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CHAPTER 30: ELECTED AND APPOINTED OFFICIALS

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GENERAL PROVISIONS**§ 30.001 BONDS; REQUIREMENTS; OFFICE OF OFFICE.**

(A) (1) The city may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The city may pay the premium for such bonds or insurance coverage.

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

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

(c) 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.

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

1. Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;
2. Of all appointed officers, within 30 days after their appointment; and
3. Of officers elected at any special election and city officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(b) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Art. XVII, § 5, of the Constitution of the state.

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

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

(6) (a) The approval of each official bond shall be endorsed upon such bond by the officer approving the same and no bond shall be filed and recorded until so approved.

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

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

(8) No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval.

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

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

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

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

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

(14) If the sureties on the official bond of any appointed officer of the city, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which

the officer may give a new bond or additional sureties as directed. If the officer fails, refuses or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, the office shall, by such failure, refusal or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the office.

(1976 Code, § 1-301)

(B) 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.”

(1976 Code, § 1-302)

(Ord. 1401, passed 1-7-2008; Ord. 1437, passed 12-23-2013)

Statutory reference:

Bonds, see Neb. RS 11-104, 11-105, 11-109 through 11-118, 17-604

Oath of office, see Neb. RS 11-101

§ 30.002 OFFICIAL CORPORATE SEAL.

(A) 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 Cozad, Nebraska”.

(B) 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.

(1976 Code, § 1-401)

Statutory reference:

Related provisions, see Neb. RS 17-502

§ 30.003 COMPENSATION.*(A) Municipal officials.*

(1) 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. 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.

(2) 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.
(1976 Code, § 1-901)

(B) Conflict of interest.

(1) No officer of the municipality shall be permitted to benefit from any contract to which the municipality is a party when the consideration of the said contract is in an amount in excess of \$10,000 in any one year, and no contract may be divided for the purpose of evading the requirements of this section.

(2) Any such interest in a contract shall void any obligation on the part of the municipality, and such officer of the municipality shall be guilty of a Class I misdemeanor; provided, the receiving of deposits, cashing of checks and buying and selling of the warrants and bonds of the municipality shall not be considered a contract under the provisions of this section.

(3) No official shall receive any pay or compensation from the municipality other than his or her salary.

(4) 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; provided that, ownership of less than 1% of the outstanding stock of any class in a corporation shall not constitute an interest within the meaning of this section.
(1976 Code, § 1-902)

(C) *Salaries of officials and employees.* The salaries of officials and employees shall be set by City Council.

(1976 Code, § 1-903)

(Ord. 627, passed 9-6-1979; Ord. 691, passed 8-5-1982; Ord. 966, passed 12-5-1988; Ord. 1025, passed 1-21-1991; Ord. 1040, passed 8-5-1991; Ord. 1047, passed 11-20-1991; Ord. 1056, passed 3-23-1992; Ord. 1062, passed 7-20-1992; Ord. 1092, passed 7-12-1993; Ord. 1095, passed 8-9-1993; Ord. 1484A, passed 9-9-2019)

Statutory reference:

Related provisions, see Neb. RS 17-108.02, 17-611, 17-612, 18-301 through 18-312

MEETINGS

§ 30.015 DEFINITIONS.

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

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

(1976 Code, § 1-501)

PUBLIC BODY.

(1) The governing body of the municipality;

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

(3) Advisory committees of the bodies listed above. 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.

(1976 Code, § 1-502)

(Ord. 727, passed 9-1-1983; Ord. 1076, passed 3-8-1993)

Statutory reference:

Related provisions, see Neb. RS 84-1409(1), 84-1409(2)

§ 30.016 PUBLIC MEETINGS; NOTICES; PUBLICATION.

(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. 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. 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. 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. Except for items of an emergency nature, the agenda shall not be enlarged later than 24 hours before the scheduled commencement of the meeting. The governing body shall have the right to modify the agenda to include items of an emergency nature only, at such public meetings. 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. 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. Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier; except that, the city may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. 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. The record of the Municipal Clerk shall show how each member voted or that the member was absent and did not vote.

(1976 Code, § 1-503)

(B) 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. 727, passed 9-1-1983; Ord. 1479, passed 2-5-2018)

Statutory reference:

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

§ 30.017 CLOSED SESSIONS.

(A) (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. 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) (1) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken.

(2) For purposes of this section, **FORMAL ACTION** means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order or ordinance or formation of a position or policy, but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) above.

(C) (1) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for:

(a) The protection of the public interest; or

(b) The prevention of needless injury to the reputation of an individual.

(2) 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.

(E) (1) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this subchapter or the Open Meetings Act, being Neb. RS 84-1407 to 84-1414.

(2) No closed session, informal meeting, chance meeting, social gathering, email, fax or electronic communication shall be used for the purpose of circumventing the requirements of this subchapter or the Act, being Neb. RS 84-1407 to 84-1414.

(F) This subchapter does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power.

(1976 Code, § 1-504) (Ord. 727, passed 9-1-1983; Ord. 1077, passed 3-8-1993; Ord. 1148, passed 2-6-1995; Ord. 1355, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 84-1410

§ 30.018 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. The provisions of § 30.020 of this chapter shall be complied with in conducting emergency meetings.

(B) 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.

(1976 Code, § 1-505) (Ord. 727, passed 9-1-1983)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 30.019 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.

(1976 Code, § 1-506)

Statutory reference:

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

§ 30.020 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.

(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.

(1976 Code, § 1-507)

Statutory reference:

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

§ 30.021 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.

(1976 Code, § 1-508)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 30.022 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 § 30.017 of this chapter 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. A body is not required to allow citizens to speak at each meeting, nor may it forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may, however, require any member of the public desiring to address the body to identify himself or herself. 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. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place. 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. 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. (1976 Code, § 1-509) (Ord. 727, passed 9-1-1983)

Statutory reference:

Related provisions, see Neb. RS 84-1412

§ 30.023 REGULAR MEETINGS.

(A) The meetings of the City Council shall be held in the meeting place of the municipality. Regular meetings shall be held on the first and third Monday of each month at the hour of 7:00 p.m.

(B) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

(1976 Code, § 1-510) (Ord. 665, passed 9-17-1981; Ord. 894, passed 4-8-1986; Ord. 1193, passed 1-22-1996; Ord. 1484, passed 2-20-2019)

Statutory reference:

Related provisions, see Neb. RS 17-105

§ 30.024 ORDER OF BUSINESS.

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

(1976 Code, § 1-511)

§ 30.025 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.

(1976 Code, § 1-512)

Statutory reference:

Related provisions, see Neb. RS 17-107.02(9)

§ 30.026 ORGANIZATION.

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. The Mayor elected for the new municipal year shall call the meeting to order. 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. 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". 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. 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. 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.

(1976 Code, § 1-513)

CITY COUNCIL**§ 30.040 ACTING PRESIDENT.**

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.

(1976 Code, § 1-102)

Statutory reference:

Related provisions, see Neb. RS 17-148

§ 30.041 SELECTION AND 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.

(1976 Code, § 1-103)

Statutory reference:

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

§ 30.042 ORGANIZATION.

City Council members of the municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Council member 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. 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. Each ward of the municipality shall be represented by at least two Council members. 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.

(1976 Code, § 1-104)

Statutory reference:

Related provisions, see Neb. RS 17-104

ELECTED OFFICIALS**§ 30.055 CITY MAYOR.*****(A) Powers and duties.***

(1) The Mayor shall preside at all meeting 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.

(2) 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 and 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, and approve the remainder thereof, and the item or items vetoed may be passed by the Council over the veto as in other cases.

(3) The Mayor shall, from time to time, communicate to the City Council such information and recommend such measure 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.

(4) The Mayor shall have the power, when he or she deems it necessary, to require any officer to 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.

(5) 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 of 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.

(6) 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.

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

(8) 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 City Council.

(9) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the state or as the Council may by resolution confer upon the Mayor.

(1976 Code, § 1-101)

(B) *Vacancy.*

(1) 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 until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.

(2) 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.

(3) 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 § 30.056 of this chapter.

(1976 Code, § 1-106)

(C) *Election; qualifications; term.*

(1) The Mayor shall be elected as provided in the Election Act, being Neb. RS Ch. 32. The Mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. The Mayor shall be a resident and registered voter of the city.

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

(1976 Code, § 1-108)

(Ord. 765, passed 9-6-1984; Ord. 1426B, passed 12-5-2011; Ord. 1443, passed 12-23-2013; Ord. 1455B, passed 2-9-2015)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-110, 17-111, 17-112, 17-113, 14-114, 17-115, 17-117, 32-533

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

§ 30.056 VACANCY.

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

(B) (1) Except as otherwise provided in divisions (C) or (D) below, vacancies in municipal elected offices shall be filled by the governing body for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the governing body at a regular or special meeting and shall appear as a part of the minutes of the meeting. The governing body shall at once give public notice of the vacancy by causing to be published in a

newspaper of general circulation within the municipality or by posting in three public places in the municipality the office vacated and the length of the unexpired term.

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

(C) The Mayor and governing body may, in lieu of filing a vacancy in a city elected office as provided in division (B) above, call a special election to fill the vacancy.

(D) If vacancies exist in the offices of one-half or more of the members of the governing body, the Secretary of State shall conduct a special municipal election to fill those vacancies. (1976 Code, § 1-105) (Ord. 751, passed 1-6-1984; Ord. 1015, passed 1-21-1991; Ord. 1461, passed 2-8-2016)

Statutory reference:

Related provisions, see Neb. RS 32-569

§ 30.057 QUALIFICATIONS; HOLDING OTHER ELECTED OFFICE.

(A) Elected officials shall be residents and registered voters of the city. No person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office, unless that person is presently serving as a member of the Legislature or in an elective office described in Art. IV, § 1, of the Constitution of the state. A legislator or an Art. IV elected office holder may simultaneously serve in another elective office, except an election held in conjunction with the annual meeting of a public body. Whenever an incumbent of the legislature or an Art. IV elected office holder assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(B) Members of the Council shall hold no other employment with the city; provided, however, that, this prohibition shall not apply to members of the Volunteer Fire Department. Any Council member who

ceases to possess any of the qualifications required by this section or who has been convicted of a crime while in office shall forthwith forfeit such office. The Council shall be the judge of the election and qualifications of its members, subject to review by the courts.
(1976 Code, § 1-107) (Ord. 1014, passed 1-21-1991; Ord. 1455A, passed 11-24-2014)

APPOINTED OFFICIALS

§ 30.070 APPOINTMENT; TERMS; REMOVAL; POWERS AND DUTIES.

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

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

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

(b) The officers hold office for one year unless sooner removed.

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

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

(1976 Code, § 1-201) (Ord. 538, passed 4-21-1977; Ord. 1426B, passed 12-5-2011)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-604

§ 30.071 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.

(1976 Code, § 1-202) (Ord. 752, passed 9-6-1984; Ord. 1016, passed 1-21-1991)

Statutory reference:

Related provisions, see Neb. RS 17-108.02

§ 30.072 CLERK-TREASURER.

(A) The appointive offices of Municipal Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the governing body by § 30.071 of this chapter.

(B) The office 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.

(C) The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

(1976 Code, § 1-203)

§ 30.073 CITY CLERK.

(A) The City Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the City Council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, being Neb. RS 84-1201, the Clerk may transfer the journal of the proceedings of the City Council or to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the city.

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

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

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

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

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

(E) The Clerk shall permit no records, public papers or other documents of the city kept and preserved in his or her office to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefor, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

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

(G) The Clerk shall issue and sign all licenses, permits and occupation tax receipts authorized by law and required by the city ordinances. He or she shall collect all occupation taxes and license money,

except where some other city officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the city and the purpose for which they have been issued.

(H) (1) The Clerk shall keep in a book with a proper index, copies of all notices required to be published or posted by the Clerk by order of the City Council or under the ordinances of the city.

(2) Each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

(I) (1) The Clerk shall receive all objections to creation of paving districts and other street improvements.

(2) He or she shall receive the claims of any person against the city, and in the event that the claim is disallowed in part or in whole, the Clerk shall notify the claimant or his or her agent or attorney by letter within five days after the disallowance, and the Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(1976 Code, § 1-204) (Ord. 1075, passed 3-8-1993; Ord. 1444, passed 12-23-2012)

Statutory reference:

Related provisions, see Neb. RS 17-605, 18-1701, 19-1102, 19-1103

§ 30.074 CITY TREASURER.

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

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

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

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

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

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

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

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

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

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

(E) (1) The Treasurer shall keep all money belonging to the city separate and distinct from his or her own money.

(2) He or she shall cancel all bonds, coupons, warrants and other evidences of debt against the city, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer", with the date of payment written or stamped thereon.

(3) He or she shall collect all special taxes, allocate special assessments to the several owners and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. (1976 Code, § 1-205) (Ord. 1445, passed 12-23-2013)

Statutory reference:

Related provisions, see Neb. RS 17-606, 19-1101, 19-1103, 77-2201, 77-2202, 77-2209, 77-2210, 77-2212

§ 30.075 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 ensure 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.

(1976 Code, § 1-208)

Statutory reference:

Related provisions, see Neb. RS 17-610

§ 30.076 MUNICIPAL PHYSICIAN.

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

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

(1976 Code, § 1-209)

Statutory reference:

Related provisions, see Neb. RS 17-121

§ 30.077 MUNICIPAL POLICE CHIEF.

The Municipal Police Chief shall direct the police work of the municipality and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector, except in the event the municipality appoints another person. He or she shall file the necessary complaints in cases arising out of violations of municipal ordinances, and shall make all necessary reports required by the municipal ordinances or the laws of the state.

(1976 Code, § 1-210)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-121

§ 30.078 MUNICIPAL POLICE OFFICERS.

