27 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 governing body, he or she shall attend meetings of the governing body, 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 such 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 governing body 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 governing body. 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 governing body, 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 insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The governing body shall have the right to compensate the Municipal Attorney for legal services on such terms as the governing body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.

(1993 Code, § 1-208)

Statutory reference:

Related provisions, see Neb. RS 17-610

§ 31.28 FIRE CHIEF.

The Municipal 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. He or she shall within two days investigate the cause, origin and circumstances of fires arising within his or her jurisdiction. He or she shall, on or before April 1 and October 1 of each year, cause the Secretary to file with the Municipal 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. 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 shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his or her 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. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers.

(1993 Code, § 1-209)

Statutory reference:

Related provisions, see Neb. RS 17-147, 17-505, 35-102, 35-108, 81-506, 81-512

§ 31.29 SPECIAL ENGINEER.

The governing body 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 governing body, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the governing body. He or she shall, upon request of the governing body, 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 such other duties as the governing body 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.

(1993 Code, § 1-210)

Statutory reference:

Related provisions, see Neb. RS 17-405, 17-568, 17-568.01, 17-919

§ 31.30 CITY SUPERINTENDENT.

(A) A City Superintendent shall be appointed in the event that there is more than one municipal utility, and the governing body determines that it is in the best interest of the municipality to appoint one official to have the immediate control over all the said municipal utilities and municipal streets. The City Superintendent may be removed at any time by the Mayor and a two-thirds vote of the governing body. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials.

(B) The City 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 said 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 City Superintendent shall be subject to the general directives and control of the governing body. The City 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 said system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the said system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer all such money collected in the name of the municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his or her faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the governing body at least once every six months, of the condition of the said water system, of all mains, pipes, hydrants, reservoirs and machinery and such 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 six months. No money shall be expended for improvements, repairs or extensions of the said waterworks system except upon the recommendation of the Superintendent. The City Superintendent shall provide a bond conditioned upon the faithful discharge of his or her duties which shall amount to not less than the amount set by resolution of the governing body and on file in the office of the Municipal Clerk. He or she shall perform such additional duties as may be prescribed by the governing body.

(2) *Sewer Department.* The City 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. He or she shall at least every six months, make a detailed report to the governing body on the condition of the sewer system, and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have such 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 said system.

(3) *Gas Department.* The City Superintendent shall have the immediate control, and supervision of the municipal gas system, and of all employees and property that make up the gas system, subject to the general control, and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the gas system, and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he may believe are needed along with an estimate of the cost thereof. He or she shall issue permits for all connections to the municipal gas system, and inspect, and supervise all repairs made to the said system. He or she shall also have such additional duties as the governing body may delegate to him or her.

(4) *Street Department.* The City 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 such other duties as the governing body 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 their attention to such 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 such permits, and assume such other duties as the governing body may direct.

(1993 Code, § 1-211)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-119, 17-541, 17-543

§ 31.31 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 said dealer, 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 they may deem necessary, and shall have such other duties, and issue such permits as they may direct. The Building Inspector may be removed at any time for good, and sufficient cause by the governing body.

(1993 Code, § 1-212)

§ 31.32 ELECTRICAL INSPECTOR.

The Municipal Electrical Inspector shall enforce all laws relating to the installation of electrical wiring, and connections thereto. When acting in good faith, and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons, or property as the result of any act required by him or her, or by reason of any act or omission in the discharge of his or her duties. 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 premise at any reasonable hour. He or she shall perform such other duties, and issue any permits that

the governing body may direct. The Electrical Inspector may be removed at any time for good and sufficient cause by the governing body.
(1993 Code, § 1-213)

§ 31.33 PLUMBING INSPECTOR.

The Municipal Plumbing Inspector shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith, and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons, or property as the result of any act required by him or her or by reason of any act, or omission in the discharge of his or her duties. 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 premise at any reasonable hour. He or she shall perform such other duties and issue any permits that the governing body may direct. The Plumbing Inspector may be removed at any time for good and sufficient cause by the governing body.
(1993 Code, § 1-214)

§ 31.34 CITY ADMINISTRATOR.

(A) *Responsibilities; qualifications; how appointed.* In order to provide efficient and orderly operation of the city government, and more effective administration of the affairs of the city, there is hereby created the office of City Administrator. The City Administrator shall be responsible for the proper administration of all affairs of the city and shall have general supervisory authority over all city departments. He or she shall be appointed by the Mayor with the consent of a majority of the City Council for an indefinite period, solely on the basis of administrative qualifications, and need not be a resident of the city or state when appointed. During the absence or disability of the City Administrator the Mayor may designate some proper qualified person to perform the duties of the office.

(B) *Powers; duties.* The City Administrator shall be the administrative head of the municipal government under the direction and control of the Mayor and City Council and shall be responsible to the Mayor and City Council for the efficient conduct of his or her office. The duties of the City Administrator shall be as follows:

- (1) He or she shall make and keep up to date an inventory of all property, real and personal, owned by the municipality;
- (2) He or she shall act as purchasing agent for the purchase of all supplies, goods, wares and merchandise, equipment and material which may be requested for the various departments, divisions or services of the municipality;

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(3) He or she shall keep the Mayor and Council fully advised as to the financial condition and needs of the municipality and shall be responsible for and prepare the annual estimate of expenditures for presentation to the Mayor and Council prior to the passage of the annual appropriation ordinance;

(4) To serve as public relations officer of the municipal government, and in such capacity to endeavor to investigate and adjust all complaints filed against any employee, department, division or service thereof and cooperate with all community organizations whose aim and purpose is to advance the best interests of the municipality and its people and to attend meetings of such organizations if in the judgment of the Administrator such attendance is necessary and desirable;

(5) To attend all meetings of the Council with the duty of reporting any matter concerning municipal affairs under his or her supervision or direction and to attend such other meetings of the municipal departments and officials as his or her duties may require;

(6) To analyze the functions, duties and activities of the various departments, divisions and services of the municipal government and of all employees thereof, and to make his or her recommendations regarding the same to the Mayor and Council;

(7) To carry out the Mayor and/or Council's recommendations in coordinating the administrative functions and operations of the various departments;

(8) To procure facts and submit long range improvements to the Mayor and Council;

(9) Recommend to the Mayor and Council the appointment and dismissal of all department heads over which he or she exercises jurisdiction. Appointment or dismissal of department heads will be made upon the recommendation of the Mayor and confirmation by the Council. The City Administrator may appoint and dismiss all subordinate employees of the municipality, as well as provide for the transfer of such employees from one department to another, except those employees covered under the Civil Service Act of the state;

(10) Perform the duties of the Utilities Superintendent and/or Building Inspector in the absence of a specific appointment to those offices by the Mayor and Council;

(11) Administer and be responsible for all departments and divisions of the municipal government, which are under the Mayor's and Council's direction, including all public utilities presently owned or hereafter acquired by the municipality, including the Fire and Police Departments, except insofar as such jurisdiction and administration conflicts with the Civil Service Law pertaining to such Fire and Police Departments. The office of the Municipal Attorney and municipal physician shall not come under the administration and responsibility of the City Administrator; provided however, said Administrator is to be available to assist those offices in any administrative matter that may arise and those officers in turn shall be available to assist the City Administrator in the discharge of his or her duties;

(12) Recommend to the Mayor and Council for adoption such measures and ordinances as are deemed necessary or expedient;

(13) Prepare and recommend to the Mayor and Council a classification and compensation plan;

(14) Make investigations into the affairs of the municipality and any department or division thereof, and any contract or the proper performance of any obligation pertaining to the municipality;

(15) Exercise general supervision over all public buildings, streets and other public property which are under the control and jurisdiction of the Mayor and Council;

(16) Prepare and submit to the Mayor and Council as of the end of the fiscal year, a complete report of the finances and administrative activities of the municipality for the preceding year;

(17) Keep the insurable property of the municipality appropriately insured;

(18) Serve in any appointed office or as head of any department within the municipal government if the need arises and when appointed thereto by the Mayor and Council and to hold and perform the duties thereof at the pleasure of the Mayor;

(19) The City Administrator shall have the duty to keep open his or her office for public affairs during days and hours set by the Mayor and Council;

(20) Perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinances or resolutions of the Council, job description, and where action of the Council is not required, such duties and powers as may be prescribed by the Mayor; and

(21) To analyze the needs of the community for all types of community and economic development projects and to be responsible for preparing grant applications and administering grants when appropriate.

