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## **CHAPTER 1 – CIVIL ADMINISTRATION**

### **Article 1 – City Administration**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The City of Blue Hill, Nebraska, is hereby declared to be a city of the second class and shall be governed in all respects by the laws regulating cities of the second class. (Neb. Rev. Stat. §17-101)

#### **SECTION 1-102: OFFICIAL CORPORATE SEAL**

The official corporate seal of the city shall be kept in the office of the city clerk and may bear the following inscription: "City of Blue Hill, Nebraska, Seal." The city clerk shall affix an impression of the said official seal to all deeds, warrants, and resolutions issued by order of the City Council and countersigned by the city clerk. (Neb. Rev. Stat. §17-502)

#### **SECTION 1-103: BONDS; BLANKET BOND**

A. All official bonds of city officers must be in form, joint and several, and made payable to the city in such penalty as the City Council may fix. 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. 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. In place of the individual bonds required to be furnished by municipal officers, a blanket bond or undertaking, or evidence of equivalent insurance, may be given by municipal officers. The city may pay the premium for the bond or insurance coverage, which 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.

B. All official bonds of local 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 local 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 of such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a county, precinct or other local officer.

C. Official bonds, with the oath endorsed thereon, shall be filed in the proper 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. The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, Section 5, of the Constitution of Nebraska.

D. The officers with whom any official bonds are required by law to be filed shall carefully record and preserve the same in their respective offices and shall give certified copies thereof, when required, under the seal of their office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

E. 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 Neb. Rev. Stat. §11-101 to 11-122, the provisions of Neb. Rev. Stat. §11-115 shall apply.

F. 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. When the incumbent of an office is re-elected or re-appointed he or she shall qualify by taking the oath and giving the bond as above directed.

(Neb. Rev. Stat. §11-103 to 11-105, 11-109 to 11-112, 11-115 to 11-117, 17-604)

## **SECTION 1-104: OATH OF OFFICE; CITY OFFICIALS**

All officials of the city, 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."

(Neb. Rev. Stat. §11-101)

## **SECTION 1-105: COMPENSATION; SALARIES**

A. The compensation of any elective official of the city 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 City Council, 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. The official may be rehired after the term of office during which he or she resigned at a greater salary.

B. All salary amounts shall be set by ordinance of the City Council and shall be available for public inspection at the office of the city clerk.

C. Compensation for the mayor and the members of the City Council shall be paid quarterly.

D. Each office member shall be permitted one excused paid absence per year.  
(Neb. Rev. Stat. §17-108.02, 17-612) (Am. by Ord. Nos. 307, 11/1/88; 650, 11/12/13; 653, 6/10/14; 669, 9/8/15; 698, 1/9/18)

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## **SECTION 1-106: PUBLIC RECORDS; EXAMINATION AND DUPLICATION**

A. Except as otherwise expressly provided by applicable state statutes and as incorporated in Section 1-107 herein, all citizens of this state and all other persons interested in the examination of the public records of the city, as defined in Neb. Rev. Stat. §84-712.01, are hereby fully empowered and authorized to:

1. Examine such records and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (B) of this section, and abstracts therefrom, all free of charge, during the hours the city office may be kept open for the ordinary transaction of business; and
2. Except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (C) of this section during the hours the city office may be kept open for the ordinary transaction of business.

B. Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (A)(1) of this section shall be made at the city office or at a location mutually agreed to by the requester and the city clerk.

C. Procedure.

1. Copies may be obtained pursuant to subdivision (A)(2) of this section only if the city has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including but not limited to printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require the city clerk to copy any public record that is available to the requester on the city's web site on the Internet.

The city clerk is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the city clerk shall produce copies for the requester.

2. Except as otherwise provided by statute, the city may charge a fee for providing copies of such public record pursuant to subdivision (A)(2) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision: (a) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the city for time of contractors necessarily incurred to comply with the request for copies, (b) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (c) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the city, and the production of the report in the form furnished to the requester.
3. The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the city employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the city clerk's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.
4. This section shall not be construed to require the city to produce or generate any public record in a new or different form or format modified from that of the original public record.
5. If copies requested in accordance with subdivision (A)(2) of this section are estimated by the city clerk to cost more than \$50.00, he or she may require the requester to furnish a deposit prior to fulfilling such request.

D. Upon receipt of a written request for access to or copies of a public record, the city clerk shall provide to the requester as soon as is practicable and without delay but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either:

1. Access to or, if copying equipment is reasonably available, copies of the public record;
2. If there is a legal basis for denial of access or copies, a written denial of the request, together with the information specified in Neb. Rev. Stat. §84-712.04; or
3. If the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the city clerk to fulfill the original request, negotiate with the clerk to narrow or simplify the request, or withdraw the request. If the requester does not respond to the city clerk within ten business days, the clerk shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. "Business day" does not include a Saturday, a Sunday, or a day during which the city office is closed.