The municipal police, whether regular, or special shall have the power to arrest all offenders against the laws of the state, or the municipality, by day or by night, and keep the said offenders in the municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the state or the municipality. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every municipal police officer shall be expected to be conversant, and knowledgeable with the municipal and state laws and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal police officers shall have the duty to file such complaints and reports as may be required by the municipal ordinances and the laws of the state. Any municipal police officer who shall willfully fail, neglect or refuse to make an arrest, or who purposely, and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined. It shall be unlawful for the governing body to retain any municipal police officer in that position after he or she

shall have been duly convicted of the willful violation of any law of the United States of America, the state or any ordinance of the municipality, except minor traffic violations. It shall be the duty of every municipal police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the municipal police by the municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the Police Chief. The governing body may from time to time provide the municipal police with such uniforms, equipment and transportation as may be essential in the performance of their official duties.

(1976 Code, § 1-211)

Statutory reference:

Related provisions, see Neb. RS 17-213, 17-118, 17-124

§ 30.079 MUNICIPAL FIRE CHIEF.

(A) 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.

(B) 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.

(C) 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 a misdemeanor punishable by a fine.

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

(1976 Code, § 1-212)

Statutory reference:

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

§ 30.080 MUNICIPAL RESCUE SQUAD CHIEF.

The Municipal Rescue Squad Chief shall be elected by the members of the rescue squad. He or she shall have the responsibility for the emergency units, rescue personnel and the transfer squad; shall order all necessary equipment and authorize repairs to said equipment; and shall be responsible for maintaining all units and equipment in proper condition for immediate use.

(1976 Code, § 1-212.01) (Ord. 1113, passed 8-8-1994)

§ 30.081 MUNICIPAL ENGINEER.

The Municipal Engineer shall make all surveys, estimates and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He or she shall accurately make all plats, sections and maps as may be necessary under the direction of the governing body. Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality, and make all surveys, estimates and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, 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. When a municipality has appointed a Board of Public Works, and the governing body has by ordinance so authorized, the Board shall have the right to utilize its own engineering staff, and shall have the right to hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the Board of Public Works. Whenever the governing body has authorized, the Board of Public Works shall have the right to purchase material and employ labor for the enlargement and improvement of the water and electric departments.

(1976 Code, § 1-213) (Ord. 720, passed 9-1-1983)

Statutory reference:

Related provisions, see Neb. RS 17-150, 17-405, 17-568.01, 17-919, 81-839

§ 30.082 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, bridges, 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.

(1976 Code, § 1-214) (Ord. 721, passed 9-1-1983)

Statutory reference:

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

§ 30.083 WATER-SEWER COMMISSIONER.

(A) The appointive offices of Municipal Water Commissioner and Municipal Sewer Commissioner are hereby combined and merged, in accordance with the authority granted the governing body by § 30.071 of this chapter.

(B) The office 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.

(C) The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.
(1976 Code, § 1-215)

§ 30.084 MUNICIPAL WATER COMMISSIONER.

(A) The Municipal Water Commissioner shall have general supervision and control over the municipal water system. 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 Water Commissioner shall be subject to the general directives and control of the Utilities Superintendent. The Municipal Water Commissioner 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. He or she shall make a detailed report to the Utilities Superintendent 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 may think proper.

(B) The Water Commissioner, who may be removed at any time by the Mayor, 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.

(C) The Water Commissioner shall perform such additional duties as may be prescribed by the governing body or Utilities Superintendent.
(1976 Code, § 1-216)

Statutory reference:

Related provisions, see Neb. RS 17-107, 17-541, 17-543, 19-1405

§ 30.085 MUNICIPAL SEWER COMMISSIONER.

The Sewer Commissioner 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 Utilities Superintendent. He or she shall at least every six months, make a detailed report to the Utilities Superintendent 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 Utilities Superintendent or 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. (1976 Code, § 1-217)

Statutory reference:

Related provisions, see Neb. RS 17-107

§ 30.086 MUNICIPAL LIGHT COMMISSIONER.

The Municipal Light Commissioner shall have the immediate control and supervision over all employees and property that make up the municipal electric system, subject to the general control and directives of the Utilities Superintendent. He or she shall at least every six months, make a detailed report to the Utilities Superintendent on the condition of the electrical 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 or Utilities Superintendent may delegate to him or her. He or she may be removed at any time by the Mayor.

(1976 Code, § 1-218)

Statutory reference:

Related provisions, see Neb. RS 17-107

§ 30.087 MUNICIPAL LANDFILL SUPERINTENDENT.

The Municipal Landfill Superintendent shall have the immediate control and supervision of the municipal landfill, and of all dumping of garbage, refuse, waste and rubbish thereon, subject to the general control and directives of the governing body or City Administrator. He or she shall, at least every six months, make a detailed report to the governing body on the condition of the landfill and shall direct their attention to such improvements, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue dumping permits if the governing body should require them and shall inspect and supervise all work done to improve or extend the landfill. He or she shall have such other duties as the governing body may delegate to him or her. He or she may be removed at any time by the Mayor.

(1976 Code, § 1-219)

Statutory reference:

Related provisions, see Neb. RS 17-107

§ 30.088 MUNICIPAL STREET COMMISSIONER.

The Municipal Street Commissioner shall, subject to the orders and directives of the governing body or City Administrator, 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 or City Administrator 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 or City Administrator may direct. (1976 Code, § 1-220)

Statutory reference:

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

§ 30.089 MUNICIPAL UTILITIES SUPERINTENDENT.

(A) A Utilities 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. The Utilities Superintendent may be removed at any time by the Mayor. 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 Utilities Superintendent's duties over the following departments shall be as stated herein.

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system, and shall be primarily responsible for its economic operation and prudent management. All actions, decisions and procedures of the Utilities Superintendent shall be subject to the general directives and control of the Board of Public Works. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the governing body may from time to time hire to operate and maintain the 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 Board of Public Works, 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 Utilities 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 or Board of Public Works.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control, and supervision over all the employees, and property that make up the municipal sewer system, subject to the general control, and directives of the Board or Public Works. He or she shall at least every six months, make a detailed report to the Board of Public Works 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 or Board of Public Works 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) *Electrical System.* The Utilities Superintendent shall have the immediate control and supervision over all employees and property that make up the municipal electric system, subject to the general control and directives of the Board of Public Works. He or she shall, at least every six months, make a detailed report to the Board of Public Works on the condition of the electrical 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 or Board of Public Works may delegate to him or her.
(1976 Code, § 1-221)

§ 30.090 MUNICIPAL 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 premises 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.
(1976 Code, § 1-223)

§ 30.091 CITY ADMINISTRATOR.

(A) *Office created.* There is created the office of the City Administrator for the city; such officer shall be appointed by the Mayor, with the consent of the City Council. A City Administrator may be

removed at the pleasure of the Mayor. The Administrator shall be appointed on a basis of merit alone and the Administrator shall devote his or her full time to the diligent prosecution of the office and shall have no other conflicting or distracting employment.

(B) *Purpose of office.* The purpose of the office of the City Administrator is to provide the centralization of the administrative responsibilities of the city, such Administrator to be the administrative head of city government under the direction and control of the Mayor and Council, the City Administrator being responsible thereto for the efficient conduct of the office.

(C) *Duties.* The duties of the City Administrator shall be established by the Mayor and City Council and shall, include, but not be limited to, the following.

(1) The City Administrator shall make and keep an up-to-date an inventory of all property, real and personal, owned by the city. The City Administrator shall further act as purchasing agent for the purchase of all supplies, goods, wares and merchandise, material and equipment which may be required for the various departments, divisions or services of the city.

(2) The City Administrator shall keep the Mayor and Council fully advised as to the financial condition of the city and its needs. The City Administrator shall be ultimately responsible for the preparation of the annual estimate of revenues and expenditures, together with the proposed budget for presentation to the Mayor and Council prior to consideration and adoption. When a budget has been adopted and an appropriation ordinance passed, the City Administrator shall be responsible for the control of budgeted expenditures.

(3) The City Administrator shall serve as the public relations officer of city government and, in such capacity, shall investigate and adjust all complaints filed against any employee, department, division or service of the city and cooperate with all community organizations whose aim and purpose is to advance the best interests of the city and its people, and shall attend meetings of such organizations, if, such attendance is deemed necessary and desirable. These public relation responsibilities shall include, but not be limited to, issuing press releases, public appearances and representing the city with citizens, community groups and representatives of these organizations.

(4) The City Administrator shall attend all meetings of the Mayor and Council, with the duty of reporting any matter concerning city affairs under the supervision or direction of the City Administrator. Further, the City Administrator shall attend all meetings of the Planning Commission, Board of Adjustment, Housing Authority and Board of Public Works, together with any other meetings of city departments, divisions and services of city government and all employees, to make recommendations to the Mayor and Council. The City Administrator shall faithfully carry out directives and recommendations of the Mayor and Council in coordinating the administrative functions and operations of the various departments.

(5) The City Administrator shall procure facts and submit proposals for long range programs and improvements to the Mayor and Council including the administration of updating of the city's comprehensive development plan. In this regard, the City Administrator shall make recommendations to the Mayor and Council in any matter believed to be necessary and expedient.

(6) The City Administrator shall recommend to the Mayor and Council the appointment and/or dismissal of any department heads over which the City Administrator exercises jurisdiction. Appointment and dismissal of said department heads will be made upon the recommendation of the Mayor as confirmed by the city council. The City Administrator may appoint and dismiss all subordinate employees of the city, as well as provide the transfers of such employees from one department to another; except that, he or she shall not discharge those employees covered under the civil service act of the state. The City Administrator shall have the duty and right to investigate and make recommendations to the Mayor and Council regarding activities of any employee of the city covered by the Civil Service Act of the state, including the filling of vacant positions. In all of these responsibilities in regard to subordinate employees, the City Administrator will give the deference to the considerations of the appropriate department head.

(7) The City Administrator shall administer and be responsible for all departments and divisions of city government which are under the direction of the Mayor and Council, including, but not limited to, the Water and Sanitation Department, the Electrical Department, the Street, Park and Recreation Department, the office of the City Clerk-Treasurer, the office of the Building Inspector, the Library Department, the Housing Authority and the Police and Fire Departments, except as insofar as such jurisdiction and administration conflicts with the civil service law pertaining to Police and Fire Departments.

(8) The City Administrator shall prepare and recommend to the Mayor and Council a classification and compensation plan, keeping and maintaining appropriate records of the employment status of each employee of the city.

(9) (a) The City Administrator shall see to the fair and impartial enforcement of ordinances of the city and the faithful performance of any contract or obligation in regard to the operation of the city.

(b) In this capacity, the City Administrator will work with the duly Appointed City Attorney on all legal matters affecting the operation and administration of city government.

(10) The City Administrator shall exercise general supervision over all public buildings, streets and other properties which are under control and jurisdiction of the Mayor and Council.

(11) The City Administrator shall be responsible for the preparation and submission to the Mayor and Council at the end of each month and of the fiscal year of a complete financial report for the city and the appropriate filing thereof.

(12) The City Administrator shall work with all city department heads in determining strategic and economic forecasts for the city through the prioritized projects and activities, development and installation of work procedures and policies, costs control and preparing for the city's long and short term improvement plans and recommendations.

(13) The City Administrator shall, at the request of the Mayor and Council, conduct performance evaluations for department heads and any other employees of the city, making recommendations on appropriate actions in relation to said evaluations.

(14) The City Administrator shall coordinate a variety of personnel activities including, but not limited to, the application of personnel policy language, selection procedures, position classification systems, salary administration, a performance evaluation system, review of disciplinary acts and the management of the city's risk management programs.

(15) The City Administrator shall coordinate and provide input in regard to activities promoting economic development within the city, in conjunction with the Cozad Development Corporation, including the preparation and administration of grants and intergovernmental funding activities.

(16) The City Administrator shall perform such other duties and responsibilities and exercise such other powers, as may be delegated by the Mayor and Council.

(D) *Compensation.* The salary of the City Administrator shall be fixed by resolution of the Mayor and Council, and shall be payable in the same manner as other city employees. (1976 Code, § 1-224) (Ord. 1320, passed 9-8-2003; Ord. 1472, passed 8-7-2017)

§ 30.092 DEPUTY MUNICIPAL CLERK.

There is hereby created the position of Deputy Municipal Clerk who shall be appointed by the Mayor with the consent of the Council. The Deputy Municipal Clerk shall serve under the direct supervision of the Municipal Clerk and shall assume all duties of the Municipal Clerk in the absence of the Municipal Clerk. The Deputy Municipal Clerk may be removed from office at any time by the Mayor. The Deputy Municipal Clerk shall be bonded in the same amount and in the same manner as the Municipal Clerk.

(1976 Code, § 1-225) (Ord. 732, passed 9-15-1983)

CHAPTER 31: ORGANIZATIONS

Section

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§ 31.01 STANDING COMMITTEES.

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

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

- (1) Finance;
- (2) Fire;
- (3) Health;
- (4) Parks;

(5) Police;

(6) Sanitation;

(7) Streets and Alleys; and

(8) Water, Light and Sewer.

(1976 Code, § 2-101)

§ 31.02 LIBRARY BOARD.

(A) The Library Board shall be appointed or elected. 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. If the members are to be elected, the usual election procedures of the municipality shall be followed. The Board shall consist of five members who shall be residents of the municipality. The members of the Library Board shall serve a four-year term of office as specified by state statutes. 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 their duties. At the time of the Board's first meeting in July of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at 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.

(B) 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.

(C) (1) 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.

(2) No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(1976 Code, § 2-201) (Ord. 668, passed 9-17-1981)

Statutory reference:

Related provisions, see Neb. RS 51-202

§ 31.03 PLANNING COMMISSION.