(C) *Salary.* The City Administrator shall receive such salary as may be determined by the City Council from time to time.

(D) *Authority to expend funds.* The City Administrator, in the discharge of his or her duties, shall have the right to expend an amount not to exceed the limits set forth in the applicable state law, pertaining to cities of the Second Class, entering into contracts for the municipal work and improvements or purchase of equipment or any lesser amounts set by the City Council without advertising for bids and within any dollar amount on behalf of the municipality for general purchases, maintenance and improvements, the expenditure limitation herein to apply to all departments of the municipality.

(E) *Removal of City Administrator.* The City Administrator may be removed by the Mayor by and with the consent of the City Council.

(Ord. 10-199-01, passed 10-19-1999)

§ 31.35 ZONING ADMINISTRATOR.

There is hereby established an appointed official for the city, who shall be the City Zoning Administrator.

(A) The Office of Zoning Administrator is hereby created by the Mayor and City Council of the city, and said City Administrator shall have the powers and duties as set forth in the following sections of this ordinance.

(B) The Zoning Administrator shall be responsible for issuing or denying zoning and building permits and certificates of occupancy. The Administrator shall also receive applications for variances for the city's zoning ordinances and regulations and from the city's subdivision regulations. The Administrator shall also be responsible for receiving applications for conditional use permits. The Administrator shall also receive requests for re-zoning and shall be responsible for making a report to the Planning Commission upon such request for re-zoning. The Zoning Administrator shall also be responsible for preparing proposals for amending zoning regulations upon the request from the Planning Commission or the governing body. Zoning Administrator shall also receive applications for subdivision plans and receive applications for variances to the provisions of subdivision regulations. The Zoning Administrator shall also prepare proposals for amending subdivision regulations and shall be responsible for doing all things in conjunction with carrying out the purposes of the above-referenced duties.

(Ord. 12-079-02, passed 12-7-1999)

§ 31.36 STREET SUPERINTENDENT.

(A) The position of City Street Superintendent is hereby created. The City Street Superintendent shall have the general charge direction and control of all work done on the city streets, alleys, sidewalks, bridges, culverts subject to the orders and directions of the governing body.

(B) The Street Superintendent shall keep the Council informed about the condition of the city streets and make recommendations about improvements, repairs and extensions of the city streets and perform such other duties as directed by the City Council.

(Ord. 12-2111-5, passed 12-21-2011)

BONDS AND OATHS**§ 31.50 BONDS; FORM.**

(A) Official bonds of the municipality shall be in form, joint and several, and shall be made payable to the municipality in such penalty as the governing body may set by resolution; provided, 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. All official bonds of the municipal officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity or bonding company; provided no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances.

(B) Only companies that are legally authorized to transact business in the state shall be eligible for suretyship on the bond of an official of the municipality. All said 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 the municipality and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the governing body, and all sureties are endorsed in writing on the said instrument by the Mayor and Municipal Clerk pursuant to the said approval of the governing body.

(C) The premium on any official bond required to be given may be paid out of the General Fund, or other proper municipal fund, upon a resolution to that effect by the governing body at the beginning of any municipal year.

(D) All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his or her official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the governing body.

(E) In the event that the sureties on the official bond of any officer of the municipality, in the opinion of the governing body, become insufficient, the governing body may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse or neglect to give a new bond, or additional sureties to the satisfaction, and approval of the governing body then the office shall, by such failure, refusal or neglect, become vacant, and it shall be the duty of the governing body to appoint a competent, and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

(1993 Code, § 1-301)

Statutory reference:

Related provisions, see Neb. RS 11-103 through 11-118, 17-604

§ 31.51 OATH OF OFFICE; MUNICIPAL OFFICIALS.

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.”

(1993 Code, § 1-302)

Statutory reference:

Related provisions, see Neb. RS 11-101

COMPENSATION

§ 31.65 MUNICIPAL OFFICIALS.

(A) The compensation of any elective official of the municipality shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the governing body, a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times.

(B) No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the governing body and will be available for public inspection at the office of the Municipal Clerk.

(1993 Code, § 1-901)

Statutory reference:

Related provisions, see Neb. RS 17-108.02, 17-209.02, 17-612

§ 31.66 CONFLICT OF INTEREST.

(A) (1) For purposes of this section, ***OFFICER*** shall mean:

(a) Any member of any Board or Commission of the municipality;

(b) Any appointed official if such municipal official: serves on a Board or Commission which spends and administers its own funds; and is dealing with a contract made by such Board or Commission; or

(c) Any elected municipal official.

(2) Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered **OFFICERS** for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

(B) No officer of the municipality shall be permitted to benefit from any contract to which the municipality is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict.

(1) An action to have a contract declared void under this section may be brought by the municipality or by any resident thereof and must be brought within one year after the contract is signed or assigned.

(2) Any such 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 municipality has benefitted thereby.

(3) The prohibition in this section shall apply only when the officer or his or her parent, spouse or child: has a business with which the individual is associated or business association which shall mean a business: in which the individual is a partner, director or officer; or in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000 or more at fair market value or which represents more than 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; or will receive a direct pecuniary fee or commission as a result of the contract; provided however, if such officer: is an employee of the business involved in the contract; and has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this section.

(C) The provisions of this section shall not apply if the interested officer:

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

(2) Does not vote on the matter of granting the contract, except that if the number of members of the Board declaring an interest in the contract would prevent the Board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

(3) Does not act for the municipality as to inspection or performance under the contract in which he or she has an interest.

(D) The receiving of deposits, cashing of checks and buying and selling of warrants and bonds of indebtedness of any municipality by a financial institution shall not be considered a contract under the provisions 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. Notwithstanding the provisions of divisions (C)(1) through (C)(3) above, if an officer's parent, spouse or child is an employee of the municipality, 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. If an officer has the power to employ personnel and he or she hires his or her parent, spouse or child, such officer shall disclose the hiring pursuant to divisions (E)(1)(a) through (E)(1)(e) below, except that if the parent, spouse or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the municipality.

(E) The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in divisions (E)(1)(a) through (E)(1)(e) below about every contract entered into by the municipality in which an officer has an interest as specified above for which disclosure is made as provided in divisions (C)(1) through (C)(3) above.

(1) Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (a) Names of the contracting parties;
- (b) Nature of the interest of the officer in question;
- (c) Date that the contract was approved by the municipality involved;
- (d) Amount of the contract; and
- (e) Basic terms of the contract.

(2) The information supplied relative to the contract shall be provided to the Clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the Clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

(F) An open account established for the benefit of any municipality or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such

account is opened. Thereafter, the Clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

(G) Any officer who knowingly violates the provisions of Neb. RS 49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. RS 49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

(H) The municipality may enact ordinances exempting from the provisions of this section, contracts involving \$100 or less in which an officer of such municipality may have an interest.

(I) No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the municipality other than his or her salary. The governing body shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the municipality.

(1993 Code, § 1-902) Penalty, see § 31.99

Statutory reference:

Related provisions, see Neb. RS 17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04

§ 31.67 MAYOR AND CITY COUNCIL.

(A) The compensation for the Mayor of the city shall be \$3,000 annually. Said compensation shall be paid semiannually in December and July.

(B) The compensation for the City Council Members shall be \$2,600 annually. Said compensation shall be paid semiannually in December and July.

(C) This section shall take effect for the Mayor and City Council which takes office at the first meeting of December, 2002.

(Ord. 02-202-1, passed 2-20-2002)

§ 31.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 1-1001) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 32: CITY ORGANIZATIONS

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ORGANIZATIONS GENERALLY

§ 32.01 LIBRARY BOARD.

(A) The Library Board shall be appointed or elected.