E. Records which may be withheld from the public are enumerated in Section 1-107 below. Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

F. Any person denied any rights granted by Neb. Rev. Stat. §84-712 to 84-712.03 may act as provided in Neb. Rev. Stat. §84-712.03 and shall receive in written form from the city at least the information as provided in Neb. Rev. Stat. §84-712.04. (Neb. Rev. Stat. §84-712, 84-712.03 thru 84-712.06)

## **SECTION 1-107: PUBLIC RECORDS; CONFIDENTIAL RECORDS**

Pursuant to Neb. Rev. Stat. §84-712.05 and this ordinance, the following records of the city shall be considered "confidential records," to wit:

A. Records which represent the work product of the city attorney and the city which are related to preparation of litigation, labor negotiations, or claims made by or against the city or which are confidential communications between the attorney and the City Council.

B. Records developed or received by the City Police Department and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, information identification, or strategic or tactical information used in law enforcement training, except those records developed or received relating to the presence of an amount or concentration of alcohol or drugs in any body fluid of any person.

C. Appraisals or appraisal information and negotiation records concerning the purchase or sale by the city of any interest in real or personal property, prior to completion of the purchase or sale.

D. Personal information in records regarding personnel of the city other than salaries and routine directory information.

E. Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts whose public disclosure would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings whose public disclosure would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law.

F. Personally identified private citizen account payment and customer use information, credit information on others supplied in confidence, and customer lists.

G. Records or portions of records kept by the city library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services.

H. Job application materials submitted by applicants, other than finalists, who have applied for employment by the city. "Job application materials" means employment applications, resumes, reference letters, and school transcripts. "Finalist" means any applicant who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected or who is the original applicant when the final pool of applicants numbers less than four or who is an original applicant and there are four or fewer applicants.

I. Information supplied to the city by citizens/customers of city services, including social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers.

**SECTION 1-108: PUBLIC RECORDS; VIOLATION; PENALTY**

Any official and/or employee of the city who shall violate the provisions of applicable state statutes and this article in reference to confidential records shall be subject to removal, impeachment or termination of employment and, in addition, shall be deemed guilty of a Class III misdemeanor under prosecution by the county attorney or be determined guilty of an infraction under Section 1-801 herein if under prosecution by the city attorney.

**SECTION 1-109: CONFLICT OF INTEREST**

A. For purposes of this section, "officer" shall mean (1) any member of any council or commission of the city; (2) any appointed official if such city official serves on a council or commission which spends and administers its own funds and is dealing with a contract made by such council or commission, or (3) any elected city official.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the city shall be permitted to benefit from any contract to which the city is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the city or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the city has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; or
2. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest

within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1) through (3) above, if an officer's parent, spouse or child is an employee of the city, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the city.

F. The city clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the city in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D)(1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the city; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

H. An open account established for the benefit of any city or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §49-14-103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The city may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such city may have an interest.

K. No officer shall receive any pay or perquisites from the city other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to 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 city. (Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-1408, 49-14,103.01 through 49-14,103.03, 49-14,103.06) (Am. by Ord. Nos. 274, 9/2/86; 568, 7/9/02)





## **Article 2 – Elected Officials**

### **SECTION 1-201: QUALIFICATIONS; OTHER ELECTIVE OFFICE; OTHER EMPLOYMENT**

A. 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 Article IV, Section 1 of the Constitution of Nebraska. A legislator or an Article IV elected office holder may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body. Whenever an incumbent of the Legislature or an Article IV elected office 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. Any City 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.

C. Members of the City Council shall hold no other employment with the city. (Neb. Rev. Stat. §17-108.02, 19-613, 32-563) (Am. by Ord. Nos. 328, 5/7/91; 495, 7/7/98)

### **SECTION 1-202: CITY COUNCIL; DUTIES**

The City Council shall be the legislative division of the city government and shall perform such duties and have such powers as may be authorized by law. The 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. (Neb. Rev. Stat. §17-103, 17-505, 19-611)

### **SECTION 1-203: CITY COUNCIL; NUMBER AND QUALIFICATIONS**

The City Council shall consist of four members. Any person who is a citizen of the United States, a resident of the city at the time of his or her election and a registered voter is eligible to be elected to the council. Every member so elected and so qualified shall hold his or her office for a term of four years; provided, a member's term shall expire and the office will become vacant upon a change of residence from the city. (Neb. Rev. Stat. §17-103, 17-104) (Ord. Nos. 256, 6/4/85; 655, 9/9/14)

### **SECTION 1-204: CITY COUNCIL; 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 council in the absence of the mayor. In the absence of the mayor and the president, the council shall

elect one of its own body to occupy his or her place temporarily, who shall be styled acting president of the council. Both the president of the council and the acting president, 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 or acting president of the council, while so acting, shall be as binding upon the council and upon the city as if done by the elected mayor. (Neb. Rev. Stat. §17-148, 19-617)

#### **SECTION 1-205: CITY COUNCIL; VACANCY**

A. Whenever a vacancy occurs in an elected office of the city, except mayor, notice of said vacancy shall be presented in writing to the City Council at a regular meeting and said notice shall appear as a part of the minutes of such meeting.

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

C. The mayor shall, within two weeks after the regular meeting at which such notice has been presented or upon the death of the incumbent, call a special meeting of the council, at which time the mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term. Upon a majority vote of approval by the council, the vacancy shall be filled.