(A) (1) If the governing body adopts zoning or other regulations pursuant to Neb. RS 19-901 et seq., the Planning Commission shall consist of five, seven or nine regular members, as specified by the governing body by ordinance, who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the governing body. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulations. 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, one-third or fewer of the regular members of the first Commission to be so appointed shall serve for terms of one year, one-third 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 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 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.

(B) 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.

(C) 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.

(D) 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.

(E) (1) (a) Except as provided in Neb. RS 19-930 to 19-933, the Planning Commission shall:

1. 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;

2. 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

3. 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 finding and hold public hearings before submitting its final report.

(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:

1. Make and enter into contracts with public or private bodies;
2. Receive contributions, bequests, gifts or grant funds from public or private sources;
3. Expend the funds appropriated to it by the municipality;
4. Employ agents and employees; and
5. Acquire, hold and dispose of property.

(b) The Commission may, on its own authority, make arrangements consistence with its programs, 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 witness, 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 classification 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.

(1976 Code, § 2-202) (Ord. 577, passed 9-21-1978; Ord. 1151, passed 2-6-1995; Ord. 1190, passed 1-22-1996; Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 19-924 through 19-929

§ 31.04 BOARD OF ADJUSTMENT.

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

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

(C) The Board shall adopt rules in accordance with the provisions of this section and sections Neb. RS 19-901 to 19-914. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Chairperson or, in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. It shall be the duty of the Secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and to keep records of

the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate.

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

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

(1) To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; except that, the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception;

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

(3) When 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 zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships 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.

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

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

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

(c) 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

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

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

(G) In exercising the powers granted in this section, the Board may, in conformity with 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. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

(H) Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912. (1976 Code, § 2-203) (Ord. 578, passed 9-21-1978; Ord. 1191, passed 1-22-1996; Ord. 1354, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 19-908, 19-909, 19-910

§ 31.05 BOARD OF HEALTH.

(A) The governing body shall appoint a Board of Health which shall consist of five members.

(B) The members of the Board shall include the Mayor, who shall serve as Chairperson; the Police Chief, who shall serve as secretary and quarantine officer; a physician who shall serve as the medical advisor; and the President of the City Council; and a veterinarian, who shall serve as the veterinary advisor. 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 June of each year. 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. 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. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the municipality. Included in the duties of the Board shall be to enforce the rules and regulations, and to provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and shall actively enforce all laws of the state and ordinances of the municipality relating 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. No member of the Board of Health shall hold more than one Board of Health position.

(1976 Code, § 2-104) (Ord. 563, passed 9-22-1977; Ord. 1322, passed 11-10-2003)

Statutory reference:

Related provisions, see Neb. RS 17-121

§ 31.06 BOARD OF PUBLIC WORKS.

The governing body shall appoint the Board of Public Works. The Board shall consist of not less than three, nor more than six, members who are residents of the municipality. The members of the Board shall serve a four-year term of office, at a salary set by ordinance of the governing body. No member of the Board shall ever be financially interested in a contract entered into by the Board on behalf of the municipality. The members of the Board shall be required to take an oath to faithfully perform the duties of their office before entering upon the discharge thereof. At the time of the Board's first meeting in June of each year, the Board members shall organize by selecting from among their number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any time. The minutes, or a sufficient abstract thereof, of each meeting shall be published in a legal newspaper of general circulation in the municipality within 30 days after it is held. 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. A majority of the Board members shall constitute a quorum for the transaction of business. It shall be the duty of the Board to operate any utility owned by the municipality and the exercise all powers conferred by law upon the municipality for the operation of utilities to same extent as the governing body, except the Board shall not make an expenditure other than or ordinary operational expenses exceeding \$40,000 without first obtaining the approval of the governing body. The Board may, in its discretion, employ a Commissioner to operate one or more of the municipal utilities and who shall be under the immediate authority of the Board of Public Works. 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 other duties as the governing body may, from time to time, designate. No members of the governing body shall serve as a member of the Board of Public Works while serving a term of office as a member of the governing

body. No member of the Board of Public Works shall serve in the capacity of both the Chairperson and Secretary of the Board.

(1976 Code, § 2-106) (Ord. 1023, passed 1-7-1991; Ord. 1107, passed 3-21-1994)

Statutory reference:

Related provisions, see Neb. RS 17-801 through 17-808, 17-810

§ 31.07 BOARD OF PARK COMMISSIONERS.

(A) The governing body shall appoint the Board of Park Commissioners. The Board shall consist of not less than six members, who shall be resident freeholders in the municipality. The members of the Board shall serve a three-year term of office. Two members shall be appointed originally for a term of one year; two members for a term of two years; and two members for a term of three years. Board members 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 their duties. At the time of the Board's first meeting in June of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson or any four of the Board Members. The Board shall provide the general care, management and supervision of all parks and recreational facilities, but excluding baseball and softball fields, and supervision of the municipal cemetery. The Board shall have the power and authority to limit and regulate the number of cemetery lots that may be owned by the same person in the municipal cemetery, to prescribed rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots and to prohibit any diverse or improper use of the municipal cemetery; provided that, no religious tests shall be made as to the ownership of lots, the burial therein and the ornamentation of graves. The Board shall use all the revenue received from the sale of cemetery lots, gifts to the cemetery or other income to the cemetery for the care, management and administration of the municipal cemetery. All actions of the Board shall be subject to the review and supervision of the governing body, and the Board shall be responsible for making such reports and performing such additional duties as the governing body may designate. No member of the governing body shall serve as a member of the Board of Park Commissioners while serving a term of office as a member of the governing body. No member of the Board of Park Commissioners shall serve in the capacity of both the Chairperson and Secretary of the Board.

(B) The governing body shall appoint as a sub-committee of the Board of Park Commissioners, a Baseball/Softball Committee consisting of six members who shall be resident freeholders in the municipality. Each member shall serve a one-year term and will serve without compensation. The Baseball/Softball Committee shall be responsible for the management and supervision of all baseball and softball leagues within the municipality. All actions of the Baseball/Softball Committee shall be subject

to the review and supervision of the governing body and said Committee shall be responsible for making such reports and performing such additional duties as the Board of Park Commissioners and the governing body shall require. The city shall be responsible for the general care and management of all baseball and softball facilities and for allocating maintenance responsibilities for those facilities.

(1976 Code, § 2-108) (Ord. 662, passed 6-4-1981; Ord. 1035, passed 6-17-1991; Ord. 1090, passed 7-12-1993; Ord. 1451, passed 3- -2014)

§ 31.08 AIRPORT AUTHORITY BOARD.

(A) The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the municipality for the purpose of aviation operation, air navigation and air safety operation. The Board is a body corporate and politic, constituting a public corporation and an agency of the municipality. The Board shall consist of five members.

(B) Members of the Board shall be nominated and elected in the manner provided by law for the election of other elected officials and shall take office at the same time as the officers of such city each municipal election year. Members of the Board shall be residents of the municipality and shall serve a term of six years. Two members of the Board shall be elected in each municipal election year; provided that, in each third election year, one member only shall be elected to the Airport Authority Board. Any vacancy on the Board resulting from any other cause than the expiration of a term of office, shall be filled by temporary appointment by the Mayor, with the approval of the City Council, until a successor can be elected at the next general municipal election to serve the unexpired portion of the term. A member of the Board may be removed from office for incompetence, neglect of duty or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the City Council, in the District Court of the county. The Board shall have such other powers and duties as may be prescribed by law.

(1976 Code, § 2-109) (Ord. 952, passed 9-26-1988)

Statutory reference:

Related provisions, see Neb. RS 3-501 through 3-514

§ 31.09 CITY TREE BOARD.

(A) *In general.*

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

COMMUNITY FOREST MANAGER. The official representative of the Tree Board and as such is responsible for administration of the community forestry program.

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between the property lines on either side of all streets, avenues or ways within the city.

(2) *Creation and establishment of a City Tree Board.* There is hereby created and established a City Tree Board, which shall consist of nine members, citizens and residents of the city, who shall be appointed by the Mayor with the approval of the City Council.

(3) *Term of office.* The term of the nine persons to be appointed by the Mayor shall be three years; except that, the term of three of the members appointed to the first Board shall be for only one year and the term of three members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

(4) *Compensation.* Members of the Tree Board shall serve without compensation.

(5) *Duties and responsibilities.*

(a) It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, replacement, maintenance and removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive city tree plan.

(b) The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

(6) *Operation.* The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(1976 Code, § 2-110)

(B) *Management of community forest resource.*

(1) *Street tree species to be planted.* The city shall maintain a list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

(2) *Distances and clearances for planting.*

(a) Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway or street.

(b) No street trees shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersection of curbs or curblines.

(c) No street tree shall be planted closer than ten feet from any fireplug.

(d) No street tree shall be planted within ten feet of any point on a line on the ground immediately below any overhead utility wire, or within ten lateral feet of any underground water line, sewer line, transmission line or other utility.

(3) *Public tree care.*

(a) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares and public grounds, as may be necessary to ensure the public safety.

(b) The Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is seriously affected with any fatal disease.

(c) The abutting property owners shall have the right to perform normal tree care on all street trees.

(4) *Permits required.* No person shall plant a street tree or any other tree in public right-of-way without first obtaining a permit from the City Clerk. There will be no fee for such permit.

(5) *Compensatory payments.* No person shall remove any public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of trees shall be determined by the community forest manager in accordance with regulations considering the species, location, size and condition of trees adopted by the Tree Board. If no suitable location exists in the vicinity of the tree removed or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the city equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into the Park Fund and used solely for the purpose of enhancing the community forest.

(6) *Tree topping.* It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such

a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical shall be exempted from this section.

(7) *Clearance over streets and walkways.* Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of 8 feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public way that abut their property.

(8) *Dead or diseased tree removal.* The city shall remove or cause to be removed any dead or diseased tree within the city limits. **DISEASED TREES** are defined as those trees that may constitute a hazard to life and property and represent a potential threat to other trees within the city due to the presence of a fatal disease (e.g., Dutch Elm disease, Chestnut Blight). The Tree Board will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within 60 days of notification. In the event of failure to remove by the owner, the city shall have the authority to remove such trees and charge the costs of removal to the owner or owners or levy the cost against the real estate as a special assessment, collectible in the normal fashion for special assessments.

(9) *Removal of stumps.* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(10) *Interference with the Tree Board.* It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees within the community forest, as authorized in this section.

(11) *Access.* It shall be unlawful to any person to prevent, delay or interfere with access to private property by the city or its representatives in the legal performance of any section of this ordinance.

(12) *Review by City Council.* The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Council who may hear the matter and make final decision.

(1976 Code, § 2-111)

(Ord. 1096, passed 9-13-1993)

§ 31.10 HOUSING AGENCY.

(A) *Rights and duties of Housing Agency.* The previously created and existing Housing Authority shall continue to exist as a Housing Agency under the state's Housing Agency Act, being Neb. RS 71-1572 to 71-15,168 and shall hereafter conduct its operations consistent with the said Act, being Neb.

RS 71-1572 to 71-15,168. It shall be named the “Cozad 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’s Housing Agency as successor. All obligations, debts, commitments and liabilities of the Housing Authority shall become obligations, debts, commitments and liabilities of the city’s Housing Agency. Any previously passed resolutions of the Housing Authority and any actions taken by the Housing Authority prior to 1-1-2000 with regard to any project or program which is to be completed within or to be conducted for a 12-month period following 1-1-2000 and which resolution or action is lawful under state law as it exists prior to the operative date of LB-105 shall be a lawful resolution or action of the city’s Housing Agency, binding upon and enforceable by or against the city’s Housing Agency, notwithstanding that such resolution or action is inconsistent with, not authorized or prohibited under the provisions of the state’s Housing Agency Act, being Neb. RS 71-1572 to 71-15,168. All Commissioners of the Housing Authority and all officers, legal counsel, technical experts, directors and other appointees or employees of the Housing Authority holding office or employment by virtue of any such prior law on 1-1-2000 shall be deemed to have been appointed or employed under the state’s Housing Agency Act, being Neb. RS 71-1572 to 71-15,168.
(1976 Code, § 2-307)

(B) *Housing Agency Board.* The Mayor/President shall appoint, subject to confirmation or denial of 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 Commissioners 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. 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. No person shall serve as a Commissioner unless he or she resides within the area of operation of the city’s 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 Neb. RS 81-1179 thru 81-1177. 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. 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. 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 contact or proposed contact relating to a housing project. If any such Commissioners,

officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as Commissioner, officer or employee, he or she shall immediately disclose his or her interest in writing to the 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. 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.

(1976 Code, § 2-308)

(C) *Appointment of resident Commissioner.* A sixth Commissioner, to be known as the Resident Commissioner, shall be appointed to the governing body by the President of the City Council, subject to confirmation or denial by the Council. 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. The names of all persons interested who have notified the Housing Agency of their interests in so serving shall be forwarded to the President of the Council and the Resident Commissioner shall be appointed from the list of names, subject to confirmation by the Council. 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. 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 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 candidate(s) for the position following the same procedure set forth above. In the event that no Resident Commissioner is selected and the position is unfilled, the Agency shall renotify 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.