(B) The governing body shall, by ordinance, adopt the manner in which the five members of the Board are to be chosen. If the members are to be chosen by appointment, the nominated members must receive a majority vote of the governing body.

(C) If the members are to be elected, the usual election procedures of the municipality shall be followed.

(D) The Board shall consist of five members, who shall be residents of the municipality or the extraterritorial zoning jurisdiction.

(E) The members of the Library Board shall serve a four-year term of office as specified by state statutes.

(F) The Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of its duties.

(G) At the time of the Board's first meeting in July of each year, the Board shall organize by selecting from its number a Chairperson and Secretary.

(H) 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.

(I) A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any three members of the Board. The Library Board shall have the authority to appoint a librarian and all other employees. It shall be the duty of the Board to have general charge of the municipal library and to establish appropriate rules and regulations for the management, operation and use of the same. The Board shall have supervisory authority over all employees of the library, including the librarian. All actions of the Board shall be subject to the review and supervision of the governing body. The Board shall be responsible for making such reports and performing such additional duties as the governing body may designate from time to time. No member of the governing body shall serve as a member of the Library Board while serving a term of office as a member of the governing body. No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(1993 Code, § 2-201) (Ord. 2014-12, passed 3-5-2014)

Statutory reference:

Related provisions, see Neb. RS 51-202

§ 32.02 BOARD OF HEALTH.

(A) The governing body shall appoint a Board of Health which shall consist of four members. The members of the Board shall include the Mayor, who shall serve as Chairperson, the President of the City Council, and two other members. One member shall be a physician or health care provider, if one 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. The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position.

(B) The Secretary shall keep full and correct minutes and records of all meetings and file the same with the Municipal Clerk where they shall be available for public inspection during office hours. The Board of Health shall be funded by the governing body from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any two members of the Board.

(C) The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the municipality. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the municipality relating to nuisances and to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the governing body may direct. All

members of the Board shall be responsible for making such reports and performing such other duties as the governing body may, from time to time, designate.

(1993 Code, § 2-202) (Ord. 07-017-15, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 17-121

§ 32.03 JOINT HOUSING AUTHORITY.

(A) Any two or more cities, villages or counties, or any combination thereof, may, by resolution of their separate governing bodies, determine that there is a need for a Joint Housing Authority to provide decent, safe and sanitary housing for persons of low income living in a multi-jurisdictional area, and that this need would be more efficiently served by the establishment of such Joint Housing Authority. Such Joint Housing Authority shall have perpetual existence; except that any city, village or county, as the case may be, may withdraw from participation in the Joint Housing Authority by resolution of its governing body only under the conditions set out in state law. The area of operation of such Joint Housing Authority would be an area equivalent to the total areas of operation which the housing authorities, if created separately by the cities, villages or counties establishing the Joint Authority would have. The creation of subsequent housing authorities shall not affect the area of operation or territorial jurisdiction of any existing housing authority. Whenever a Joint Housing Authority is created, it shall bear such name as the political subdivision or subdivisions creating it shall choose, and such name shall include the words Joint Housing Authority.

(B) When it is determined by resolution of the governing bodies of two or more cities, villages or counties, or any combination thereof, that it is expedient to create a Joint Housing Authority and to participate therein, the governing bodies shall appoint persons who shall be residents of the area of operations of the Authority and who shall constitute the Joint Housing Authority, and such persons shall be called Commissioners. The Commissioners shall be appointed as follows:

(1) When two political subdivisions constitute the participating members in such Joint Authority, each shall appoint two persons to act as Commissioners and such Commissioners shall elect a fifth person to act as a Commissioner;

(2) When three political subdivisions constitute the participating members in such Joint Authority, each shall appoint one person to act as a Commissioner, and such Commissioners shall elect a fourth and fifth person to act as Commissioners;

(3) When four political subdivisions constitute the participating members in such Joint Authority, each shall appoint one person to act as Commissioner and such Commissioners shall elect a fifth person to act as a Commissioner; and

(4) When five or more political subdivisions constitute the participating members in the Joint Authority, each shall appoint one person to act as Commissioner.

(C) Each Commissioner shall serve a term of five years from the date of his or her appointment. All vacancies shall be filled for the unexpired term by the entity originally appointing such Commissioner.

(1) Tenancy in a project established by a Joint Housing Authority shall not preclude the appointment of any person to serve as a Commissioner of such Joint Housing Authority.

(2) After a Joint Housing Authority has been created, additional political subdivisions may elect to participate as members of such Joint Housing Authority after compliance with Neb. RS 711523, if the majority of existing Commissioners in such Joint Housing Authority and all participating political subdivisions by their respective governing bodies consent to such additional member.

(3) A Joint Housing Authority having 12 or more Commissioners may, by resolution, establish an Executive Committee of at least five but not more than seven Commissioners.

(4) The Committee shall have such powers over the management and operation of such Joint Housing Authority as the Commissioners of such Joint Housing Authority shall specify and shall declare in the resolution.

(5) No person shall serve as a Commissioner unless he or she resides within the area of operation of the Joint Housing Authority involved.
(1993 Code, § 2-209)

§ 32.04 PLANNING COMMISSION.

There is hereby established a Planning Commission for the city.

(A) *Name.* The name of the Planning Commission shall be the "Alma City Planning Commission".

(B) *Members, term, removal and vacancies.*

The Commission shall consist of five members who shall represent insofar as is possible different professions or occupations in the city and who shall be appointed by the Mayor, by and with the approval of a three-fourths vote of the Council. (Ord. 2018-2, passed 2-7-18) (Ord. 01-059-01, passed 1-5-2000)

(1) 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 are 500 residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the governing body that 500 residents reside in the area subject to extraterritorial zoning or 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. 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. All regular members of the Commission shall serve without compensation. The term of each regular member shall be three years, except that 1/3 or fewer of the regular members of the first commission to be so appointed shall serve for terms of one year, 1/3 or fewer for terms of two years, and the remaining members for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the governing body, be removed by the Mayor with the consent of a majority vote of the members elected to the governing body 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.

(2) The Mayor may, with the approval of a majority vote of the elected members of the governing body, appoint one alternate member to the Planning Commission. The alternate member shall serve without compensation. The term of the alternate member shall be three 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 governing body. 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.

(3) A regular or alternate member of the Planning Commission may hold any other municipal office except:

- (a) Mayor;
- (b) A member of the governing body;
- (c) A member of any community redevelopment authority or limited community redevelopment authority created under Neb. RS 18-2102.01; or
- (d) A member of any citizen advisory review committee created under Neb. RS 18-2715. (Neb. RS 19-926)

(C) The Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each calendar quarter, except the governing body 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. 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.

(Neb. RS 19-927)

(D) No member of the Commission shall serve in the capacity of both the Mayor and Secretary of the Commission. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the Municipal Clerk where they shall be available for public inspection during office hours.

(E) The governing body may provide the funds, equipment, and accommodations necessary for the work of the Commission, but the expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the governing body; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts. (Neb. RS 19-928)

(1) (a) Except as provided in Neb. RS 19-930 to 19-933, the Planning 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 such municipality and including a comprehensive development plan as defined by Neb. RS 19-903;

(i) Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipality departments; and

(ii) Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports.

(b) The governing body shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission, provided that the Planning Commission shall make its recommendation so that it is received by the governing body within 60 days after the Commission begins consideration of a matter or within such other number of days as the governing body has set by ordinance.

(c) A. recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the governing body has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

(2) (a) The Commission may, with the consent of the governing body, in its own name (i) make and enter into contracts with public or private bodies, (ii) receive contributions, bequests, gifts, or grant funds from public or private sources, (iii) expend the funds appropriated to it by the municipality, (iv) employ agents and employees, and (v) acquire, hold, and dispose of property.

(b) The Commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) (a) The Commission may grant conditional uses or special exceptions to property owners for the use of their property if the governing body has, through a zoning ordinance or special ordinance, generally authorized the Commission to exercise such powers and has approved the standards and procedures adopted by the Commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized.

(b) The power to grant conditional uses or special exceptions shall be the exclusive authority of the Commission, except that the governing body may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The governing body may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

(c) An appeal of a decision by the Commission or governing body regarding a conditional use or special exception shall be made to the district court.