D. If a majority vote is not reached, the nomination shall be rejected and the mayor shall at the next regular meeting submit the name of another qualified elector. If the vote on the nominee fails to carry by majority vote, the mayor shall continue at such meeting to submit the names of qualified electors and the City Council shall continue to vote upon such nominations until the vacancy is filled.

E. The mayor shall cast his or her vote only in case of a tie vote of the City Council. All council members shall cast a ballot for or against each nominee.  
(Neb. Rev. Stat. §32-569) (Am. by Ord. Nos. 329, 5/7/91; 566, 7/9/02)

#### **SECTION 1-206: VACANCY DUE TO UNEXCUSED ABSENCES**

In addition to the events listed in Neb. Rev. Stat. §32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than three consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

#### **SECTION 1-207: MAYOR; POWERS AND DUTIES**

A. The mayor shall be elected in the manner provided in the Election Act and 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. The mayor shall have the general and immediate control

over all property and officials, whether elected or appointed, of the city.

B. The mayor shall preside at all meetings of the City Council and 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. The mayor shall, for the purpose of such vote, be deemed to be a member of the council.

C. The mayor's signature must appear on the city clerk's minutes of all meetings, all resolutions which have been passed and warrants for the payment of money when ordered by the City Council; provided, the mayor shall have power to veto or sign any ordinance passed by the Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, as provided in Section 1-405 herein.

D. The mayor, with the consent of the council, may appoint such officers as shall be required by ordinance or otherwise required by law. Their terms of office shall be as provided in Section 1-501. Such officers may be removed from office by the mayor. He or she shall, by and with the consent of the council, appoint such a number of regular police officers as may be necessary.

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

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

G. The mayor shall have such jurisdiction as may be vested in him or her by ordinance over all places within one mile of the corporate limits of the city for the enforcement of any health or quarantine ordinance and regulation thereof. He or she shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within one mile of the corporate limits of said city.

H. The mayor shall have power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

I. The mayor shall have such other duties as the City Council may by resolution confer upon him or her or in any other matters which the laws of the State of Nebraska repose in him or her.

(Neb. Rev. Stat. §17-107, 17-110 thru 17-117)

**SECTION 1-208: MAYOR; VACANCY**

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. 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. 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 Neb. Rev. Stat. §32-568. (Neb. Rev. Stat. §17-107)

## **Article 3 – Meetings**

### **SECTION 1-301: DEFINED**

“Meetings” as used in this article shall mean all regular, special, or called meetings of a public body for purposes of briefing, discussion or public business, formation of tentative policy, or the taking of any formal action. (Neb. Rev. Stat. §84-1409(2))

### **SECTION 1-302: PUBLIC BODY DEFINED**

For purposes of the Open Meetings Act, unless the context otherwise requires:

“Public body” as used in this article shall mean: (A) the City Council, (B) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created pursuant to law, and (C) advisory committees of the bodies listed above. This article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (Neb. Rev. Stat. §84-1409(1)) (Am. by Ord. Nos. 356, 2/2/93; 588, 2/8/05)

### **SECTION 1-303: OPEN MEETINGS INFORMATION**

The City Council shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information. (Neb. Rev. Stat. §84-1412)

### **SECTION 1-304: RIGHTS OF THE PUBLIC**

A. Subject to the Open Meetings Act, 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 Section 1-313 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 may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

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

D. No public body shall for the purpose of circumventing the Open Meetings Act 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 which is located in this state.

E. 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 and 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.

(Neb. Rev. Stat. §84-1412) (Am. by Ord. Nos. 262, 9/3/85; 286, 9/8/87)

### **SECTION 1-305: NOTICE; AGENDA; RECORD OF VOTES**

A. Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a City Council meeting scheduled outside the corporate limits of the city. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

C. The minutes of the city clerk shall include the record of the manner by which the advance publicized notice was given, the time and specific place of the meetings, and the names of each member of the City Council present or absent at each convened meeting. The council's minutes shall be a public record open to inspection by the public upon request during office hours at the office of the city clerk.

D. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the city clerk shall show how each member voted or that the member was absent and did not vote.

(Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413) (Am. by Ord. No. 285, 9/8/87)

### **SECTION 1-306: ORGANIZATIONAL MEETING; STANDING COMMITTEES**

A. The newly elected council members shall convene at the regular place of

meeting in the city on the first regular meeting in December of each year in which a city election is held immediately after the prior council adjourns and proceed to organize themselves for the ensuing year. The mayor elected for the new city year shall call the meeting to order. The council shall then proceed to examine the credentials of its members and other elective officers to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required.

B. After ascertaining that all members are duly qualified, the council shall then elect one of its members to serve as president of the council. The mayor shall nominate his or her candidates for appointive offices and 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 of Nebraska and the ordinances of the city and to perform faithfully and impartially the duties of his or her office, said oath to be filed in the office of the city clerk. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

C. At the organizational meeting of the City Council, the mayor shall appoint members to the following standing committees: Water, Sewer, Electric, Streets and Alleys, Parks, Police, Swimming Pool and Yard Waste. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. The members of the standing committees shall serve terms of office of one year, unless reappointed.