(1976 Code, § 2-309)

(D) *Removal of Commissioners.* The Mayor/President may remove a Commissioner for neglect of duty, misconduct in office or conviction of any felony, in the manner prescribed hereinafter. The Mayor/President shall send a notice of removal to such Commissioner, which notice shall set forth the

charges against him or her. Unless within 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. (1976 Code, § 2-310)

(E) *Autonomy of Agency.* The city's Housing Agency is a political subdivision, independent from the city and operated by the Housing Agency. 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 state's Housing Agency Act, being Neb. RS 71-1572 to 71-15,168. (1976 Code, § 2-311)

(F) *Housing Agency Act adopted.* Except as otherwise herein specifically provided, the definitions, terms, provisions and conditions set forth in the state statutes under the state's Housing Agency Act, being Neb. RS 71-1572 to 71-15,168 are hereby adopted by reference, as they now exist, or may hereafter be amended, for the operation and management of the city's Housing Agency, and the Housing Agency Commission shall fully comply with and be governed by the terms of the state's Housing Agency Act, being Neb. RS 71-1572 to 71-15,168. (1976 Code, § 2-312)

(G) *Policies and procedures.*

(1) The Housing Agency shall adopt and promulgate fair and equitable policies establishing a plan for selection of applicants.

(2) 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.

(3) Eligible applicants shall be offered available vacancies as provided in such policies. (1976 Code, § 2-313)

(H) *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 exercising its powers and to amend or repeal such rules and regulations from time to time. (1976 Code, § 2-314)

(I) *Annual reports.* Within 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.
(1976 Code, § 2-315)

(J) *Filing of plans.* The Housing Agency shall file with the City Clerk a copy of the five-year plan and 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.
(1976 Code, § 2-316) (Ord. 1281, passed 9-25-2000)

§ 31.11 COMMUNITY REDEVELOPMENT AUTHORITY.

(A) The City Council hereby finds and determines that it is necessary and desirable for purposes of providing for the redevelopment and general welfare of the city that a community redevelopment authority be created pursuant to Neb. RS 18-2102.01, reissue 2012, of the state's Community Development Law, being Neb. RS 18-2101 to 18-2154 (the "Act").

(B) There shall be and there is hereby created in and for the city an agency to be known as the "Community Redevelopment Authority of the City of Cozad, Nebraska" (the "Authority"), which shall consist of seven members selected from the Board of Directors of the Cozad Development Corporation. The Authority shall exercise all of the power and authority granted to a community redevelopment authority in the Act codified at Neb. RS 18-2101 to 18-2144 and 18-2147 to 18-2153, reissue 2012, as amended, and as hereafter amended.

(C) The President of the Cozad Development Corporation shall hold one of the seven seats on the Authority and shall serve as the Chairperson of the Authority. The Authority shall select one of its remaining six members as Vice Chairperson. The City Clerk shall serve as the ex officio Secretary of the Authority. The Authority may adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings and determinations, which records shall be made available for public inspection during regular business hours.

(D) The City Council hereby finds and determines that it is no longer necessary and desirable that the Community Development Agency of the city exist for purposes of providing for the redevelopment and general welfare of the city.

(E) The Community Development Agency of the city is hereby terminated and dissolved and shall no longer have the power or authority granted under the Act.

(F) The Authority shall be the successor in interest to the Community Development Agency of the city.
(Ord. 1470, passed 7-10-2017)

§ 31.12 HISTORIC PRESERVATION BOARD.

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

BOARD. The Historic Preservation Board of the City of Cozad, Nebraska.

CITY COUNCIL. The elected members of the Council of the City of Cozad, Nebraska.

COMMISSION. The Planning Commission of the City of Cozad, Nebraska.

CUMULATIVE EFFECT. This section shall be cumulative to all other provisions of adopted codes and including codified ordinances relating to building, electricity, plumbing or any other technical requirements or provisions; and once work has been approved on a landmark or in a historical district, all other appropriate permits and inspections shall be obtained, and fees therefor shall be paid in accordance with Chapter 150 of the Codified Ordinances of the City of Cozad.

DESIGN GUIDELINES. Design criteria for new construction, alterations and renovations of properties designated as landmarks and in historic districts. All design criteria shall comply with the Secretary of Interior's "Standards for Rehabilitation."

HISTORIC DISTRICT. An area or section of the city containing a significant number of buildings, sites, structures, objects, or improvements which, considered as a whole, possess historical or cultural significance to the city, state or nation pursuant to the provisions of this section.

LANDMARK. An individual structure, or an integrated group of structures on a single lot or site, or a site having a special character or special historical, cultural, educational, architectural, engineering or geographic interest or value.

OWNER. A real estate owner or owner's authorized agent, officer of a corporation which owns real estate, partner of a partnership owning real estate, or member of an LLC or other similar organizations owning real estate.

PRIVATE. All bodies, groups, organizations, associations, corporations, clubs and individuals of whatever nature which are not included in the definition of ***PUBLIC***.

PUBLIC. The state, or any agency thereof; a municipality; a county or any board appointed by or acting for same; a township; a commission or other authority established by law; any district, or other political subdivision of the state or public body recognized by law.

SECRETARY OF THE INTERIOR'S "STANDARDS FOR REHABILITATION". Ten standards promulgated by the U.S. Department of the Interior to guide alterations to a landmark or property within a historic district.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground.

WORK. Work shall mean and include any alteration, demolition, construction, reconstruction, restoration, remodeling or other material change in the external appearance of the structure.

(B) (1) *Findings.* The City Council finds that the protection, enhancement, perpetuation and use of structures, districts and elements of historical, cultural, educational, architectural, engineering or geographic significance, located within the city, contribute to the prosperity, civic pride and general welfare of the people; and further finds that the economic, cultural and aesthetic interests of the city cannot be maintained or enhanced by disregarding the heritage of the city and that people of the city have an interest in the maintenance, preservation, demolition or other action regarding such cultural assets.

(2) *Purpose.*

(a) To designate, preserve, protect, enhance and perpetuate those structures and districts which reflect significant elements of the city heritage;

(b) To foster civic pride in the beauty and accomplishments of the past;

(c) To stabilize or improve the aesthetic and economic vitality and values of such structures and districts;

(d) To protect and enhance the city's attraction to tourists and visitors;

(e) To promote the use of historic structures or districts for education; and

(f) To promote and encourage continued private ownership and utilization of such buildings and other structures now owned and used, to the extent that the objectives listed above can be promoted.

(C) *Establishment and membership.*

(1) There is hereby created the Historic Preservation Board of the City of Cozad, Nebraska. The Board shall be composed of five members; all members shall be residents of the city and shall have a demonstrated interest or professional expertise in historic preservation. A majority shall be professionals in the fields of archeology, historic archeology, architectural history, architecture, and history. All such appointments are to the extent that these professionals are available in the city. The five members shall consist of two citizens who are interested in preservation, architecture, engineering, historical or cultural matters, and three owners of real estate (as defined in division (A)(1) above) designated as historic or within a historic district or proposed district.

(2) Employees of the city or elected or appointed members of the City Council or other city boards or commissions shall not be eligible to be members of the Board.

(3) The members of the Board shall be appointed by the Mayor, subject to confirmation by the City Council.

(4) Initially, two members of the Board shall be appointed for a one year term, two members shall be appointed for a two year term and one member shall be appointed for a three year term. There may be a limit set to the number of terms.

(5) In the event of a vacancy occurring in the membership of the Board for any reason, an appointment shall be made to fill the vacancy in the same manner as the original appointments for the unexpired term.

(6) The members of the Board shall serve without compensation; however, they shall be entitled to reimbursement for expenses incurred during the course of conducting the business of the Board.

(7) The Board shall elect its chairperson from among its members.

(8) The Board shall establish its own rules of procedure.

(9) Three members of the Board shall constitute a quorum for the transaction of business.

(10) Except as otherwise provided herein, three affirmative votes shall be required for final action on any matter acted upon by the Board.

(11) The Board shall meet at least quarterly at such times and in such places as it may determine, or upon the call of the chairperson.

(12) The Board shall elect four officers, each to serve for the full duration of his or her term of appointment to the Board: Chair, Vice-Chair, Secretary, and Treasurer. The Chair shall preside at meetings, call special meetings, issue public statements for the Board, and in general assume the duties of directing the activities of the Board. The Vice-Chair shall act in the place of the Chair in the event of the latter's absence. The Secretary shall keep a complete and current agenda, minutes of each meeting, and be responsible for publication and distribution of minutes, proceedings, and reports. The Treasurer shall be responsible for financial reports.

(13) The Board shall, in conjunction with Cozad Developmental Corporation, Inc. (CDC), adopt design guidelines and such standards and procedures not inconsistent with the provisions of this section as it may deem necessary to further the purpose herein stated.

(14) Designated historic districts and individual landmarks shall be determined by the Board and approved by City Council.

(D) *Submission of plans, projects and proposals.* All plans, projects, proposals, evaluations, specifications, sketches and other information necessary for the review of the Board, or colors, building materials, signs or other features subject to public view, shall be made available to the Board by the applicant or appropriate department of the city, along with a copy of the application for the building or demolition permit.

(E) *Director; duties.* The Mayor shall assign a city staff member as the Director of the Board, without the right to vote. The Director shall be the custodian of records, conduct official correspondence and generally supervise the clerical and technical work of the Board as required to administer this section. In addition, the Director, for and on behalf of the Board and with the approval and direction of the Board, shall:

(1) Work in conjunction with other city officials to keep complete and accurate records and accounting for all funds, grants, income and expenditures of every nature of the Board. All funds shall be placed with the City of Cozad in a specially designated account;

(2) Prepare annual reports and other such reports that may be required;

(3) Assure that public notices are posted and advertised, agendas are kept current and available for public inspection and open meetings are conducted;

(4) Provide for 10 days public notice of a meeting prior to such meeting;

(5) Submit to the City Council for public hearing and approval, actions by the Board; and

(6) Make recommendations and do such other acts pursuant to this section as the Board may require.

(F) *Board; powers and duties.* The Board shall establish and provide for the following duties:

(1) Hold public hearings and review applications for alterations to landmarks or properties within historic districts;

(2) Adopt the Secretary of the Interior's "Standards for Rehabilitation" and any design guidelines for the review of landmarks or properties within historic districts that are consistent with the "Standards for Rehabilitation;"

(3) Review proposed zoning amendments, applications for special use permits, or variances that affect proposed or designated landmarks and historic districts;

(4) Periodically review the city's zoning ordinances and recommend to the Planning Commission and the City Council any of the same that are appropriate for the protection and preservation of landmarks or historic districts;

(5) Cooperate with the Nebraska State Historical Society in matters of proposed certification of this section and related duties and requirements;

(6) Comment on properties nominated to the National Register of Historic Places and cause to be processed nominations of properties potentially eligible for listing in the National Registry;

(7) Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation;

(8) Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation;

(9) Inspect and investigate structures, sites and areas which are believed worthy of preservation;

(10) Submit to the City Council for public hearing and approval, and subsequently maintain (and resubmit as required) a list of structures and other features deemed deserving of official recognition although not designated as landmarks or historic districts and take appropriate measures of recognition, and maintain a documentary inventory;

(11) Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation and encourage and advise property owners in protection, enhancement, perpetuation and use of property of historical interest;

(12) Consider methods other than those provided for in this section for encouraging and achieving historic preservation and make appropriate recommendations to the City Council and other bodies and agencies, both public and private.

(13) Make recommendations and do such other acts pursuant to this section as the Board shall order;

(14) Make an initial inventory of all sites, structures and districts presently designated or eligible for designation as landmarks. All sites, structures and districts within the city limits cited in the Nebraska State Historical Society's inventories of Dawson County shall be included initially on the inventory. All sites, structures and districts cited in the foregoing inventories of the Nebraska State Historical Society shall be reviewed by the Board and, if deserving, recommended for designation by ordinance as historic landmarks, sites, structures or districts. The recommendations which the Board makes as to these sites, structures and districts shall be within 12 months of the first meeting of the Board, or as soon thereafter as may be done. Such inventory shall be updated annually as the Board directs.

(G) *Designation of landmarks, historic districts.*

(1) All landmarks and property within a historic district shall be subject to the controls, standards and procedures set forth in this section.

(2) A site, structure or area may be designated for preservation as a landmark or historic district if it has:

(a) Historical importance or cultural significance, interest or value as part of the development, history, heritage or culture of the city, state or nation; or is associated with the life of a person significant in the past; or is the site of an historic event, or exemplifies the cultural, political, economic, educational, social or historic heritage of the community;

(b) Architectural and engineering importance, portraying the historical setting or environment of a distinctive characteristic of an architectural or engineering type, period, style, or method of construction; or is the work of a resident, builder or designer whose individual work is significant in the development of the city; or contains elements of design, detail, materials or craftsmanship of distinctive quality, or which represents a significant innovation;

(c) Geographic importance, by being a part of or related to a city center, park or other distinctive area, which should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of a neighborhood, community, or the city;

(d) Archeological importance which has yielded or is likely to yield information regarding the history of the area prior to the establishment of the city. A landmark or historic district shall possess integrity of design, location, setting, feeling, association, materials and workmanship. In the case of a historic district, provisions shall be made to define an accurate boundary, identify properties that contribute to the historical significance of the district, and those because of age or integrity do not contribute. A property shall be eligible if it is 50 years of age or older, unless exceptional significance can be demonstrated.

(3) A landmark may be proposed by the City Council or the Board with the owner's written approval; or upon petition of the owner. Any such proposal shall be filed with the Director upon forms prescribed by him or her and shall include all data required by the Board.

(4) A historic district may be proposed by the City Council or the Board. Any such proposal shall be filed with the Director upon forms prescribed by him or her and shall include all data required by the Board.

(5) Each proposal of a landmark or historic district shall first be considered by the Board at a public hearing.

(6) Notice of the time, place and purpose of the public hearing to be held upon the proposal of a landmark or historic district shall be given by the Board in the official newspaper of the City not less than ten days prior to the date of the hearing and by mail to the owners of all property included in the proposed designation, as identified by the names and addresses of the last known owners as shown by the county real property tax records. Failure to send notice by mail to any such property owner where the address of the owner is not so recorded shall not invalidate any proceedings in connection with the proposed designation. The Board may also give such other notice as may be deemed reasonable and practicable.