(Ord. 2018-6, passed 7-2-18)

(Neb. RS 19-929)

§ 32.05 COMMUNITY REDEVELOPMENT AUTHORITY.

(A) *Creation.* There is hereby created the Community Redevelopment Authority of the city.

(B) *Officers.* Five persons, all of whom shall be residents of the City of Alma, shall constitute the Authority. The five members shall be appointed by the Mayor, with the approval of the City Council. The Mayor shall designate the term of office for each member, as provided in Neb. RS 18-2102.01. The Authority shall select one of its members as Chairperson and another as Vice Chairperson. A total of four members of the Authority shall constitute a quorum for the transaction of business. The Authority shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and recommendations, which records shall be made available for public inspection during regular business hours.

(C) *Director.* The Authority shall have power to employ a Director who shall be ex officio Secretary of the Community Redevelopment Authority, and that person shall perform such duties as may be assigned by the Authority, including the necessary administrative functions described in the statutes, under which the Authority has been created.

(D) *Funds.* All income, revenue, profits and other funds received by the Authority shall be deposited with the City Treasurer as ex officio Treasurer of such Authority without commingling such money with any other money under his or her control and disbursed by him or her by check or draft only upon

warrants, orders of requisitions by the Chairperson of such Authority or other person authorized by such Authority, which shall state distinctly the purpose for which the same are drawn. A permanent record shall be kept by the Authority of all warrants, orders or requisitions so drawn, showing the date, amount, consideration and to whom payable.

(E) The Authority shall be vested with all the powers, duties and responsibilities set forth at Chapter 18, Article 21, the Community Development Law, §§ 18-2101 et seq. (Ord. 03-061-1, passed 3-6-2001)

§ 32.06 GOLF COURSE BOARD.

The Municipal Golf Course Board is hereby established for the city, hereinafter referred to as the "Board".

(A) Said Board shall consist of seven golf club members, five of whom shall be residents of the city or within the one-mile zoning jurisdiction and shall hold office for a period of three years and until a successor is appointed and qualified. The term of office of each Board member shall begin January 1 and shall expire three years thereafter. All Board members shall be appointed by the Mayor with consent of the City Council. If a vacancy occurs on the Board, the vacancy shall also be filled by appointment by the Mayor with the consent of the City Council.

(B) In the event that a Golf Course Board member is absent for more than four meetings in a calendar year or if a member does not otherwise fulfill the duties of a Golf Course Board member and a majority of the other members of the Golf Course Board pass a resolution requesting that the Mayor remove said Golf Course Board member, then the Mayor may remove said Golf Course Board member and appoint a replacement with the consent of the City Council.

(C) Said Board shall meet regularly once each calendar month on such date and at such place as its members shall determine. An annual meeting of said Board shall be held each year in the month of June, at which time the Board shall organize for the ensuing year by the election of a Chairperson and Secretary, from its membership, who shall be certified to the City Clerk. Special meetings of said Board may be called by the Chairperson or any two members under such regulations as the Board by resolution may provide. A majority of the total members of said Board shall constitute a quorum for the transaction of business. Minutes shall be kept and maintained of all actions taken and business transacted by said Board and a copy of said minutes shall be sent to the City Council after the same are prepared.

(D) The Board shall have charge of the City Municipal Golf Course and shall be responsible for the operation and maintenance of the golf course, all equipment, all buildings and the operation of any enterprises conducted in such facilities. The Board shall have the power to establish by resolution, rules for the management, care and use of the municipal golf course and its facilities. A copy of the any rules and regulations shall be filed in the office of the City Clerk and posted or otherwise published in such form and manner as determined by the Board.

(E) A separate enterprise fund for the Board shall be established and maintained by the City Clerk. All income and expense shall be accounted for pursuant to generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board.

(1) The Board shall submit all claims for expenses to the City Council for approval.

(2) The Board shall also submit an annual budget to the City Council in accordance with the time prescribed for such budgets by Nebraska Budget Laws for municipal entities.

(3) The Board shall not have the power to incur any indebtedness without the prior approval of the City Council.

(Ord. 05-212-1, passed 5-21-2002; Ord. 12-074-1, passed 12-7-2004; Ord. 2014-7, passed 11-6-2013; Ord. 2015-8, passed 1-21-2015)

§ 32.07 TREE BOARD.

There is hereby created and established a Tree Board for the city, which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the City Council. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Mayor with the approval of the City Council for the unexpired term. (Ord. 11-052-1, passed 11-5-2002)

FIRE DEPARTMENT

§ 32.20 OPERATION AND FUNDING.

The municipality operates the Municipal Fire Department through the Municipal Fire Chief and firefighters. The governing body, 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 actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The municipality is authorized to enter in agreement with the appropriate Rural Fire District for the mutual aid and protection of the municipality and the residents of the Rural Fire District.

(1993 Code, § 3-501)

Statutory reference:

Related provisions, see Neb. RS 17-147, 17-718, 17-953

§ 32.21 FIRE CHIEF.

The Fire Chief shall manage the Fire Department and it shall be his or her duty to inform the governing body when any of the fire engines, hose, ladders or other apparatus needs repair. Upon the written consent and directive of the governing body, the Fire Chief shall cause the repair, improvement or maintenance of the said equipment and shall personally supervise and approve the same. It shall be the duty of the Fire Chief to come before the governing body not less often than annually to give an annual report to the governing body of the general condition and the proposed additions or improvements recommended by him or her and to seek approval for new members added to the Fire Department since his or her last report to the City Council.

(1993 Code, § 3-502) (Ord. 2014-9, passed 1-15-2014)

§ 32.22 MEMBERSHIP.

(A) The members of the Alma Volunteer Fire Department shall not vote to approve more than 40 members, subject to the review and approval of the governing body not less than annually. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the municipality for the purpose of providing them with worker's compensation and other benefits. Each full member shall be entitled to a life insurance policy. Such policy shall provide a minimum death benefit of ten thousand dollars (\$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 sixty-five (65). The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the fire department of the municipality or district.

(B) Notwithstanding the 40 members mentioned in subsection A of this Ordinance, the Fire Department shall consist of so many members as may be decided by the governing body. The members may organize themselves in any way they may decide, subject to the review of the governing body. They may hold meetings and engage in social activities with the approval of the governing body. The Secretary shall upon request keep a record of all meetings and shall make a report to the governing body of all meetings and activities of the Fire Department.

(C) The governing body may, for services rendered, compensate or reward any members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the governing body. The members of the Fire Department shall during the time of a fire or great public danger, have and exercise the power and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code, or the laws of the state; provided, however, volunteer firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the state or of the municipality.

(1993 Code, § 3-503) (Ord. 2014-10, passed 1-15-2014) (Ord. 2016-9, passed 8-1-2016)

Statutory reference:

Related provisions, see Neb. RS 33-139.01, 35-101 through 35-103, 35-108

§ 32.23 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.
(1993 Code, § 3-504)

§ 32.24 FIGHTING DISTANT FIRES.

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 Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the municipality as may be designated by the governing body.
(1993 Code, § 3-505)

§ 32.25 PRESERVATION OF PROPERTY.

(A) Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property.

(B) The said officials may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire, and the official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.
(1993 Code, § 3-506)

§ 32.26 IMPERSONATING FIREFIGHTERS.

(A) It shall be unlawful for any person to falsely personate a firefighter by wearing a badge or other apparel usually worn by a firefighter for the purpose of obtaining any benefit whatsoever.

(B) Nothing herein shall be construed to prohibit the theatrical representation of a firefighter for bona fide entertainment purposes when there is no intent to defraud.
(1993 Code, § 3-507) Penalty, see § 32.99

Statutory reference:

Related provisions, see Neb. RS 28-609

§ 32.27 MANDATORY ASSISTANCE.

Any official of the Municipal Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects or fails to assist the Fire Department after a lawful order to do so, he or she shall be deemed guilty of an offense.

(1993 Code, § 3-508)

§ 32.28 POWER OF ARREST.

(A) 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.