(Neb. Rev. Stat. §17-104, 17-107.01, 19-613, 19-615)

## **SECTION 1-307: NOTICE TO NEWS MEDIA**

The city 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. (Neb. Rev. Stat. §84-1411)

## **SECTION 1-308: PLACE, DAY, TIME; ORDER OF BUSINESS; QUORUM**

A. The meetings of the City Council shall be held at the regular meeting place. Regular meetings shall be held on the second Tuesday of each month at the hour of 7:00 p.m. The members of the council, the city clerk, the mayor, and such other city officials that may be required shall take their regular stations in the meeting place and the business of the city shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the city clerk.

B. A majority of the 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. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the council shall be called to order by the mayor, if present, or if absent, by the president of the council. In the absence of both the mayor and the president of the council, the meetings shall be called to order by the president pro tempore. (Neb. Rev. Stat. §17-105) (Am. by Ord. Nos. 427, 12/5/95; 607, 5/8/07; 680, 9/13/16)

## **SECTION 1-309: PARLIAMENTARY PROCEDURE**

Questions of procedure and conduct at City Council meetings shall be decided by the mayor in accordance with *Robert's Rules of Order*.

## **SECTION 1-310: VOTES**

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §84-1413)

## **SECTION 1-311: MINUTES**

A. Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours.

B. The minutes of any meeting of the City Council shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the city clerk may have an additional ten working days if absent due to a serious illness or emergency  
(Neb. Rev. Stat. §84-1412, 84-1413)

## **SECTION 1-312: CLOSED SESSIONS**

A. Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases, or litigation;



2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. 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.

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

C. 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 to 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. For purposes of this section, "formal action" shall include 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.

D. 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 (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting nor shall a public body designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article, nor shall any closed session, information meeting, chance meeting, social gathering, or electronic communication be used for the purpose of circumventing the provisions of this article. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Am. by Ord. Nos. 357, 2/2/93; 408, 3/7/95)

## **SECTION 1-313: SPECIAL MEETINGS**

Special meetings may be called by the mayor or by three members of the City Council, the object of which shall be submitted to the council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the city clerk.

On filing the call for a special meeting, the city clerk shall notify the council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be out of the state or physically unable to be present. (Neb. Rev. §17-106) (Ord. No. 263, 9/3/85)

#### **SECTION 1-314: EMERGENCY MEETINGS**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-307 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411)

## **Article 4 – Ordinances, Resolutions, and Motions**

### **SECTION 1-401: GRANT OF POWER**

The City Council shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State of Nebraska as may be necessary and proper for maintaining the peace, good government, and welfare of the city and its trade, commerce, and security. (Neb. Rev. Stat. §17-505) (Am. by Ord. No. 463, 6/3/97)

### **SECTION 1-402: ORDINANCES; TITLE; AMENDMENTS**

Ordinances shall contain no subject which is not clearly expressed in the title and, except as provided in Neb. Rev. Stat. §19-915 in regard to zoning regulations, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that for an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title. (Neb. Rev. Stat. §17-614) (Am. by Ord. No. 468, 6/3/97)

### **SECTION 1-403: ORDINANCES; STYLE**

The style of all ordinances shall be: "Be it ordained by the Mayor and City Council of the City of Blue Hill, Nebraska..." (Neb. Rev. Stat. §17-613)

### **SECTION 1-404: ORDINANCES; INTRODUCTION**

Ordinances shall be introduced 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 City Council, read aloud the substance of his or her proposed ordinance and file a copy of the same with the city 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 council, shall read aloud the substance of the same and shall file the same for future consideration.

(Am. by Ord. No. 464, 6/3/97)

**SECTION 1-405: ORDINANCES; READING AND PASSAGE; MAYOR'S VETO**

A. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of the City Council. The mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

B. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the council votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinances shall be read by title and then moved for final passage. Three-fourths of the council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

C. The mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council, stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, he or she shall notify the city clerk of the veto in writing. The clerk shall notify the City Council in writing of the mayor's veto.

D. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill and approve the remainder thereof, and the item or items vetoed may be passed by the council over the veto as in other cases.

(Neb. Rev. Stat. §17-111, 17-614) (Am. by Ord. No. 409, 3/7/95; 465, 6/3/97)

**SECTION 1-406: ORDINANCES; EFFECTIVE DATE**

A. No ordinance for the government of the city which has been adopted without submission to the voters shall go into effect until 15 days after the passage of such ordinance except as provided in Neb. Rev. Stat. §16-405 and 17-613.

B. All ordinances adopted by the voters of the city after submission to them by

either initiative or referendum petition shall become immediately effective thereafter.  
(Neb. Rev. Stat. §19-3701)

#### **SECTION 1-407: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE**

A. All ordinances of a general nature shall be published one time within 15 days after they are passed in some newspaper published in the city or, if no paper is published in the city, then by posting a written or printed copy thereof in each of three public places in the City.

B. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the city from the city clerk showing that the said ordinance was passed and approved, when and in what paper the same was published or when, by whom, and where the same was posted.  
(Neb. Rev. Stat. §17-613) (Am. by Ord. Nos. 273-A, 9/2/86; 466, 6/3/97)

#### **SECTION 1-408: ORDINANCES; EMERGENCY**

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 city. Such emergency notice shall recite the emergency, be passed by three-fourths vote of the City Council, and entered upon the city clerk's minutes. (Neb. Rev. Stat. §17-613) (Am. by Ord. No. 467, 6/3/97)

#### **SECTION 1-409: RESOLUTIONS AND MOTIONS**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the City Council. The issue raised by any such resolution or motion 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. The vote on any resolution or motion shall be by roll call vote.



## **Article 5 – Appointed Officials**

### **SECTION 1-501: GENERAL AUTHORITY**

A. The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The terms of office for all officers, except regular police officers, appointed by the mayor and confirmed by the council shall be to the end of the mayor's term of office and until their successors are appointed and qualified unless sooner removed.

B. The mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the mayor and council may be removed, demoted, or suspended at any time by the mayor as provided in Neb. Rev. Stat. §17-107. A police officer, including the chief of police, may appeal to the council such removal, demotion, or suspension with or without pay. After a hearing, the council may uphold, reverse, or modify the action. (Neb. Rev. Stat. §17-107) (Am. by Ord. No. 461, 6/3/97)

### **SECTION 1-502: MERGER OF OFFICES**

The City Council may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except the mayor or a council member, with any other elective or appointive office so that one or more of such offices may be held by the officer or employee at the same time; provided, the offices 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; and provided further, 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. (Neb. Rev. Stat. §17-108.02) (Am. by Ord. No. 330, 5/7/91)

### **SECTION 1-503: CLERK-TREASURER POSITION CREATED**

The appointive offices of city clerk and city treasurer are hereby combined and merged in accordance with the authority granted to the City Council by Section 1-502. 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. 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.

### **SECTION 1-504: CITY CLERK**

A. The city clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. Within 30 days after any council meeting, the he or she shall prepare and publish the official proceedings in a legal newspaper

of general circulation in the city and which was duly designated as such by the council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §84-1201 to 84-1220, the clerk may transfer the journal of the council proceedings of to the state archives of the Nebraska State Historical Society for permanent preservation.

C. The city clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances, collect all occupation taxes and license money except where some other city officer is specifically charged with that duty, and keep a register of all licenses granted in the city and the purpose for which they were issued.

D. The city clerk 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 funds from which the same are payable. At the end of each month he or she shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

E. The city 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 to them. With the seal of the city, he or she shall duly attest the mayor's signature on all ordinances, deeds and papers required to be attested to.

F. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. He or she shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the City Council or under the ordinances of the city. To each of the file copies of said notices shall be attached to the printer's affidavit of publication if the said notices are required to be published or the city clerk's certificate under seal where the same are required to be posted only.

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



H. The city clerk shall keep all city records, including a record of all licenses issued in a blank book with a proper index. He or she shall include as part of the 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 shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The city clerk shall permit no records, public papers, or other documents of the city kept and preserved in the 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. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The city 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.

(Neb. Rev. Stat. §17-605, 19-1102, 84-1201 through 84-1220, 84-712)

## **SECTION 1-505: CITY TREASURER**

A. The treasurer of the city shall be the custodian of all money belonging to the corporation, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. The treasurer shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. The treasurer shall also file copies of such receipts with his or her monthly reports and 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. The treasurer shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid, which warrants, with any and all vouchers held, shall be filed with his or her account in the clerk's office. If the treasurer fails to render an 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 members, may use this failure as cause to remove the treasurer from office.

B. The treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The annual statement submitted pursuant to Neb. Rev. Stat. §19-1101 shall be accompanied with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

C. The 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 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 a member of the City Council, as a member of a board of public works, or as any other officer of such municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

D. The council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The 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.

E. When the treasurer holds funds of the city in excess of the amount required for maintenance or set aside for betterments and improvements, the mayor and City Council may, by resolution, direct and authorize said treasurer to invest said surplus funds in the outstanding bonds or registered warrants of said city, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which said bonds or warrants were purchased.

F. The mayor and City Council may, by resolution, direct and authorize the treasurer to dispose of the surplus electric light, water, or gas funds or the funds arising from the sale of electric light, water, or natural gas distribution properties by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments, may be transferred to the general fund of the city.

G. It shall be the duty of the treasurer to prepare and publish annually within 60 days following the close of its municipal fiscal year a statement of the receipts and expenditures of funds of the city for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such publication.