(7) A record of the pertinent information presented at the hearing upon the proposal of a proposed landmark or historic district shall be made and maintained as a permanent public record.

(8) The Board may approve, disapprove or modify the proposal of a landmark or historic district and shall notify the applicant of the action taken within 30 days of the referral thereof to the Board.

(9) The recommendation of the Board for approval of a proposal for a proposed landmark or historic district shall state the standards for such designation, as set out in this section, which are applied in each designation.

(10) Designation of a landmark shall not be proposed over the objection of an owner. Designation of a historic district shall not be proposed if the owners of 51 % of the front footage of the real property in the proposed historic district object, not to include any public right-of-way located in such district. To object, owners shall follow the procedures outlined in divisions (J)(4) and (J)(5) below.

(H) *Overlay district; zoning of historic districts.* A landmark or historic district shall constitute a zoning overlay district for historic preservation purposes and shall be included as such on the official land use or zoning map. This zoning shall be in addition to the existing underlying land use zoning. Zoning amendments, applications for special use permits, or variances shall be considered to assist in the preservation, use or rehabilitation of designated properties.

(I) *Transmittal to, action by City Council.* The Board shall transmit the proposal for the designation of a landmark or historic district to the City Council within 30 days after consideration. The Board shall consider the degree of conformity or nonconformity with the comprehensive development plan of the city, and may, if the Board deems it necessary, consult with and obtain a recommendation with regards to such proposal from the Planning Commission.

(J) *Consideration by Council.*

(1) When a proposal for the designation of a landmark or historic district is presented to the City Council, it shall take into consideration the recommendation of the Board and shall further give consideration to the economic consequences to the city and the affected property owners.

(2) Objection by the owner or owners of a proposed landmark shall require three affirmative votes by City Council for approval of such district.

(3) Objection by the owner or owners of a proposed landmark shall require three affirmative votes for approval of such landmark.

(4) Objections to a historic district designation must be acknowledged on a form available in the office of the Director and any such objections must be filed with the City Clerk no later than the first reading of the proposed designation ordinance.

(5) In order for the owners of a parcel of land to validly object to the designation, such objection shall be executed by any owner who is otherwise required to execute a valid conveyance of a fee simple interest in such parcel and whose name(s) appear in the records of the Register of Deeds.

(6) Pursuant to the provisions of this section, and the procedures set forth herein, the City Council may, by ordinance, designate a “landmark”, or a “historic district.”

(7) Each ordinance designating a landmark or historic district shall include a description and statement of the significance of the real property or district to justify its designation as such and a description of the features that should be preserved and shall include the legal description of the landmark or historic district.

(8) Within ten days after final adoption of the ordinance designating property as a landmark or historic district, the Director shall send a copy of such ordinance and a letter outlining the basis of such designation and the obligations and restrictions which result from such designation to the owner of record of each property so designated or each property within the designated district by registered or certified mail.

(K) *Amendment; rescission.* The City Council may, by ordinance, amend or rescind the designation of landmark or historic district at any time pursuant to the same procedures set forth in this section for the original designation.

(L) *Application to public property.*

(1) All properties owned by government entities and/or public agencies shall be subject to the provisions of this section in the same manner as private persons.

(2) All visible modifications or additions to public areas within a landmark or historic district, including street furniture, lighting fixtures and paving materials shall be subject to review by the Board.

(M) *Economic impact.* The Board shall, in the administration and enforcement of the provisions of this section, take into account all economic factors presented to it. The Board shall recognize the necessity of weighing potential economic detriments against preservationist objectives and shall strive to effect a fair balance in all instances.

(N) *Certificate of approval required.*

(1) No person shall carry out or cause to be carried out any work on a landmark or structure in a historic district without a certificate of approval first being issued by the Board. For the purposes of this section, any alteration, construction, restoration, remodeling or other changes shall be deemed to require a certificate of approval where such work affects any of the characteristics of the landmark or historic district which were deemed to be significant and intended to be preserved as recited in the ordinance designating such landmark or district.

(2) The Board's decision to approve or deny an application for a certificate of approval shall include the following criteria:

(a) Any alteration of an existing landmark shall be compatible with its historic character and meet the Secretary of the Interior's "Standards for Rehabilitation" or other such design guidelines as may have been adopted;

(b) Any alteration of a property within a historic district shall be compatible with its historic character and that of such district and meet the Secretary of the Interior's "Standards for Rehabilitation" or other such design guidelines as may have been adopted; or

(c) New construction shall be compatible with the historic district in which it is located.

(O) *Permits required.* Building permits must be obtained prior to any work being done. A Board-approved certificate of approval must be presented to the Building Official prior to any building permit being issued.

(P) *Certificate of approval applications forwarded to Director.*

(1) All applications for a certificate of approval will be made on forms available at Cozad City Building and shall be forwarded immediately to the Board.

(2) Notwithstanding any other provision of law, the Director shall not permit any work except as pursuant to a certificate of approval issued by the Board as authorized by the City Council.

(3) The Board shall hold a public hearing on applications to it for a certificate of approval.

(4) The determination by the Board on an application for a certificate of approval, or report of any action taken, shall be forwarded to the Director for appropriate action not later than 30 days after receipt of the application by the Board.

(5) The Board's decision must be accompanied by written findings of fact.

(6) The Board, in considering the appropriateness of any work, shall consider, among other things, the purposes of this section, the historical and architectural value and significance of the landmark or historical district, the texture, material and color of the building or structure in question or its appurtenant fixtures, including signs and the relationship of such features to similar features of other buildings within a historic district and the position of such building or structure in relation to the street or public way, as well as, other buildings and structures.

(7) If, after considering the application for a certificate of approval required by this section, the Board determines that the proposed changes are consistent with the criteria for historic preservation established by this section, the Board shall recommend the issuance of the certificate of approval.

(8) If no certificate is approved, the applicant and the Board shall enter into negotiations to develop a plan whereby modifications in the application would enable the Board to issue a certificate of approval under the criteria listed above and compatible with the guidelines for preservation in the designated ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a historic district or involves construction upon open areas of a landmark or within a historic district and no acceptable plan is negotiated and approved between the applicant and the Board within 30 days of the Board's decision not to issue a certificate of approval, the city may proceed with eminent domain proceedings to acquire the landmark or the affected property within the historic district, but if the city does not initiate proceedings within 30 days of the Board's final negotiations with the applicant, the Director shall issue a certificate of approval, permitting the applicant to proceed with the work requested in the application.

(9) No change shall be made in the application for a building or demolition permit after issuance of a certificate by the Board without being resubmitted to the Board and approval in the same manner as provided above.

(Q) *Council review of Board recommendations.* The Council shall review all Board recommendations and the Board shall submit for approval a record of all its activities to the City Council upon City Council request.

(R) *City projects; undertakings.* The Board may hold public hearings on city projects and undertakings affecting landmark sites, structures or historic districts and make recommendations to the City Council concerning same.

(S) *Advice; guidance to owners.* The Board may, upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or historic district.

(Ord. 1486, passed 3-18-2019) Penalty, see § 31.99

§ 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 a misdemeanor 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.
(1976 Code, § 2-401) (Ord. 1449, passed 12-23-2013)

CHAPTER 32: ORDINANCES, INITIATIVES AND REFERENDUMS

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ORDINANCES, RESOLUTIONS AND THE LIKE**§ 32.01 GRANT OF POWER.**

The governing body shall have the responsibility of making all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be necessary and proper for maintaining the peace, good government and welfare of the municipality and its trade, commerce and security.

(1976 Code, § 1-601)

Statutory reference:

Related provisions, see Neb. RS 17-505

§ 32.02 INTRODUCTION.

Ordinances shall be introduced by members of the governing body in either of the following ways:

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

(B) With the recognition of the Mayor, a Council member may present his or her proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the Council, shall read aloud the substance of the same and shall file the same for future consideration.

(1976 Code, § 1-602)

§ 32.03 RESOLUTIONS AND MOTIONS.

(A) Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances.

(B) 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.

(C) 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. A majority vote shall be required to pass any resolution or motion.

(D) The vote on any resolution or motion shall be by roll call vote.

(1976 Code, § 1-603)

§ 32.04 STYLE.

The style of all municipal ordinances shall be: “Be it ordained by the Mayor and Council of the City of Cozad, Nebraska: ...”

(1976 Code, § 1-604)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 32.05 TITLE.

No ordinance shall contain a subject not clearly expressed in its title.

(1976 Code, § 1-605)

Statutory reference:

Related provisions, see Neb. RS 17-614

§ 32.06 READING, PASSAGE.

(A) (1) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the City Council.

(2) The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council.

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

(4) In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage.

(5) Three-fourths of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(B) (1) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded.

(2) To pass or adopt any bylaw, ordinance or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required.

(3) All appointments of the officers by the City Council shall be made by 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.

(4) The requirements of a roll call or viva voce vote shall be satisfied by a city which utilized an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

(1976 Code, § 1-606) (Ord. 1149, passed 2-6-1995; Ord. 1447, passed 12-23-2013)

Statutory reference:

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

§ 32.07 PUBLICATION OR POSTING; CERTIFICATE.

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

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

(2) In book or pamphlet form.

(1976 Code, § 1-607)

(B) 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.

(1976 Code, § 1-608) (Ord. 911, passed 10-20-1986)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 32.08 EMERGENCY ORDINANCES.

(A) In the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility or other emergency requiring its immediate operation, such 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.

(B) Such emergency notice shall recite the emergency and be passed by a three-fourths vote of the governing body and entered upon the Municipal Clerk's minutes.

(1976 Code, § 1-609)

Statutory reference:

Related provisions, see Neb. RS 17-613

§ 32.09 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 shall be repealed.

(1976 Code, § 1-610)

Statutory reference:

Related provisions, see Neb. RS 17-614

INITIATIVES AND REFERENDUMS**§ 32.20 DEFINITIONS.**

The powers of initiative and referendum are reserved to the qualified electors of the municipality by state law. This subchapter shall govern the use of initiative to enact, and the use of referendum to amend or repeal measures affecting the governance of the municipality. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIRCULATOR. Any person who solicits signatures for an initiative or referendum petition.

CLERK. The Municipal Clerk or the municipal official in charge of elections.

GOVERNING BODY. The legislative authority of the municipality.

MEASURE. An ordinance, charter provision or resolution which is within the legislative authority of the governing body to pass, and which is not excluded from the operation of referendum by the exceptions in § 32.32 of this chapter.

MUNICIPALITY. The City of Cozad, Nebraska.

PETITION. A document authorized for circulation pursuant to § 32.21 of this chapter or any copy of such document.

PLACE OF RESIDENCE. The street and number of the residence. If there is no street and number for the residence, ***PLACE OF RESIDENCE*** shall mean the mailing address.

PROSPECTIVE PETITION. A sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

QUALIFIED ELECTORS. All persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

RESIDENCE. The place at which a person has established his or her home, where he or she is habitually present, and to which, when he or she departs, he or she intends to return.

SIGNATURE SHEET. A sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

(1976 Code, § 1-1001) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2501 through 18-2511

§ 32.21 PETITIONS AND BALLOTS.

(A) Before circulating an initiative or referendum petition, the petitioner shall file with the Clerk a prospective petition. The Clerk shall date the prospective petition immediately upon its receipt. The Clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, as described below. If the prospective petition is in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the Clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the Clerk in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the Clerk that the prospective petition is in proper form does not constitute an admission by the Clerk, governing body or municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

(B) The ballot title of any measure to be initiated or referred shall consist of:

(1) A briefly-worded caption by which the measure is commonly known or which accurately summarizes the measure;

(2) A briefly-worded question which plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(3) A concise and impartial statement, of not more than 75 words, of the chief purpose of the measure.

(C) The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lower case ten-point type; except that, the caption shall be in bold face type. All initiative and referendum measures shall be submitted in a non-partisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.

(1976 Code, § 1-1002) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2512, 18-2513

§ 32.22 PETITION FORM.

(A) The forms designed by the Secretary of State to be used for initiative and referendum petitions shall be made available to the public by the City Clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the City Clerk. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted.

(B) Each petition presented for signature must be identical to the petition authorized for circulation by the City Clerk. Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the municipality potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and the statement specified to be part of the ballot title. When a special election is being requested, such fact shall be stated on every petition.

(1976 Code, § 1-1003) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983; Ord. 1348, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 18-2514, 18-2515

§ 32.23 DECLARATORY JUDGMENT.

(A) The city or any chief petitioner may seek a declaratory judgment regarding any questions arising under this subchapter, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the city shall be served by personal, residence or certified mail service upon the chief executive officer or City Clerk. If the city seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served.

(B) Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may

be filed in the district court at any time after the filing of a referendum or initiative petition with the City Clerk for signature verification until 40 days from the date the City Council received notification from the verifying official that the necessary signatures have been obtained. If the city does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative, until after it has received such notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this subchapter. If the city does file such an action prior to receiving such notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action.

(C) Any action for a declaratory judgment shall be governed generally by Neb. RS 25-21,149 through 25-21,164; except that, only the city and each chief petitioner shall be required to be made parties. The city, City Clerk, City Council or any of the city's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election.

(D) The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law. (1976 Code, § 1-1003) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983; Ord. 1348, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. 18-2538

§ 32.24 SIGNATURE SHEETS.