(B) The said 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.

(1993 Code, § 3-509)

§ 32.29 FIRE INVESTIGATION.

(A) 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 there has been substantial property damage.

(B) All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident or design to the State Fire Marshal.

(C) Such investigation shall begin immediately after the occurrence of such 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.

(D) The officer making the investigation of fires occurring within the municipality shall immediately notify the State Fire Marshal and shall, within one 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 such further information as he or she may call for.

(1993 Code, § 3-510) (Ord. 2014-11, passed 2-5-2014)

Statutory reference:

Related provisions, see Neb. RS 81-506

BOARD OF ZONING ADJUSTMENT**§ 32.40 NAME.**

(A) There is hereby established a Board of Zoning Adjustment for the city.

(B) The name of the Board of Zoning Adjustment shall be the “Alma City Board of Zoning Adjustment”.

(Ord. 12-079-01, passed 12-7-1999)

§ 32.41 MEMBERS; TERM, REMOVAL, VACANCIES.

(A) The Board of Adjustment shall consist of five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the City Council upon written charges and after public hearings.

(B) 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 such members 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.

(C) One member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914.

(D) Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meeting of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board which shall be the City Clerk’s office and shall be a public record.

(Ord. 12-079-01, passed 12-7-1999)

§ 32.42 APPEALS TO BOARD; RECORD; HEARING; STAYS.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the Zoning Administrator. Such

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 of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of 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 of Adjustment after the notice of appeal shall have been filed with him or her that by reason of fact stated in the certificate a stay would, in his or her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment 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 of Adjustment 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.

(Ord. 12-079-01, passed 12-7-1999)

§ 32.43 POWERS; JURISDICTION ON APPEAL; VARIANCE WHEN PERMITTED.

(A) The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council 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 structure;

(2) To hear and decide, in accordance with the provisions of any 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 such piece of property, the strict application of any enacted regulation under Neb. RS 19-901, 19-903 to 19-904.1, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(B) No such variance shall be authorized by the Board, unless it finds that:

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

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

(3) The authorization of such 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

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

(C) No variance shall be authorized unless the Board of Adjustment 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.

(D) In exercising the above mentioned power such board may, in conformity with the provisions of Neb. RS 19-901 to 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 the powers of the officer from whom the appeal is taken.

(E) The concurring vote of four members of the Board of Adjustment 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 such regulation.

(Ord. 12-079-01, passed 12-7-1999)

§ 32.44 APPEAL; PROCEDURE.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city, may present to the District Court of the county a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. Such petition must be presented to the court within 15 days after the filing of the decision in the office of the Board of Adjustment which shall be the office of the City Clerk. Upon the filing of such petition a summons shall be issued and be served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of such summons, the Board of Adjustment shall file an answer to said petition which shall admit or deny the substantial averments of the petition, and shall state the contentions of the Board of Adjustment with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing an answer, the court shall proceed to hear and determine the cause without delay and shall render judgement thereon according to the forms of law. If, upon the

hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with its findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Said appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the Board of Adjustment and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

(Ord. 12-079-01, passed 12-7-1999)

§ 32.45 PUBLIC MEETING LAW REQUIREMENTS.

The Board of Zoning Adjustment shall follow all provisions of the public meeting law.
(Ord. 12-079-01, passed 12-7-1999)

HOUSING AGENCY

§ 32.60 RIGHTS AND DUTIES.

(A) The previously created and existing Housing Authority shall continue to exist as a Housing Agency under the Nebraska Housing Agency Act, and shall hereafter conduct its operations consistent with the said Act. It shall be named the “City Housing Agency”, and all property, rights and land, buildings, records and equipment, and any funds, money, revenue, receipts or assets of the Housing Authority shall belong to the City Housing Agency as successor.

(B) All obligations, debts, commitments and liabilities of the Housing Authority shall become obligations, debts, commitments and liabilities of the City Housing Agency.

(C) Any previously passed resolutions of the Housing Authority, and any actions taken by the Housing 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 exists to the operative date of LB-105, shall be a lawful resolution or action of the City Housing Agency, binding upon and enforceable by or against the City Housing Agency, notwithstanding that such provisions of the Nebraska Housing Agency Act.

(D) All Commissioners of the Housing Authority and all officers, technical experts, directors and other appointees or employees of the Housing Authority holding office or employment by virtue of any

such prior law on January 1, 2000 shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.
(Ord. 04-040-1, passed 4-4-2000)

§ 32.61 HOUSING AGENCY BOARD.

(A) The Mayor shall appoint, subject to confirmation by the Council, five persons who, along with the Resident Commissioner, if any, shall constitute the Housing Agency Board, and such persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a five-year term of office or until his or her successor is duly appointed and qualified; provided that all vacancies shall be filled for the unexpired terms.

(B) The Council may appoint one of its members to serve as one of the five members of such Housing Agency for such term as the Council may determine.

(C) No person shall serve as a Commissioner unless he or she resides within the area of City Housing Agency. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk, and such certificate shall be conclusive evidence of the proper appointment of such Commissioner. The 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 as provided by §§ 81-1175 through 81-1177, R.R.S. A majority of Commissioners shall constitute a quorum of the Agency for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Agency upon the vote of the majority of the Commissioners present and voting, unless the by-laws of the Agency or the ordinance creating the Agency require a larger number.

(D) 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 Agency. The Agency may also employ legal counsel for said services as it may require. It may employ accountants, appraisers, technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office.

(E) The Agency may delegate such other powers and duties to its agents or employees, as it may deem proper. During his or her tenure and for one year thereafter, no Commissioner, officer or employee of the Housing Agency 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 a housing project.

(F) If any such Commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to his or her appointment or employment as Commissioner, officer or employee, he or she shall immediately disclose his or her interest in writing to the Agency, and such disclosure shall be entered upon the minutes of the Agency, and he or she shall

not participate in any action by the Agency relating to the property or contract in which he or she has any such interest. Any violation of the provisions of this section shall constitute misconduct in office.

(G) This prohibition shall not apply to the acquisition of any interest in notes or bonds of the Agency issued in connection with any housing project, or to the execution of the 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. This section shall not be construed to preclude, regulate or restrict the participation of any tenant of the Agency from serving, if appointed, as a Commissioner of such authority, but he or she may not participate in any decision solely affecting his or her individual interest.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.62 APPOINTMENT OF RESIDENT COMMISSIONER.

(A) A sixth Commissioner, to be known as the Resident Commissioner, shall be appointed to the governing body by the Mayor, subject to confirmation by the Council.

(B) To select the initial Resident Commissioner, or to fill subsequent vacancies in the position, the Housing Agency shall notify any Resident Advisory Board or other resident organization and all adult persons directly assisted by such Agency to the effect that the position of Resident Commissioner is open and that if any such person is interested in being considered as a candidate for the position, such person should notify the Housing Agency, in writing, within 30 days of the person's willingness to be considered and to serve as Resident Commissioner.

(C) The names of all persons interested who have notified the Housing Agency of their interests in so serving shall be forwarded to the Mayor and the Resident Commissioner shall be appointed from the list of names, subject to confirmation by the Council.

(D) Upon the appointment of a Resident Commissioner, the certificate of appointment shall state the term is for five years or when no longer an eligible resident, whichever occurs first.

(E) In the event that no qualified person has submitted his or her name to the Housing Agency as being interested as a candidate for the position, and the Housing Agency has received no notification of interest in serving as a Resident Commissioner by any person, no Resident Commissioner shall be required to be selected. In the event a Resident Commissioner is appointed and resigns from the position prior to completion of the appointed term, or is no longer an eligible resident, or is otherwise disqualified or removed from the Board, and a vacancy is created, the Housing Agency shall solicit new candidates for the position following the same procedure set forth above.

(F) In the event that no Resident Commissioner is selected and the position is not filled, the Agency shall re-notify all adult persons directly assisted by the Agency that the position of Resident

Commissioner is open and solicit these persons for candidates for the position not less than once annually.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.63 REMOVAL OF COMMISSIONERS.