(Neb. Rev. Stat. §17-606 through 17-609, 19-1101) (Am. by Ord. No. 567, 7/9/02)

## **SECTION 1-506: CITY ATTORNEY**

The city attorney shall be the legal advisor of the city and shall commence, prose-

cute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city or that may be ordered by the City Council; attend council meetings when requested; give an opinion upon matters submitted to him or her, either orally or in writing, as may be required; draft and review for legal correctness any ordinances, contracts, franchises, and other instruments as may be required; perform such other duties as may be imposed upon him or her by general law or ordinance. The council shall have the right to pay the city attorney compensation for legal services performed by him or her on such terms as the council and attorney may agree and to employ additional legal assistance and pay for such legal assistance out of the funds of the city. (Neb. Rev. Stat. §17-610)

#### **SECTION 1-507: POLICE DEPARTMENT; CONTRACT WITH COUNTY SHERIFF'S OFFICE**

The City of Blue Hill may enter into a contract with the County Board of Webster County for police and law enforcement services to be provided by the Webster County Sheriff's Office. Whenever any such contract has been entered into, the sheriff or his or her deputy shall, in addition to his or her other powers and duties, have all the powers and duties of the city police chief in and for the city. One copy of such contract shall be on file at the office of the city clerk, available for public inspection during office hours.

#### **SECTION 1-508: CITY POLICE CHIEF**

The police chief shall direct the police work of the city and shall be responsible for the maintenance of law and order. He or she shall file the necessary complaints in cases arising out of violations of city ordinances and shall make all necessary reports required by the city ordinances or state laws. (Neb. Rev. Stat. §17-107, 17-121)

#### **SECTION 1-509: POLICE; POWERS, DUTIES, RESPONSIBILITIES; RESERVE OFFICER'S BOND**

A. The city police, whether regular or special, shall have the power to arrest all offenders against the laws of the state or the city, by day or by night, and keep the said offenders in the city jail or some other place to prevent their escape until trial can be held before the proper official of the state or the city. They shall have full power and authority to call on any person whenever necessary to assist them in performing any public duties and failure, neglect or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every city police officer shall be expected to be conversant with and knowledgeable of the city and state laws. No law enforcement official shall have any interest in any establishment having a liquor license. City police shall have the duty to file such complaints and reports as may be required by city ordinances and state laws.

B. City police who shall purposely and willfully fail, neglect or refuse to make an arrest or purposely and willfully fail to make a complaint after an arrest is made

shall be charged with a misdemeanor and upon conviction shall be fined. It shall be unlawful for the City Council to retain any city police officer in such position upon conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction.

C. It shall be the duty of every city 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.

D. Suitable uniforms and badges shall be furnished to the city police by the city. 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 city police chief. The City Council may from time to time provide the city police with such uniforms, equipment and transportation as may be essential in the performance of their official duties.

E. No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000.00, payable to the city, has been filed with the city clerk by the individual appointed, or a blanket surety bond arranged and paid for by the City Council and bonding all such officers has been filed. Such bonds shall be subject to the provisions of Neb. Rev. Stat. Chapter 11, Article 1.

(Neb. Rev. Stat. §17-107, 17-118, 17-124, 81-1444) (Ord. No. 275, 9/2/86)

## **SECTION 1-510: SPECIAL ENGINEER**

The City Council may employ a special engineer to make any particular estimate, survey, or other work. He or she shall make a record of the minutes of surveys and all other work done for the city. He or she shall, when directed by the council, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the council. He or she shall, upon request, make estimates of the costs of labor and material which may be done or furnished by contract with the city and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, or culverts and for the building, constructing, or repairing of any public improvement of the city. All records of the special engineer shall be public records which shall belong to the city and shall be turned over to his or her successor. He or she shall, when directed by the City Council, inspect all works of public improvement and if found to be properly done, shall accept the same and report his or her acceptance to the council. He or she shall estimate the cost of all proposed city utilities and public improvements, together with any extensions thereof which the council may propose to construct or improve. (Neb. Rev. Stat. §17-405, 17-568, 17-919)

## **SECTION 1-511: CITY SUPERINTENDENT; WATER, SEWER, ELECTRICITY**

A city superintendent shall be appointed in the event that there is more than one city

utility and the City Council determines that it is in the best interest of the city to appoint one official to have the immediate control over all the said city utilities. The superintendent may be removed for good cause by the mayor. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner provided for the appointment of all city officials. The superintendent's duties over the following departments shall be as follows:

#### Water Department

The city superintendent shall have general supervision and control over the city water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house and all machinery and appliances used in connection with producing and distributing water to inhabitants of the city. All actions, decisions, and procedures of the superintendent shall be subject to the general directives and control of the City Council. He or she shall have the general control and supervisory authority over all employees of the water system which the council may from time to time hire to operate and maintain the said system. He or she shall make a detailed report to the council 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. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent. He or she 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 City Council, on file in the office of the city clerk. He or she shall perform such additional duties as may be prescribed by the council.

#### Sewer Department

The city superintendent shall have the immediate control and supervision over all the employees and property that make up the city sewer system, subject to the general control and directives of the City Council. He or she shall at least every six months make a detailed report to the council on the condition of the sewer system and shall direct its 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 issue permits for all connections to the city sewer system and inspect and supervise all repairs made to the said system. He or she shall have such other duties as the council may delegate to him or her.