(A) Every signature sheet shall:

- (1) Contain the caption required in § 32.21(A) of this chapter;
- (2) Be part of a complete and authorized petition when presented to potential signatories;
- (3) Provide space for signatories to write their names, places of residence and the date of signing; and
- (4) Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

(B) No more than 25 signatures on each signature sheet shall be counted. In order to be valid, a signature shall be that of an individual registered to vote, at the time of signing, in the jurisdiction

governed or to be governed by the measure addressed in the petition. A signature shall include the signatory's full name, his or her place of residence, and the date of signing. No signatory shall use ditto marks as a means of affixing his or her place of residence or date on any petition. A wife shall not use her husband's Christian or given name when she signs a petition and she shall sign her own Christian or given name along with her surname.

(1976 Code, § 1-1004) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2516

§ 32.25 PETITIONS AND AFFIDAVITS.

Included in the contents of every petition shall be an affidavit, to be signed by the circulator in the presence of a notary, which states that the circulator is a qualified elector, that each person who signed the petition did so in the presence of the circulator on the date indicated, and that the circulator believes that each signatory was registered to vote in the affected jurisdiction at the time he or she signed the petition and that the circulator believes that each signatory has stated his or her name and place of residence correctly.

(1976 Code, § 1-1005) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2517

§ 32.26 PETITIONS AND NOTIFICATIONS.

(A) (1) Signed petitions shall be filed with the Clerk for signature verification. Upon the filing of a petition, and passage of a resolution by the governing body, the municipality and the County Clerk or Election Commissioner of the county in which such municipality is located may by mutual agreement provide that the County Clerk or Election Commissioner shall ascertain whether the petition is signed by the requisite number of voters. The municipality shall reimburse the county for any costs incurred by the County Clerk or Election Commissioner.

(2) When the verifying official has determined that 100% percent of the necessary signatures required by this subchapter have been obtained, he or she shall notify the governing body of that fact and shall immediately forward to the governing body a copy of the petition.

(B) In order for an initiative or referendum proposal to be submitted to the governing body and the voters, the necessary signatures shall be on file with the Clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.

(1976 Code, § 1-1006) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

§ 32.27 FREQUENCY OF OCCURRENCE.

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt.

(1976 Code, § 1-1007) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2519

§ 32.28 DIRECT VOTE.

(A) The executive officer and governing body of the municipality may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under this subchapter and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election.

(B) Immediately upon the passage of any such resolution for submission, the Clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in this subchapter for submission of measures upon proposals and petitions filed by voters.

(C) Such matter shall become law if approved by a majority of the votes cast.
(1976 Code, § 1-1008) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2520

§ 32.29 ELECTIONS.

(A) (1) The Clerk shall call elections under this subchapter, either at a special election or regularly scheduled primary or general election.

(2) He or she shall cause notice of every such election to be printed in one or more newspapers of general circulation in such municipality at least once not less than 30 days prior to such election and also posted in the office of the Clerk and in at least three conspicuous places in such municipality at least 30 days prior to such election.

(3) The notice shall be substantially as follows:

<p>Notice is hereby given that on Tuesday, the _____ day of _____, _____, at (identify polling place or precinct) of the municipality of _____, Nebraska, an election will be held at which there will be submitted to the electors of the municipality for their approval or rejection, the following measures, propositions or issues: _____ (naming measures, propositions or issues), which election will be open at 8:00 a.m. and will continue open until 8:00 p.m., of the same day.</p> <p>Dated this _____ day of _____, _____.</p> <p>_____ Clerk of the City/Village of _____, Nebraska.</p>
--

(B) The Clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

(1976 Code, § 1-1009) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2521

§ 32.30 BALLOTS.

All ballots for use in special elections under this subchapter shall be prepared by the Clerk and furnished by the governing body, unless the governing body contracts with the county for such service, and shall be in form the same as provided by law for election of the executive officer and governing body of such municipality. When ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in this subchapter.

(1976 Code, § 1-1010) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2522

§ 32.31 INITIATIVES.

(A) The power of initiative allows citizens the right to enact measures affecting the governance of the municipality. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law, except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

(B) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to § 32.21 of this chapter.

(C) Whenever an initiative petition bearing signatures equal in number to at least 15% of the qualified electors of the municipality has been filed with the Clerk and verified, it shall be the duty of the governing body to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the governing body fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

(D) Whenever an initiative petition bearing signatures equal in number to at least 20% of the qualified electors which requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the Clerk and verified pursuant to § 32.26 of this chapter, it shall be the duty of the governing body to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the governing body fails to pass the measure, without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. The date of such election shall not be less than 30, nor more than 60, days from the date the governing body received notification pursuant to § 32.26 of this chapter.

(E) If a majority of voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the municipality 30 days after certification of the election results, unless the governing body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the governing body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

(1976 Code, § 1-1011) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2523 through 18-2526

§ 32.32 REFERENDUM LIMITATIONS.

The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of the municipality.

(A) The following measures shall not be subject to referendum or limited referendum:

(1) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants or other evidences of indebtedness,

for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to the effective date of this subchapter;

(2) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(3) Measures adopting proposed budget statements following compliance with procedures set forth in the state's Budget Act, being Neb. RS 13-501 through 13-513;

(4) Measures relating to the immediate preservation of the public peace, health or safety which have been designated as urgent measures by unanimous vote of those present and voting of the governing body and approved by its executive officer;

(5) Measures relating to projects for which notice has been given as provided for in division (A)(4) above for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(6) Resolutions directing the Clerk to cause measures to be submitted to a vote of the people at a special elections as provided in §§ 32.31(C) and 32.33(E) of this chapter;

(7) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in § 32.31(A) of this chapter; and

(8) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, being Neb. RS 13-2001 through 13-2043 by the municipality and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidence of indebtedness.

(B) The following measures shall be subject to limited referendum:

(1) Measures in furtherance of a policy of the municipality or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election; except that, such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative or approved by the voters at an election;

(2) Measures relating to the acquisition, construction, installation, improvement or enlargement, including the financing or refinancing of the costs of public ways, public property, utility systems and other capital projects, and measures giving initial approval for industrial development projects;

(3) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidences

of indebtedness and pay rates and salaries for municipal employees other than the members of the governing body and the executive officer; and

(4) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, being Neb. RS 13-2001 through 13-2043 by the municipality, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidence of indebtedness.

(C) Measures subject to limited referendum shall ordinarily take effect 30 days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to § 32.26 of this chapter within 30 days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to division (D) below. If the necessary number of signatures as provided in § 32.31 of this chapter has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(D) (1) For any measure relating to the acquisition, construction, installation, improvement or enlargement of public ways, public property, utility systems or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, being Neb. RS 13-2001 through 13-2043, the municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in this subchapter by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction;

(b) By passage of a measure approving the project, including an override of a veto, if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto, if necessary, by giving notice as follows:

1. For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum; and

2. For projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the Engineer's estimate of costs of such project and stating that the

project described in the notice is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by this subdivision shall be published in at least one newspaper of general circulation within the municipality and shall be published not later than 15 days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

(2) The right to hold such a hearing prior to the passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this division (D)(2) is optional and the municipality shall not be required to hold such a hearing or give such notice of any particular project.

(E) All measures, except as provided in divisions (A), (B) and (D) above, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative. (1976 Code, § 1-1012) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983; Ord. 1078, passed 3-8-1993)

Statutory reference:

Related provisions, see Neb. RS 18-2527, 18-2528

§ 32.33 REFERENDUM PASSAGE.

(A) Whenever a referendum petition bearing signatures equal in number to at least 15% of the qualified electors of the municipality has been filed with the Clerk and verified pursuant to § 32.26 of this chapter, it shall be the duty of the governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the governing body receives notification pursuant to § 32.26 of this chapter, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

(B) Whenever a referendum petition bearing signatures equal in number to at least 20% of the qualified voters of the municipality which requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the Clerk and verified, it shall be the duty of the governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the Clerk shall

cause the measure to be submitted to a vote of the people at a special election called for such purpose within 30 days from the date the governing body received notification. The date of such special election shall not be less than 30, nor more than 60, days from the date the governing body received notification.

(C) If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form, except by a two-thirds majority of the members of the governing body. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

(1976 Code, § 1-1013) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2529 through 18-2531

§ 32.34 APPLICABILITY.

(A) The provisions of the statutes of the state relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recounts of votes, so far as applicable, shall apply to voting on ordinances by the electors pursuant to this subchapter.

(B) Nothing in this subchapter shall apply to procedures for initiatives or referendums provided in Neb. RS 18-412 and 18-412.02, relating to municipal light and power plants, Neb. RS 70-504, 70-650.01 and 70-650.02, relating to public power districts, and Neb. RS 80-203 to 80-205, relating to soldiers and sailors monuments.

(1976 Code, § 1-1015) (Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983)

Statutory reference:

Related provisions, see Neb. RS 18-2536, 18-2537

§ 32.99 PENALTY.

(A) 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 a misdemeanor 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.

(1976 Code, § 1-1101)

(B) (1) Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Neb. RS 18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$300 on the fine.

(2) Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to Neb. RS 18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$500 on the fine.

(3) Whoever signs any petition under Neb. RS 18-2501 through 18-2531 knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this division (B), bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of \$300 on the fine.

(4) Any Clerk who willfully refuses to comply with the provisions of Neb. RS 18-2501 through 18-2531 or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.

(1976 Code, § 1-1014)

(Ord. 690, passed 8-5-1982; Ord. 757, passed 11-3-1983; Ord. 249, passed 11-8-1983; Ord. 1449, passed 12-23-2013)

Statutory reference:

Related provisions, see Neb. RS 18-2532 through 18-2535

CHAPTER 33: ELECTIONS

Section

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§ 33.01 GENERALLY.

(A) All municipal 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 municipal offices or issues can reasonably be combined with the non-partisan ballot and state law does not require otherwise. All municipal elections involving the election of officers shall be held in accordance with the Election Act, being Neb. RS Ch. 32 and in conjunction with the statewide primary or general election.

(B) When the municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act, being Neb. RS Ch. 32. Any other

election held by the municipality shall be held as provided in the Election Act, being Neb. RS Ch. 32 unless otherwise provided by the charter, code or bylaws of the municipality.

(1976 Code, § 1-701) (Ord. 558, passed 9-22-1977; Ord. 1356, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 32-404, 32-556

§ 33.02 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

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

(1976 Code, § 1-701.01) (Ord. 1356, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 32-404

§ 33.03 TERM OF OFFICE.

All elected officers of the municipality shall serve a term of four years and until their successors are elected and have qualified.

(1976 Code, § 1-702) (Ord. 666, passed 9-17-1981)

Statutory reference:

Related provisions, see Neb. RS 17-107.02(2)

§ 33.04 PRIMARY ELECTION; NUMBER OF CANDIDATES FILING.

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated and no primary election for their nomination shall be required.

(1976 Code, § 1-703)

Statutory reference:

Related provisions, see Neb. RS 17-107.02(4)

§ 33.05 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. If a candidate is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year.

(2) All other candidates shall file for office between December 1 and March 1 prior to the date of the general election.

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

(1976 Code, § 1-704) (Ord. 1426B, passed 12-5-2011)

Statutory reference:

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

Related provisions, see Neb. RS 32-606, 32-607

Withdrawal after filing, see Neb. RS 32-622

§ 33.06 TIE VOTES.

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his or her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(1976 Code, § 1-705)

Statutory reference:

Related provisions, see Neb. RS 17-107.02(6)

§ 33.07 GENERAL ELECTIONS; PREPARATION OF BALLOT.

(A) When more than one person becomes a candidate by filing, petition or write-in procedures for the same position in the primary, the County Clerk, in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election.

(B) The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing.

(1976 Code, § 1-705) (Ord. 667, passed 9-17-1981)

Statutory reference:

Related provisions, see Neb. RS 17-107.02(6), (7)

§ 33.08 QUALIFICATIONS; TERMS.

(A) The City Council shall consist of not less than four, nor more than 12, residents of the city who are registered voters.

(B) All Council members shall be nominated and elected on a non-partisan ballot unless the city provides for a partisan ballot by ordinance.

(C) If members of the Council are not elected at large:

(1) Unless the city elects Council members at large as provided in Neb. RS 32-554, the city shall be divided into not less than two, nor more than six, wards, as provided by ordinance of the City Council. Each ward shall contain, as nearly as practicable, an equal portion of the population;

(2) Unless the city elects council members at large as provided in Neb. RS 32-554, each ward of the city shall have at least two Council members elected in the manner provided in the Election Act, being Neb. RS Ch. 32. No person shall be eligible to the office of Council member who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter; and

(3) Such wards shall be substantially equal in population as determined by the most recent federal decennial census.

(D) The term of office shall begin on the first regular meeting of the Council in December following the statewide general election.

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

(F) If the city operates under a city manager plan, members of the City Council shall be residents and registered voters of the city and shall hold no other employment with the city. Any Council member who ceases to possess any of the qualification required by this section or who has been convicted of a felony or of any public offense involving the violation of the oath of office of such member while in office shall forthwith forfeit such office.

(Ord. 1468, passed 2-6-2017)

Statutory reference:

Related provisions, see Neb. RS 17-102, 17-103, 17-104, 19-613, 32-533, 32-557

§ 33.09 FILING FEE.

(A) Except as provided in divisions (D) or (E) below, 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 divisions (D) or (E) below, 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's 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 than 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.

(1976 Code, § 1-708) (Ord. 1418, passed 12-20-2010; Ord. 1455B, passed 2-9-2015)

Statutory reference:

Related provisions, see Neb. RS 32-608

§ 33.10 JOINT, GENERAL; NOTICE.

(A) The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than 40 days prior to the primary or general election.

(B) This notice will serve the notice requirement for all municipal elections which are held in conjunction with the county.

(1976 Code, § 1-709) (Ord. 536, passed 4-21-1977)

Statutory reference:

Related provisions, see Neb. RS 32-402.01

§ 33.11 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 RS Neb. Any other special election shall be subject to division (B) below.