The Mayor may remove a Commissioner for neglect of duty, misconduct in office, or conviction of any felony, in the manner prescribed hereinafter. The Mayor shall send a notice of removal to such Commissioner, which notice shall set forth the charges against him or her. Unless within the ten days from the receipt of such notice, the Commissioner files with the Clerk a request for a hearing before the Council, the Commissioner shall be deemed removed from office. If a request for a hearing is filed with the Clerk, the Council shall hold a hearing not sooner than ten days after the date a hearing is requested, at which time the Commissioner shall have the right to appear in person or by counsel and the Council shall determine whether the removal shall be upheld. If the removal is not upheld, the Commissioner shall continue to hold his or her office.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.64 STATUS OF AGENCY.

The City Housing Agency is a political subdivision, distinct and separate for the city. The Housing Agency shall constitute a public 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 Agency Act.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.65 HOUSING AGENCY ACT ADOPTED.

Except as otherwise herein specifically provided, the definitions, terms, provisions and conditions set forth in the state statutes under the Nebraska Housing Agency Act are hereby adopted by reference, as they now exist, or may hereafter be amended, for the operation and management of the City Housing Agency, and the housing Agency Commission shall fully comply with and be governed by the terms of the Nebraska Housing Agency Act.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.66 POLICIES AND PROCEDURES.

The Housing Agency shall adopt and promulgate fair and equitable policies establishing a plan for selection of applicants. The plan shall include standards for eligibility, procedures for prompt notification of eligibility or disqualification, and procedures for maintaining a waiting list of eligible applicants for

whom vacancies are not immediately available. Eligible applicants shall be offered available vacancies as provided in such policies.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.67 RULES AND REGULATIONS.

The Housing Agency may adopt, promulgate and enforce rules and regulations related to carrying out the purposes of the local housing agency and exercise of its powers, and may amend or repeal such rules and regulations from time to time.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.68 ANNUAL REPORTS.

Withing six months after the end of the Housing Agency's fiscal year, the Housing Agency shall prepare an annual report. This report shall contain financial statements and the results of the operations. The report shall be approved by the Board of Commissioners and signed by the Chairperson. The annual report of the Housing Agency shall be a public record and available for inspection and copying by members of the general public at the Housing Agency office. The annual report shall be placed on file with the City Clerk upon completion thereof.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.69 FILING OF PLANS.

The Housing Agency shall file with the City Clerk a copy of the five-year plan and the annual plan required by § 511 of The Federal Quality Housing and Work Responsibility Act of 1998. The plans shall be filed within 30 days after the date the plan is filed with the Department of Housing and Urban Development.

(Ord. 04-040-1, passed 4-4-2000)

§ 32.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of §§ 32.01 through 32.08, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 dollars for each

offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 2-301) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 33: MUNICIPAL LIBRARY

Section

- 33.01 Operation and funding
- 33.02 Books
- 33.03 Rules and regulations
- 33.04 Books issued
- 33.05 Damaged and lost books
- 33.06 Book labeling
- 33.07 Book removal
- 33.08 Cost of use
- 33.09 Money collected

- 33.99 Penalty

§ 33.01 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal library through the Library Board.

(B) The governing body, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation.

(C) The revenue from the said tax shall be known as the “Library Fund”, and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library.

(D) The Library Fund shall at all times be in the custody of the Municipal Treasurer.

(E) The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary, and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation.

(F) All actions by the Board shall be under the supervision and control of the governing body.
(1993 Code, § 3-801)

Statutory reference:

Related provisions, see Neb. RS 51-201, 51-202, 51-211

§ 33.02 BOOKS.

The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library. Records shall be kept of any such surplus, damaged, defective, obsolete or duplicate books so disposed of.

(1993 Code, § 3-802)

Statutory reference:

Related provisions, see Neb. RS 51-207

§ 33.03 RULES AND REGULATIONS.

(A) The Library Board shall establish rules and regulations for the governing of the municipal library for the preservation and efficient management thereof.

(B) It shall fix and impose by general rules, penalties and forfeitures for injury to the library grounds, rooms, books or other property, or for failure to return a book.

(C) All fees, penalties and forfeitures may be collected in civil action in the event of failure, neglect or refusal to pay the said assessments.

(1993 Code, § 3-803)

Statutory reference:

Related provisions, see Neb. RS 51-205, 51-214

§ 33.04 BOOKS ISSUED.

(A) The librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than 14 days without being renewed.

(B) No book may be renewed more than two consecutive times by any person without the special permission of the librarian or an authorized employee of the municipal library.

(1993 Code, § 3-804) Penalty, see § 33.99

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 33.05 DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

(1993 Code, § 3-805) Penalty, see § 33.99

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 33.06 BOOK LABELING.

It shall be the duty of the librarian to label, or cause to be labeled, with a printed or stamped label, proof of municipal ownership on each book, and also to write the said proof on the thirtieth page of each volume.

(1993 Code, § 3-806)

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 33.07 BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library, without the consent of the librarian, or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of an offense.

(1993 Code, § 3-807) Penalty, see § 33.99

Statutory reference:

Related provisions, see Neb. RS 51-211

§ 33.08 COST OF USE.

(A) The municipal library shall be free for the use of the inhabitants of the municipality.

(B) The librarian may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof.

(1993 Code, § 3-808) Penalty, see § 33.99

Statutory reference:

Related provisions, see Neb. RS 51-201, 51-212

§ 33.09 MONEY COLLECTED.

Any money collected by the library shall be turned over monthly by the librarian to the Municipal Treasurer along with a report of the sources of the revenue.

(1993 Code, § 3-809)

Statutory reference:

Related provisions, see Neb. RS 51-209

§ 33.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 3-901) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 34: CITY ELECTIONS

Section

- 34.01 Generally
- 34.02 Notice
- 34.03 Registered voters; qualifications
- 34.04 Special elections
- 34.05 Election of officers; certifications required
- 34.06 Partisan ballot; when allowed; requirements
- 34.07 Candidate filing forms; deadlines; filing officer
- 34.08 Filing fee
- 34.09 Petition, write-in and other candidates for general election ballot; procedures
- 34.10 Recall procedure
- 34.11 Exit polls

Statutory reference:

Election Act, see Neb. RS 32-101

§ 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 32-404)

§ 34.02 NOTICE.

The notice of election required to be published by the Election Commissioner or County Clerk pursuant to Neb. RS 32-802 shall serve as the notice requirement for all city elections which are held in conjunction with the statewide primary or general election.

§ 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 in the county of his or her residence.
(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)

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 under this section 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)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

No later than January 5 of each even-numbered year, the City Council shall certify to the Secretary of State, the Election Commissioner, or the County Clerk 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. The Secretary of State, Election Commissioner, and County Clerk shall prescribe the forms to be used for certification to him or her.
(Neb. RS 32-404)

§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective city officers shall be nominated and elected on a nonpartisan basis unless the city 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. Such 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 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) (1) 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) below.

(2) 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.

(3) 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.

(4) 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)

Statutory reference:

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

Withdrawal after filing, see Neb. RS 32-622

§ 34.08 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) (Ord. 2015-12, passed 5-4-2015)

§ 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 § 34.07. 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)

(Ord. 2015-11, passed 5-4-2015)

§ 34.10 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) (1) The Mayor, any member of the City Council, and any other elected official of the city may be removed from office by recall pursuant to this section.

(2) The recall procedure and special election provisions of this section shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election.
(Neb. RS 32-1302)

(C) (1) A petition demanding that the question of removing the Mayor, a member of the City Council, or any other elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for City Council office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such 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 official 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 official sought to be removed 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 official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official 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 official 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 official whose removal is sought and the City Council that sufficient signatures have been gathered. Notification of the official sought to be removed 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 official's usual place of residence and mailing a copy by first-class mail to the official's last-known address.

(2) The City Council shall order an election to be held not less than 30 nor more than 75 days after the notification of the official 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 City 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 official whose removal is sought resigns before the recall election is held, the City Council may cancel the recall election if the City 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 City Council 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 elected official 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 official named on the ballot or the election results in a tie, the official 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 official 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 official 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.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot 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 a majority or more of the members of the City Council or any other 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 official 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 same 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 official 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 six months prior to the incumbent filing deadline for the office.
(Neb. RS 32-1309)

§ 34.11 EXIT POLLS.

No person shall conduct an exit poll, a 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 or, if inside the polling place or building, within 100 feet of any voting booth.
(Neb. RS 32-1525) Penalty, see § 10.99

CHAPTER 35: TAX AND FINANCE

Section

Fiscal Management

- 35.01 Fiscal year
- 35.02 Proposed budget statement; contents; filing
- 35.03 Proposed budget statement; hearing; adoption; certification of tax amount
- 35.04 Adopted budget statement; filing; certification of amount of tax
- 35.05 Expenditures prior to adoption of budget
- 35.06 Budget procedure
- 35.07 Appropriations
- 35.08 All-purpose levy; allocation; abandonment; extraordinary levies
- 35.09 Property tax; certification of amount
- 35.10 Expenditures
- 35.11 Contracts and purchases; bidding and other requirements
- 35.12 Annual audit; financial statements
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- 35.21 Collection of special assessments; procedure
- 35.22 Property tax levy and request; authority to set
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Specific Taxes and Fees

- 35.40 City sales and use tax
- 35.41 Fees for variance applications, zoning amendments, special use permits and
subdivisional applications

- 35.99 Penalty

FISCAL MANAGEMENT**§ 35.01 FISCAL YEAR.**

The fiscal year of the municipality for the purposes of taxation and appropriations, shall begin August 1 of each year.

(1993 Code, § 1-801)

Statutory reference:

Related provisions, see Neb. RS 17-701

§ 35.02 PROPOSED BUDGET STATEMENT; CONTENTS; FILING.

(A) The governing body shall prepare in writing and file with the Municipal Clerk, not later than August 1 of each year on forms prescribed and furnished by the Auditor of Public Accounts, a proposed budget statement containing the following information, except as provided by state law:

(1) For the immediate two prior fiscal years, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to each of the several funds and separately stated as to each such source, and for each fund: the cash balance of such fund at the beginning and end of the year; the amount received by taxation of personal and real property allocated to each fund; and the amount of actual expenditure for each fund;

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

(3) For the immediately ensuing fiscal year, 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, to be allocated to each of the several funds, and for each fund: The actual or estimated cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, 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: for the purpose of paying the principal or interest on bonds issued by the governing body; and for all other purposes; and

(5) A uniform summary of the proposed budget statement which shall include a separate total for each fund, and a grand total of all funds maintained by the governing body.

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

(C) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual balances at the beginning of the year 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 such amount shall be shown on the proposed budget statement filed 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 balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year.

(1993 Code, § 1-802) (Ord. 5-034-1, passed 5-3-1994; Ord. 07-017-11, passed 7-1-1997; Ord. 07-078-06, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 13-504, 13-505

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

(A) The governing body 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 four calendar days prior to the date set for hearing in a newspaper of general circulation within the municipality's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. 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 governing body'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 such 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 governing body 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 such changes shall be published within 20 calendar 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 such changes,

(D) Upon approval by governing body, 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 Governing body of such errors. The governing body shall

correct any such error as provided in § 35.34. 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 governing body.
(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)
(1993 Code, § 1-803) (Ord. 07-078-04, passed 7-7-1998) (Ord. 2018-9, passed July 2, 2018)
Statutory reference: Related provisions, see Neb. RS 13-506, 13-507

§ 35.04 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 governing body 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 governing body; and
 - b) the amount to be levied for all other purposes.
- (2) Proof of publication shall be attached to the statements.

(B) If the prime rate published by the Federal Reserve Board is 10% or more at the time of the filing and certification required under this subsection, the governing body, 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 governing body shall not certify an amount of tax more than 1% greater or lesser than the amount determined under municipal ordinance.

(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 governing body may designate one of its members to perform any duty or responsibility required of the governing body by this section.
(Neb. RS 13-508)

(1993 Code, § 1-804) (Ord. 5-034-2, passed 5-3-1994; Ord 07-017-12, passed 7-1-1997; Ord. 07-078-05, passed 7-7-1998) (Ord. 2018-10, passed July 2, 2018)
Statutory reference:

Related provisions, see Neb. RS 13-508

§ 35.05 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the governing body in September, the governing body may expend any balance of cash on hand for the current expenses of the municipality. Except as provided in division (B) below, such 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. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(B) The restriction on expenditures in division (A) above may be exceeded upon the express finding of the governing body that expenditures beyond the amount authorized are necessary to enable the municipality 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 governing body 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 municipality in excess of that authorized by any other statutory provision.

(1993 Code, § 1-804.1) (Ord. 01-175-3, passed 1-17-1995)

Statutory reference:

Related provisions, see Neb. RS 13-509.01, 13-509.02

§ 35.06 BUDGET PROCEDURE.

The Manual of Instructions for City/Village: Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

(1993 Code, § 1-805)

§ 35.07 APPROPRIATIONS.

(A) The governing body shall, within the last quarter of each fiscal year, pass an ordinance, to be termed the annual appropriation bill, in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the municipality, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance shall specify the objects and purposes for which such appropriations are made and the amount appropriated for each purpose. Any balance unexpended and unobligated at the end of the fiscal year shall, unless reappropriated, lapse to the General Fund.

(B) The annual appropriation bill shall not be amended without a majority vote of the governing body after a public hearing. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the municipality. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements and extensions and additions to such functions and shall not be included in the annual appropriation bill.

(1993 Code, § 1-806) (Ord. 5-034-3, passed 5-3-1994)

Statutory reference:

Related provisions, see Neb. RS 17-706

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

(A) The governing body has decided to certify to the County Clerk for collection one 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.

(B) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The governing body 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 governing body deems wisest and best.

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

(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.
(1993 Code, § 1-807) (Ord. 07-078-10, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 19-1309 through 19-1312

§ 35.09 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The governing body 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.

(1993 Code, § 1-812) (Ord. 07-078-07, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 17-702

§ 35.10 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.

(B) No expenditure for any improvement to be paid for out of the General Fund of the municipality shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (1993 Code, § 1-813)

Statutory reference:

Related provisions, see Neb. RS 17-708

§ 35.11 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 municipality, 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 such 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 such 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 City Council 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 such enlargement or improvement is assessed to the property; or (2) for the purchase of equipment used in the construction of such 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 such enlargement or improvement without advertising for bids if the price is:

(1) \$30,000 or less;

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

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

(4) \$120,000 or less and the municipal 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 seven days prior to the bid closing in a legal newspaper in or of general circulation in the municipality. 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 Mayor and City Council 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 municipal, 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.

(H) Any municipal 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 to 81-162;

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

(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 purposes 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.

(1993 Code, § 1-814) (Ord. 07-078-14, passed 7-7-1998) (Ord. 2018-__, passed July __, 2018)

Statutory reference:

Related provisions, see Neb. RS 17-568.01, 17-568.02, 18-1756

§ 35.12 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) The governing body shall cause an audit of the municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made

on a cash or accrual method at the discretion of the governing body. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year.

(B) The accountant making the audit shall submit not less than three copies of the audit report to the governing body. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

(C) The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the municipality as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter, be open for public inspection. One copy shall be filed with the Auditor of Public Accounts. Such unaudited statement shall be filed with the Auditor of Public Accounts in a form prescribed by him or her. The unaudited statement of cash receipts and disbursements shall become a part of the public records of the Municipal Clerk and shall at all times thereafter be open and subject to public inspection.

(D) Every governing body that is required herein to submit to an audit of its accounts shall provide and file with the Municipal Clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(1993 Code, § 1-815)

Statutory reference:

Related provisions, see Neb. RS 19-2901 through 19-2909, 13-606

§ 35.13 CLAIMS.

(A) All claims against the municipality shall be presented to the governing body 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.

(B) 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 governing body 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.

(C) 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 exists obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be

drawn in excess of 85%, but not more than 100% of the current levy for the purpose for which said warrant is drawn.

(1993 Code, § 1-816)

Statutory reference:

Related provisions, see Neb. RS 17-714, 17-715

§ 35.14 WARRANTS.