(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 such 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's Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the county's Canvassing Board shall have the same force and effect as if made by the City Council.

(B) (1) Any special election under the Election Act, being Neb. RS Ch. 32 shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided.

(2) No special election shall be held under the Election Act, being Neb. RS Ch. 32 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.

(1976 Code, § 1-710) (Ord. 753, passed 9-6-1984; Ord. 1346, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 32-405, 32-559

§ 33.12 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.

(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 Neb. RS 32-607. 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.

(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 for an office upon the partisan ballot for the general election shall be as follows:

(a) For each partisan office to be filled by the registered voters of the entire state, at least 4,000, and at least 750 signatures shall be obtained in each congressional district in the state;

(b) For each partisan office to be filled by the registered voters of a county, at least 20% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the county, not to exceed 2,000, except that the number of signatures shall not be required to exceed 25% of the total number of registered voters voting for the office at the immediately preceding general election; and

(c) For each partisan office to be filled by the registered voters of a political subdivision, other than a county, at least 20% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the political subdivision, not to exceed 2,000.

(1976 Code, § 1-712) (Ord. 753, passed 9-6-1984; Ord. 1426B, passed 12-5-2011; Ord. 1455B, passed 2-9-2015; Ord. 1468, passed 2-6-2017; Ord. 1483A, passed 12-23-2019)

Statutory reference:

Related provisions, see Neb. RS 32-616, 32-617, 32-618

§ 33.13 COUNCIL MEMBERS.

(A) Council members shall be elected from the municipality at large unless the residents of the municipality have voted to elect its Council members by wards. Council members shall serve for a term of four years and shall be a resident and qualified elector.

(B) If the election of Council members takes place by wards, each nominee for Council member shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.

(1976 Code, § 1-713)

Statutory reference:

Related provisions, see Neb. RS 5-108

§ 33.14 VOTER QUALIFICATIONS.

ELECTORS shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office and, upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the state, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the state and shall have been properly registered with the election official of the county.

(1976 Code, § 1-714)

Statutory reference:

Related provisions, see Neb. RS 17-602, 32-102

§ 33.15 WARDS.

(A) The municipality shall redistrict as often as necessary using the most recent Federal Census to ensure that each ward is substantially equal in population.

(B) The municipality shall stand divided into the following wards as set forth herein:

(1) *First Ward*. The part of the municipality lying east of the centerline of F Street to the east corporate limits; and

(2) *Second Ward*. The part of the municipality lying west of the centerline of F Street to the west corporate limits.

(1976 Code, § 1-716)

Statutory reference:

Related provisions, see Neb. RS 17-102

§ 33.16 BALLOTS.

The County Clerk shall provide printed ballots for every general municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the municipality.

(1976 Code, § 1-717)

Statutory reference:

Related provisions, see Neb. RS 32-417, 32-418

§ 33.17 INABILITY TO ASSUME OFFICE.

In any general election, where the person who received the highest number of votes is ineligible, disqualified, deceased or for any other reason is unable to assume the office for which he or she was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be declared elected, and shall be entitled to the certificate of election; provided that, any candidate so declared elected received not less than 35% of the total number of votes cast for such office in the election. If any of the qualifications of this section are not met by the candidate to be declared elected, or reasonable notice of the winners ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law.

(1976 Code, § 1-718)

Statutory reference:

Related provisions, see Neb. RS 32-537(7), (8)

§ 33.18 RECALL PROCEDURE.

(A) The **FILING CLERK** is the Election Commissioner or County Clerk.

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

(C) (1) A petition demanding that the question of removing a member of the governing body be submitted to the registered voters shall be signed by registered voters equal in number to at least 45%

of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

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

(3) The petition papers shall be procured from the Filing Clerk. Prior to the issuance of such petition papers, a recall petition filing form 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 filing form shall state the name and office of the Council member sought to be removed, shall include in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the Filing Clerk issue initial petition papers to the principal circulator for circulation. The Filing Clerk shall notify the Council member by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the filing form at the Council member's usual place of residence and mailing a copy by first-class mail to the Council member's last-known address. If the Council member chooses, he or she may submit a defense statement in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the Filing Clerk within 20 days after the Council member receives the copy of the filing form. The Filing Clerk shall prepare the petition papers within five business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within 20 days after being notified by the Filing Clerk that the petition papers are available. 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.

(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.

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

(2) The governing body shall order an election to be held not less than 56 nor more than 80 days after the notification of the Council member whose removal is sought under division (F)(1) of this section, except that if any other election is to be held in the city within 90 days after such notification, the Council shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in Neb. RS 32-562. If the Council member whose removal is sought resigns before the recall election is held, the Council may cancel the recall election if the Council notifies the Election Commissioner or County Clerk of the cancellation at least 24 days prior to the election, otherwise the recall election shall be held as scheduled.

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

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

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

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

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

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

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

(I) No recall petition filing form shall be filed against an elected Council member within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.

(1976 Code, § 1-719) (Ord. 1426B, passed 12-5-2011; Ord. 1461, passed 2-8-2016; Ord. 1483A, passed 12-23-2019)

Statutory reference:

Related provisions, see Neb. RS 32-1301, 32-1302, 32-1303, 32-1305, 32-1306, 32-1308, 32-1309

§ 33.19 CANDIDATE QUALIFICATIONS.

Any person seeking elected office in the municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The Mayor and members of the Council shall be residents and qualified electors of the city. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts and public utility companies.

(1976 Code, § 1-720) (Ord. 753, passed 9-6-1984)

Statutory reference:

Related provisions, see Neb. RS 17-108.02

CHAPTER 34: PUBLIC SAFETY

Section

Fire Department

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FIRE DEPARTMENT

§ 34.01 OPERATION AND FUNDING.

(A) 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 the possession of the Municipal Treasurer.

(B) In addition to the above, the Fire Department is authorized to enter into agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the municipality and the Rural Fire District.

(1976 Code, § 3-301)

Statutory reference:

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

§ 34.02 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 of the same. It shall be the duty of the Fire Chief to come before the governing body at the regular meeting in January of each year to give an annual report to the governing body of the general condition and the proposed additions or improvements recommended by him or her.

(1976 Code, § 3-302)

§ 34.03 RESCUE SQUAD CHIEF.

The Rescue Squad Chief shall manage the rescue squad and it shall be his or her duty to inform the governing body when any of the emergency units need repair or replacement. Upon the written consent and directive of the governing body, the Rescue Squad Chief shall cause the repair, improvement or maintenance of the equipment of the rescue squad and shall personally supervise and approve the same. It shall be the duty of the Rescue Squad Chief to come before the governing body at the regular meeting in January of each year to give an annual report to the governing body of the general condition of said equipment and the proposed additions or improvements recommended by him or her, and further to report on the activities of the rescue squad for the previous year.

(1976 Code, § 3-302.01) (Ord. 1113, passed 8-8-1994)

§ 34.04 MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons, for each engine and hose company in the Fire Department, and no hook and ladder company shall have upon its rolls at any one time more than 25 members. No organization shall be deemed to be a bona fide fire or hook and ladder company until it has procured for active service apparatus for the extinguishment or prevention of fires, in case of a hose company, to the value of \$700, and of a hook and ladder company to the value of \$500.

(B) 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 City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or the laws of the state.

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

(D) Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with worker's compensation and other benefits, but for no other purposes whatsoever. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

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

(F) For purposes of Neb. RS 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the city.
(1976 Code, § 3-303) (Ord. 1344, passed 11-8-2004; Ord. 1455A, passed 11-24-2014; Ord. 1483, passed 2-4-2019)

Statutory reference:

Related provisions, see Neb. RS 33-139.01, 35-102, 35-108, 35-109

§ 34.05 FIRE; DISTANT FIRES.

(A) 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.
(1976 Code, § 3-304)

(B) Upon the permission of the Mayor or Fire Chief, such fire equipment of the municipality as may be designated by the governing body as rural equipment may be used beyond the corporate limits to extinguish reported fires.
(1976 Code, § 3-305)

(C) 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.

(1976 Code, § 3-306)

§ 34.06 PRESERVATION OF PROPERTY.

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. The said officials may direct the hook and ladder men to remove any building, erection 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.

(1976 Code, § 3-307)

§ 34.07 IMPERSONATING FIREFIGHTERS.

It shall be unlawful for any person to falsely personate a fireman by wearing a badge or other apparel usually worn by a firefighter for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to fraud.

(1976 Code, § 3-308) Penalty, see § 34.99

Statutory reference:

Related provisions, see Neb. RS 28-1219

§ 34.08 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 a misdemeanor.

(1976 Code, § 3-309) Penalty, see § 34.99

§ 34.09 POWER OF ARREST.

The Municipal Fire Chief or the Assistant Fire Chief shall have the power during the time of a fire and for a period of 36 hours after its extinguishment, to arrest any suspected arsonist, or other person

hindering or resisting the firefighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The 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. (1976 Code, § 3-310)

§ 34.10 FIRE INVESTIGATIONS.

It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin and circumstances of every fire occurring in the municipality in which property has been destroyed or damaged. 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. Such investigation shall be begun within two days of the occurrence of such fire and the state's Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the municipality shall immediately notify the state's 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.

(1976 Code, § 3-311)

Statutory reference:

Related provisions, see Neb. RS 81-506

POLICE DEPARTMENT

§ 34.25 DUTIES.

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

officers shall become thoroughly conversant with the laws of the municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

(1976 Code, § 3-401)

§ 34.26 RESERVE OFFICER BOND.

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

(1976 Code, § 3-402) (Ord. 912, passed 10-20-1986)

Statutory reference:

Related provisions, see Neb. RS 81-1444

§ 34.27 ARREST AND ENFORCEMENT JURISDICTION.

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

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

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

LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.

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

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

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

(1) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow that person into any other jurisdiction in the state and there arrest and detain that person and return that person to the officer's primary jurisdiction;

(2) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow that person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain that person and return that person to the officer's primary jurisdiction;

(3) Any city law enforcement officer has this enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance; and

(4) If the city, under the provisions of the Interlocal Cooperation Act, being Neb. RS 13-801 through 13-827 or the Joint Public Agency Act, being Neb. RS 13-2501 through 13-2550, enters into a contract with any other city or county for law enforcement services or joint law enforcement services, law enforcement personnel may have this enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the city shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. RS 13-1802.

(E) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft or aircraft while under the influence of alcohol liquor or of any drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.05, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02, a city law enforcement officer has the power and authority to do any of the following or any combination thereof:

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

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

(3) With respect to that person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, or

aircraft while under the influence of alcohol liquor or of any other drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02.

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

(1976 Code, § 3-403) (Ord. 1345, passed 11-8-2004; Ord. 1426B, passed 12-5-2011; Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 17-118, 81-829.65

§ 34.28 POLICE OFFICERS; DISCIPLINE.

(A) The Mayor of the city shall have the authority to discipline or remove, at any time, any police officer or Chief of Police employed by the city when the Mayor has such facts and evidence as to warrant such action and the Mayor deems the action necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the laws of the state.

(B) At the time of imposing disciplinary action or the removal of an officer or Chief of Police, the Mayor shall inform the officer or the Chief of Police verbally and in writing, the reasons for such action and of the right to, and procedures for, appealing the decision of the Mayor to the City Council.

(C) The officer or Chief of Police shall have ten days from the date of the above action to file a formal written appeal in the office of the City Clerk. The written appeal shall set out in detail the grounds for challenging the decision of the Mayor. The ten-day period shall start to run the day after discipline or removal is imposed. If the tenth day is a non-working day, the next working day shall be the final day to file an appeal. Upon receipt of the appeal documents, the City Clerk shall place the matter on the City Council agenda for the next available meeting. Pending hearing before the Council and determination of the issue, all suspensions or terminations shall be with pay.

(D) An appeal hearing shall be held before the Council, which shall be in open session unless the officer or Chief of Police shall request otherwise. The City Attorney shall at all times represent the

Mayor during all stages of the proceedings, unless the City Attorney determines that representation of the Mayor would pose a conflict of interest for the City Attorney. In such a case, the Mayor shall hire independent counsel. The City Council may hire independent counsel. Strict rules of evidence shall not be followed. The appealing party may be represented by an attorney at all stages. The City Attorney shall present the evidence and reasons for the disciplinary action or removal for the Mayor. The appealing party or counsel shall present all evidence and reasons challenging the decision of the Mayor. All proceedings before the City Council shall be recorded.

(E) The City Council shall have 30 days after the hearing to uphold, reverse or modify the removal or disciplinary action. If the Council fails to so act within 30 days, or a majority of the elected Council members do not vote to reverse or modify the removal or disciplinary action, it shall be construed as a vote to uphold the removal of disciplinary action of the Mayor.

(F) The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the statutes of the state.

(G) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer or the Chief of Police by the Mayor, pending the hearing authorized herein, in cases of gross misconduct, neglect of duty or disobedience or orders.

(H) Because of the time constraints involved, the President of the City Council, upon receipt of the appeal, is authorized to consult with and retain independent counsel if the President deems it advisable. Independent counsel shall be retained only for purposes of the proceedings covered in this section. (1976 Code, § 3-404) (Ord. 1184, passed 1-8-1996)

§ 34.29 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

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

MENTAL HEALTH SUBSTANCE USE TREATMENT CENTER. Has the same meaning as in Neb. RS 71-423.

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley, park, or other state-, county-, or city-owned property.

QUASI-PUBLIC PROPERTY. Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(B) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place the person in any hospital, clinic, or mental health substance use treatment center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

(C) The placement of the person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(D) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for these actions.

(E) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(Ord. 1483A, passed 12-23-2019)

Statutory reference:

Related provisions, see Neb. RS 53-1,121

§ 34.99 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 a misdemeanor 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.

(1976 Code, § 3-1201) (Ord. 1449, passed 12-23-2013)

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

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GENERAL PROVISIONS**§ 35.01 ECONOMIC DEVELOPMENT PLAN.**

The city's Economic Development Plan, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 1469, passed 6-19-2017; Ord. 1471, passed 6-19-2017; Ord. 1476, passed 1-8-2018)

FISCAL MANAGEMENT**§ 35.15 DEFINITIONS.**

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

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

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

FISCAL YEAR. The fiscal year of the municipality and any public utility of the municipality commences on October 1 and extends through the following September 30, except as provided in the Municipal Proprietary Function Act, being Neb. RS 18-2801 through 18-2808.

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If the city has a lottery established under the state's County and City Lottery Act, being Neb. RS 9-601 to 9-653, only those net proceeds which are actually received by the city from a licensed lottery operator shall be considered **PUBLIC FUNDS** and **PUBLIC FUNDS** shall not include amounts awarded as prizes.

(1976 Code, § 1-801) (Ord. 1187, passed 1-22-1996; Ord. 1438, passed 12-23-2013)

Statutory reference:

Related provisions, see Neb. RS 13-503, 17-701

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

(A) The City Council shall, annually or biennially, prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be

made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. RS 31-506. A proposed budget statement shall contain the following information, except as provided by state law:

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

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

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

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

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

(b) For all other purposes.

(5) A uniform summary of the proposed budget statement including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, being Neb. RS 18-2801 through 18-2808, and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act, being Neb. RS 18-2801 through 18-2808.

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

(C) The City shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.

(D) The estimated expenditures, plus the required cash reserve, for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes and that amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period. (1976 Code, § 1-802) (Ord. 754, passed 9-6-1984; Ord. 1122, passed 2-6-1995; Ord. 1439, passed 12-23-2013)

Statutory reference:

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

§ 35.17 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX.

(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 the 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 maybe 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 the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the 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 the 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 the 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 non-compliance with the state's 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 § 35.20 of this chapter. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any error or non-compliance for which the Auditor has notified the governing body.

(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.

(1976 Code, § 1-803) (Ord. 1440, passed 12-23-2013; Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 13-506, 13-507

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

(A) Property tax levies for the support of the city for fiscal years beginning on or after 7-1-1998, shall be limited to the amounts set forth in this division (A), except as provided division in division (C) below. The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 for 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, being Neb. RS 13-801 through 13-827 or the Joint Public Agency Act, being Neb. RS 13-2501 through 13-2550. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay that judgment, to the extent the judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to 7-1-1998, 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) below.

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking

districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal levy limit provided by division (A) above; except that, such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to 7-1-1998, 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 Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable, property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (C) below.

(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 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 that 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.

(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 two-thirds of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

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

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) 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, being Neb. RS Ch. 32. For petitions filed with the County Clerk or Election Commissioner on or after 5-1-1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

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

(6) The City Council may pass no more than one resolution calling for an election pursuant to this division (C) during any one calendar year. Only one election may be held in any one 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 two-thirds 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 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.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement either with the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than five 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, being Neb. RS Ch. 32.

(Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 77-3442, RS 77-3443, 77-3444

§ 35.19 ADOPTED BUDGET STATEMENT; EXPENDITURES PRIOR TO BUDGET ADOPTION.

(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.

(3) If the prime rate published by the Federal Reserve Board is 10% or more at the time of filing and certification required under this division (A), the governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeded 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 purpose 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.

(3) The governing body 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.

(1976 Code, § 1-804)

(B) (1) On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the city. Except as provided in division (B)(2) below, the expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. The expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

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

(1976 Code, § 1-804.01) (Ord. 1150, passed 2-6-1995; Ord. 1442, passed 12-23-2013)

Statutory reference:

Related provisions, see Neb. RS 13-508, 13-509.02

§ 35.20 REVISIONS OF BUDGET.

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

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

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

(c) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or non-compliance with the state's Budget Act, being Neb. RS 13-501 through 13-513.

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

(B) Notice of the time and place of the hearing shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the Council's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. This published notice shall set forth:

(1) The time and place of the hearing;

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

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

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

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

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

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

(E) Within 30 days after the adoption of the budget under § 35.17 of this chapter, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the City Council shall, correct an adopted budget which contains a clerical, mathematical or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk of the county of counties in which the City

Council is located and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(1976 Code, § 1-804.02) (Ord. 1461, passed 2-8-2016)

Statutory reference:

Related provisions, see Neb. RS 13-511

§ 35.21 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.

(1976 Code, § 1-805)

§ 35.22 APPROPRIATIONS.

The governing body shall adopt a budget statement pursuant to the state's Budget Act, being Neb. RS 13-501 through 13-513, 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 city.

(1976 Code, § 1-806) (Ord. 1124, passed 2-6-1995; Ord. 1189, passed 1-22-1996)

Statutory reference:

Related provisions, see Neb. RS 17-706

§ 35.23 GENERAL PROPERTY TAX.

(A) The governing body shall cause to be certified to the County Clerk the amount of tax to be levied upon the assessed value of all the taxable property of the municipality for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes.

(B) The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by state law.

(1976 Code, § 1-807)

Statutory reference:

Related provisions, see Neb. RS 17-702

§ 35.24 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. (1976 Code, § 1-808)

Statutory reference:

Related provisions, see Neb. RS 17-708

§ 35.25 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 systems, bridges, work on streets or any other work or improvements when the cost of the enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the governing body.

(B) (1) Except as provided in Neb. RS 18-412.01, before the governing body makes any contract in excess of \$30,000 for enlargement of general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the governing body.

(2) In advertising for bids as provided in divisions (C) and (E) below, the governing body may publish the amount of 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 systems, bridges, work on streets or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

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

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

(1) Thirty thousand dollars or less;

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

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

(4) One hundred twenty thousand dollars 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) above shall be published at least seven days prior to the bid closing in a legal newspaper in of 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 two-thirds vote of the governing body and entered of record.

(F) If, after advertising for bids as provided in this section, the governing body receives fewer than two bids on a contract or if the bids received by the governing body contain a price which exceeds the estimated cost, the governing body may negotiate a contract in an attempt to complete the proposed enlargement or general improvement 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 municipality, 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 maybe waived by the governing body or Board of Public Works:

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

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

(3) When required to comply with any federal grant, loan or program.

(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 of the property has been established by the Federal General Services Administration or the material division of the Department of Administrative Services.

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

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

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

(1976 Code, § 1-809) (Ord. 1479, passed 2-5-2018)

Statutory reference:

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

§ 35.26 ANNUAL AUDIT.

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. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. 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. 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.

(1976 Code, § 1-810) (Ord. 560, passed 9-22-1977)

Statutory reference:

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

§ 35.27 CLAIMS.

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. 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. 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.

(1976 Code, § 1-811)

Statutory reference:

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

§ 35.28 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.

(1976 Code, § 1-812)

Statutory reference:

Related provisions, see Neb. RS 17-711

§ 35.29 TRANSFER OF FUNDS.

The governing body may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the governing body may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place, and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the municipality. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the governing body, the governing body shall file with the County Clerk and the State Auditor a copy of the supplemental budget, and shall certify the amount of additional tax to be levied. The governing body may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as “registered warrants”, and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(1976 Code, § 1-813)

Statutory reference:

Related provisions, see Neb. RS 23-928, 23-929

§ 35.30 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.

(1976 Code, § 1-814)

Statutory reference:

Related provisions, see Neb. RS 17-710

§ 35.31 SINKING FUNDS; GIFTS OF MONEY OR PROPERTY.

(A) The city is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by this section, as stipulated by the donor. Title to any money or property so donated shall vest in the City Council, or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds. In the event of a donation of real estate, the City Council may manage such real estate as in the case of real estate donated to the city for city library purposes under the provisions of Neb. RS 51-215 and 51-216.

(B) The City Council, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the city for a term of not to exceed 10 years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the city, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: city libraries; city auditoriums or community houses for social or recreational purposes; city halls; city public libraries, auditoriums, or community houses in a single building; city swimming pools; city jails; city fire stations, together with firefighting equipment or apparatus; city parks; city cemeteries; city medical buildings, together with furnishings and equipment; or city hospitals. The city shall not be authorized to levy the tax or to establish the sinking fund as provided in this division if, having bonded indebtedness, such city has been in default in the payment of interest thereon or principal thereof for a period of 10 years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C).

(C) Before any sinking fund or funds are established or before any annual tax is levied for any such planned city improvements mentioned in division (B) by the city, the City Council shall declare its purpose by resolution to submit to the qualified electors of the city at the next general city election the proposition to provide the city with the specific city improvement planned under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite

period of years, not exceeding 10 years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the proposition, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper in or of general circulation in the city or, if no legal newspaper is in or of general circulation in the city, in a legal newspaper in or of general circulation in the county in which the city is located. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the city cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this division, the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. The election provided for under this section shall be conducted as provided under the Election Act.

(D) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the City Council, in the manner provided in Neb. RS 17-540. Whenever investments of such sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council, and the investment report shall be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the city voting at a general election favoring such change in the use of the sinking fund or sinking funds. The question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election. (1976 Code, § 1-815) (Ord. 1483A, passed 12-23-2019)

Statutory reference:

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

§ 35.32 GENERAL FUND.

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the "General Fund".

(1976 Code, § 1-816)

§ 35.33 DEPOSIT, INVESTMENT OF FUNDS.

(A) (1) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions or qualifying mutual financial institutions of approved and

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

(2) (a) The City Council shall require from all banks, capital stock financial institutions or qualifying mutual financial institutions:

1. A bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof; and

2. Security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions.

(b) The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

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

(4) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.
(1976 Code, § 1-817)

(B) 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 of the city 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 state's Investment Council in effect on the date the investment is made.

(1976 Code, § 1-818)

(Ord. 988, passed 12-18-1989; Ord. 1349, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 17-607, 77-2362, 17-608, 17-609, 21-1316.01, 77-2341

§ 35.34 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.

(1976 Code, § 1-819)

Statutory reference:

Related provisions, see Neb. RS 10-201 through 10-411, 10-601 through 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836

§ 35.35 MOTOR VEHICLE TAX.

The governing body of the city may levy a tax on all motor vehicles owned or used in such city. Until the implementation date designated by the Director of Motor Vehicles under Neb. RS 23-186, the tax shall be paid to the County Treasurer of Dawson County when the registration fees as provided in the Motor Vehicle Registration Act, being Neb. RS 60-301 through 60-3,235 are paid. Such taxes shall be credited by the County Treasurer to the road fund of the city. On and after the implementation date designated under Neb. RS 23-186, the tax shall be paid to the County Treasurer for credit to such road fund. Such funds shall be used by the city for construction, resurfacing, maintaining or improving streets, roads, alleys, public ways or parts thereof, for the amortization of bonded indebtedness when created for such purposes.

(1976 Code, § 1-820) (Ord. 951, passed 9-26-1988; Ord. 989, passed 12-18-1989)

Statutory reference:

Related provisions, see Neb. RS 18-1214

§ 35.36 TRANSFER OF FUNDS BY BOARD OF PUBLIC WORKS TO GENERAL FUND.

The Board of Public Works of the city is hereby directed to transfer to the City Treasurer for deposit in the General Fund of the municipality, 9% of receipts from customer billings by the Board of Public Works for electric and water service within the municipality; provided, however, that, receipts from Hazardous Waste Pumping (HWP) under § 52.06 of this code of ordinances shall not be included in receipts for the purpose of calculating this transfer. The Board of Public Works shall make the transfer provided for above each month, based on receipts for the immediately preceding monthly period, as determined by the Board of Public Works, and as reported to the municipality. The basis for the calculation of the transfer shall be provided to the municipality with each monthly payment.

(1976 Code, § 1-821) (Ord. 1227, passed 11-4-1996; Ord. 1241, passed 10-6-1997)

§ 35.37 PROPERTY TAX REQUEST; PROCEDURE FOR SETTING.

(A) If the annual assessment of property would result in an increase in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, the city's property tax request for the current year shall be no more than its property tax request in the prior year, and the city's rate of levy for the current year shall be decreased accordingly when such rate is set by the County Board of Equalization pursuant to Neb. RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (C) of this section. If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(B) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit or community college, as determined using the previous year's rate of levy, the city's property tax request for the current year shall be no more than its property tax request in the prior year, and the city's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of equalization pursuant to Neb. RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (C) of this section. If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(C) The resolution or ordinance required under this section shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the city at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the city's total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the notice may be posted at the City Council's principal headquarters.

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

(1) The certified taxable valuation under Neb. RS 13-509 for the prior year, the certified taxable valuation under Neb. RS 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year;

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

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

(4) 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;

(5) The percentage increase or decrease in the property tax rate from the prior year to the current year; and

(6) The percentage increase or decrease in the total operating budget from the prior year to the current year.

(E) Any resolution or ordinance setting a city's property tax request at an amount that exceeds the city's property tax request in the prior year shall include, but not be limited to, the following information:

(1) The name of the city;

(2) The amount of the property tax request;

(3) The following statements:

(a) The total assessed value of property differs from last year's total assessed value by _____ percent;

(b) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$ _____ per \$100 of assessed value;

(c) The city proposes to adopt a property tax request that will cause its tax rate to be \$ _____ per \$100 of assessed value; and

(d) Based on the proposed property tax request and changes in other revenue, the total operating budget of city will exceed last year's by _____ percent.

(4) The record vote of the City Council in passing such resolution or ordinance.

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

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

(Ord. 1483A, passed 12-23-2019)

Statutory reference:

Related provisions, see Neb. RS 77-1601.02