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 it is payable, and the purpose of the expenditure. 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 such fund.

(1993 Code, § 1-817)

Statutory reference:

Related provisions, see Neb. RS 17-711

§ 35.15 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 such money shall be used for no other purpose unless to reimburse the municipality for money expended for any such improvement.

(1993 Code, § 1-818)

Statutory reference:

Related provisions, see Neb. RS 17-710

§ 35.16 SINKING FUNDS.

(A) The governing body, 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 assessed 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 or repair of the approved uses as authorized by state law.

(B) To initiate the said Sinking Fund, the governing body 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 the improvement, the estimated cost, the

amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

(C) Notice of the said proposition shall be published in its entirety three 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 governing body may then proceed to establish the said 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 governing body in the manner provided by state law.

(D) 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 governing body 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.

(1993 Code, § 1-819)

Statutory reference:

Related provisions, see Neb. RS 19-1301 through 19-1304, 77-2337, 77-2339

§ 35.17 DEPOSIT OF FUNDS.

(A) The governing body, at its first meeting in each fiscal year, shall designate some one or more banks or capital stock financial institutions of approved and responsible standing in which the Municipal Treasurer shall keep at all times, subject to payment on his or her demand, all money held by him or her as Municipal Treasurer. If there is one or more banks or capital stock financial institutions located in the municipality which apply for the privilege of keeping such money and give bond or give security for the repayment of deposits as provided in this section, such banks or capital stock financial institutions shall be selected as such depositories. The Municipal Treasurer shall not give a preference to any one or more of them in the money he or she may so deposit.

(B) The governing body shall require from all banks or capital stock financial institutions: a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof; security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The governing body shall approve such bond or giving of security. The Municipal 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. The fact that a stockholder, director or other officer of such bank or capital stock financial institution is also serving as Mayor, as a member of the governing body, or as any other officer of the municipality shall not disqualify such bank or capital stock financial institution from acting as a depository for such municipal funds.

(C) The insurance afforded to depositors in banks or capital stock 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 by such corporation. For deposits so insured, no other surety bond or other security shall be required. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(D) The Municipal Treasurer may deposit the funds received and held by him or her, by virtue of such office, with a cooperative credit association situated within the boundaries of the county, or a county adjoining thereto, where the municipality is situated, if the municipality is the depositor, as well as in a commercial state or national bank if the cooperative credit association performs all the conditions precedent required by the laws of this state of commercial state and national banks to qualify them to receive deposits of such public funds. It shall not be necessary for the municipality, in making such a deposit of public funds, to purchase shares in such cooperative credit association or become a member thereof, and such a cooperative credit association is hereby authorized and empowered to receive such money under such conditions.

(1993 Code, § 1-820) (Ord. 07-078-12, passed 7-7-1998)

§ 35.18 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

(A) The Municipal 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 or capital stock financial institution in the state to the extent that such certificates of deposit or time deposits are insured 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 manner provided in this section. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(B) For the security of the fund so deposited, the Municipal Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the municipality and be approved by the Mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the municipality held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the governing body for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the Municipal Clerk.

(C) In lieu of the bond required by division (B) above, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit

Security Act to the Municipal Clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the Federal Deposit Insurance Corporation.

(D) The Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus one-half of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of such bank or capital stock financial institution. The Treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the Mayor as provided in division (B) above or which has, in lieu of a surety bond, given security as provided in division (C) above.

(1993 Code, § 1-820.1) (Ord. 07-078-13, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 17-720

§ 35.19 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 such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body 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.

(1993 Code, § 1-821)

Statutory reference:

Related provisions, see Neb. RS 17-608, 17-609, 77-2341

§ 35.20 BOND ISSUES.

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

(1993 Code, § 1-822)

§ 35.21 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(A) The municipality shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(B) The municipality 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.

(1993 Code, § 1-823) (Ord. 07-017-13, passed 7-1-1997)

§ 35.22 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(A) After publication and hearing on the proposed budget statement and within the time prescribed by law, the governing body shall file with the levying board on or before October 14 of each year and file with the Auditor of Public Accounts a certified copy of any resolution passed setting a tax levy which shall not exceed the maximum levy prescribed by state law and a statement reconciling the levy set by the governing body with the adopted budget statement filed as otherwise required by law. The levy shall be set to fund property tax requirements in the adopted budget to four to eight places to the right of the decimal point. The governing body shall use the final adjusted values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The governing body may designate one of its members to perform any duty or responsibility required of such body by this division (A).

(B) 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 governing body passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least five days prior to the hearing. The hearing notice shall contain the following information: the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and 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. Any resolution setting a tax request under this division (B) shall be certified and forwarded to the County Clerk prior to October 14

of the year for which the tax request is to apply. Any tax levy which is not in compliance with this division (B) and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606. (1993 Code, § 1-824) (Ord. 07-017-14, passed 7-1-1997; Ord. 07-078-09, passed 7-7-1998) *Statutory reference:*

Related provisions, see Neb. RS 13-508, 77-1601.02

§ 35.23 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 \$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 order from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay that judgment, to the extent such 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 Division 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).

(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 Off-Street 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) above, except that 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 Division of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For off-street parking districts established under the Off-street 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 city levy authority under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary

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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 such 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) above 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 - 2/3rds 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.

(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) above, and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five 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 to 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) above, 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 - 2/3rds 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 such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such 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)

(1993 Code, § 1-825) (Ord. 07-078-08, passed 7-7-1998) (Ord. 2018-8, passed July 2, 2018)

§ 35.24 CREDIT CARDS; AUTHORITY TO ACCEPT.

(A) The governing body may authorize municipal officials to accept credit cards, charge cards, or debit cards 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 such 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 shall be collected by the municipal official.

(C) The governing body may choose to accept credit cards, charge cards or debit cards as a means of cash payment to any facility it operates in a proprietary capacity 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 such service.

(E) The governing body may choose to accept the types of credit cards, charge cards or debit cards accepted by and the services provided to the state pursuant to the contract entered into by the state with one or more credit card, charge card or debit card companies or third-party merchant banks for services on behalf of the state and those political subdivisions that choose to participate in the state contract. The governing body may choose not to participate in the state contract and may choose types of credit cards, charge cards and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card or debit card companies, or third-party merchant banks for the provision of such services.

(C) 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. 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 such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

(1993 Code, § 1-826) (Ord. 07-078-15, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 13-609

§ 35.25 PAYMENT OF CERTAIN TYPES OF CLAIMS WITHOUT PRIOR APPROVAL OF THE CITY COUNCIL.

(A) Routine and reoccurring claims against the city, including, but not limited to, payroll, insurance premiums and payments for natural gas or electricity purchased, may be paid from the appropriate fund budgeted and appropriated for such purpose without prior approval of the specific expenditures by the City Council. All such expenditures shall be reported to the City Council at the next City Council meeting.

(B) Any negotiable instruments issued for the payment of such claims shall be signed by the City Treasurer or City Administrator and shall also be signed by the Mayor or President of the City Council. (Ord. 03-1610-2, passed 3-16-2010)

SPECIFIC TAXES AND FEES

§ 35.40 CITY SALES AND USE TAX.

The city, an incorporated municipality, shall impose an additional sales and use tax of 0.5% upon the same transactions within the city, on which the state is authorized to impose a tax, whereby said tax

will be applied to the General Fund for the purposes of infrastructure improvements to improve or replace the municipal swimming pool.
(Ord. 2013-4, passed 11-20-2012)

§ 35.41 FEES FOR VARIANCE APPLICATIONS, ZONING AMENDMENTS, SPECIAL USE PERMITS AND SUBDIVISIONAL APPLICATIONS.

The following charges shall be applicable for applications filed, seeking the following city services:

(A) Application for variance: \$25;

(B) Application for special use permit: \$50;

(C) Application to amend the zoning ordinance: \$75; and

(D) Application for subdivisions: at cost incurred by city for any fees or costs.

(Ord. 2013-5, passed 11-20-2012)

§ 35.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 1-1001) (Ord. 10-0708-2, passed 10-7-2008)