(Neb. Rev. Stat. §17-119, 17-541, 17-543)

#### Electric Department

The city 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 City Council. He or she shall, at least every six months, make a detailed report to the council 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. The city superintendent shall have such other duties as the City Council may delegate to him or her. He or she may be removed at any time by the mayor. (Neb. Rev. Stat. §17-107)

#### **SECTION 1-512: CITY SUPERINTENDENT; STREET DEPARTMENT**

In addition to the above utilities, the city superintendent shall, subject to the orders and directives of the City Council, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the city. 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. At the request of the City Council he or she shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys and bridges of the city and shall direct its 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 city, along with an estimate of the cost thereof. He or she shall perform such other duties as the council may require. (Neb. Rev. Stat. §17-214)

#### **SECTION 1-513: BUILDING INSPECTOR**

The appointment and duties of the building inspector shall be as provided in Section 9-101.

#### **SECTION 1-514: ANIMAL CONTROL AUTHORITY**

The mayor, subject to the approval of the City Council may appoint an animal control authority, who shall be responsible for enforcing all dog regulations of the city. The animal control authority shall make such reports and perform such duties as the City Council requires and may be removed at any time by the mayor.

## **Article 6 – Fiscal Management**

### **SECTION 1-601: FISCAL YEAR**

The fiscal year of the city and any public utility of the city commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. by Ord. No. 428, 12/5/95)

### **SECTION 1-602: PUBLIC FUNDS DEFINED**

“Public funds” shall mean all money, including non-tax money, used in the operation and functions of governing bodies. For purposes of a city which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the city from a licensed lottery operator shall be considered public funds, and “public funds” shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503)

### **SECTION 1-603: DEPOSIT OF FUNDS**

A. The city treasurer shall deposit and at all times keep on deposit for safe-keeping 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 Board of Trustees 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 a member of the Board of Trustees 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 city funds.

B. The City Council at its first meeting in each fiscal year shall designate one or more banks of approved and responsible standing in which the city treasurer shall keep at all times all money held by him or her; provided, if more than one bank in the city meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the city treasurer shall not give a preference to any one or more of them in the money he or she shall deposit.

C. The Board of Trustees 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 by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board 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.

D. 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 by such corporation, and for deposits so insured, no other surety bond or other security shall be required.

E. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §17-607, 77-2362 through 77-2364) (Am. by Ord. No. 506, 7/7/98)

## **SECTION 1-604: INVESTMENT OF FUNDS**

A. The City Council may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the city and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

B. Notwithstanding any other provision of law, to the extent that the funds of the city may be invested or deposited by the city treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization shall may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the city with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the State; and
4. At the same time that the funds are deposited into and such certificates of deposit or time deposits are issued by other banks, capital stock financial institutions, or qualifying mutual financial institutions, the bank,



capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds in certificates of deposit or time interest-bearing deposits was initially made receives an amount of deposits from customers of other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States which is equal to or greater than the amount of the investment or deposit of funds in certificates of deposit or time interest-bearing deposits initially made by the city.

(Neb. Rev. Stat. §77-2365.02) (Am. by Ord. No. 311, 12/5/89)

## **SECTION 1-605: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS**

A. The city treasurer may, upon resolution of the mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank or capital stock financial institution in the State to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the manner provided in this section. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions.

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

C. In lieu of the bond required by subsection (B) of this section, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the city clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the FDIC.

D. The treasurer shall not have on deposit (1) in any bank or capital stock financial institution at any time more than the amount insured by the FDIC plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor (2) in any bank

or capital stock financial institution giving a personal bond, more than the amount insured by the FDIC plus one-half of the amount of the bond of such bank or capital stock financial institution. The amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the FDIC plus paid-up capital stock and surplus of such bank or capital stock financial institution. The treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the mayor as provided in subsection (B) of this section or which has, in lieu of a surety bond, given security as provided in subsection (C) of this section.

(Neb. Rev. Stat. §17-720, 16-714 through 16-716) (Ord. No. 507, 7/7/98)

## **SECTION 1-606: CREDIT CARDS; AUTHORITY TO ACCEPT**

A. The City Council may authorize city officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

B. The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card shall be collected by the city official.

C. The City Council may choose to accept credit cards, charge cards, or debit cards as a means of cash payment to any facility it operates in a proprietary capacity and may adjust the price for services to reflect the handling and payment costs.

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

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

F. When authorizing acceptance of credit card or charge card payments, the City Council shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to

the city. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the city by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

(Neb. Rev. Stat. §13-609)

#### **SECTION 1-607: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

A. The city may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. §45-601 to 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the city.

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

1. There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid and
2. At least 30 days have elapsed from the time the notice was sent.

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

D. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall \$25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. Rev. Stat. §45-623)

#### **SECTION 1-608: CLAIMS**

All claims against the city shall be presented to the City Council in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the city in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which

it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist 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. (Neb. Rev. Stat. §17-714, 17-715)

## **SECTION 1-609: WARRANTS**

All warrants drawn upon the city treasury must be signed by the mayor and countersigned by the city 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. (Neb. Rev. Stat. §17-711)

## **SECTION 1-610: EXPENDITURES**

No city official shall have the power to appropriate, issue, or draw any order or warrant on the city treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the city shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

## **SECTION 1-611: BOND ISSUES**

The City Council 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 council 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. (Neb. Rev. Stat. §10-209 through 10-411, 10-606 through 10-612, 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, 23-3513, 39-836)

## **SECTION 1-612: SINKING FUNDS**

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

B. To initiate the said sinking fund, the 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 improvement. The resolution shall set forth the

improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the city. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law.

C. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the council is authorized to do so by 60% of the qualified electors of the city voting at a general election favoring such a change in the use of the sinking fund.

(Neb. Rev. Stat. §19-1301 thru 19-1304, 77-2337, 77-2339)

## **SECTION 1-613: TRANSFER OF FUNDS**

A. Whenever during the current fiscal year or biennial period it becomes apparent to the City Council that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the council may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. Any officer or officers of the City Council who obligate funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

B. Unless otherwise provided by law, whenever during the current fiscal year or biennial period it becomes apparent to the City Council that (1) there are circumstances which could not reasonably have been anticipated at the time the budget for the current year or biennial period was adopted, (2) the budget adopted violated Neb. Rev. Stat. §13-518 to 13-522 such that the revenue of the current fiscal year or biennial period 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. Rev. Stat. §13-518 to 13-522, or (3) the City Council has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, the council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

C. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the city's jurisdiction. Such 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 or biennial period 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.

D. At such 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. Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the council shall file with the county clerk, with the learning community coordinating council for school districts that are members of learning communities, and with the auditor a copy of the revised budget, as adopted. The council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year or biennial period from funds derived from taxes levied therefor.

E. Within 30 days after adoption of the budget under Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the auditor, the 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 one percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the council shall file a copy of the corrected budget with the county clerk and with the auditor. The council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. §13-510, 13-511)

#### **SECTION 1-614: COLLECTION OF SPECIAL ASSESSMENTS; SPECIAL ASSESSMENT FUND**

A. The city shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon. The city shall (1) file notice of the assessments and the amount of assessment being levied for each lot or tract of land with the register of deeds; and (2) file a release of assessment upon final payment of each assessment with the register of deeds.

B. All money received on special tax assessments shall be held by the city 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 city for money expended for any such improvement.

(Neb. Rev. Stat. §17-710, 18-1216) (Ord. No. 472, 6/3/97)

**SECTION 1-615: GENERAL FUND**

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the general fund.

**SECTION 1-616: CONTRACTS; BIDDING PROCEDURES**

A. Before making any contract in excess of \$30,000.00, as estimated by the city engineer, for general improvements such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, the City Council shall advertise for bids, unless such contract shall be entered into for the benefit of the city electric utility.

B. The city's electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is:

1. \$30,000.00 or less;
2. \$60,000.00 or less and the electric utility has gross annual revenue from retail sales in excess of \$1 million;
3. \$90,000.00 or less and the electric utility has gross annual revenue from retail sales in excess of \$5 million; or
4. \$120,000.00 or less and the electric utility has gross annual revenue from retail sales in excess of \$10 million.

In advertising for bids for any such work, or for the purchase of such equipment, the City Council may cause the amount of such estimate to be published therewith.

C. Such advertisement shall be published once each week for three consecutive weeks in a legal newspaper of general circulation in the city or by posting a written or printed copy thereof in each of three public places in the city; provided, in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, 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, or war, estimates of costs and advertising for bids may be waived in an emergency ordinance when adopted by a three-fourths vote of the City Council.

D. If, after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract for services, material, or labor or if the bids received contain a price which exceeds the estimated cost of the project, the council shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

E. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing city, the City Council or Board of Public Works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

F. The city bidding procedure shall be waived 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.

(Neb. Rev. Stat. §17-568.01, 17-613) (Am. by Ord. No. 508, 7/7/98)

### **SECTION 1-617: ANNUAL AUDIT**

The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the council. 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 no fewer than three copies of the audit report to the council. 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. 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 city 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 city clerk, becoming a part of the public records of the 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. (Neb. Rev. Stat. §19-2901 thru 19-2909)

### **SECTION 1-618: ANNUAL APPROPRIATIONS**

The City Council shall, on or before September 20, pass an ordinance or resolution to be termed "The Annual Appropriation Bill," in which in which such corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the city, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance or resolution shall specify the objects and purposes for which such appropriations are to be made and the amount appropriated for each purpose. Any balance unexpended and unobligated at the end of the fiscal year shall, unless reappropriated, lapse into the general fund. (Neb. Rev. Stat. §17-706) (Am. by Ord. Nos. 377, 6/7/94; 430, 12/5/95)

### **SECTION 1-619: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED**

For the purpose of proper budget preparation, the *City/Village Budget Form* and the



*Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

## **SECTION 1-620: PROPOSED BUDGET STATEMENT**

A. The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the auditor. It shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. Rev. Stat. §13-506. The proposed budget statement shall contain the following information, except as provided by state law:

1. For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
2. For the current fiscal year, 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; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;
4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property for the purpose of paying the principal or interest on bonds issued by the City Council and for all other purposes;
5. A uniform summary of the proposed budget statement, including each

proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

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

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

C. The city shall correct any material errors in the budget statement detected by the auditor or by other sources.

D. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property, shall equal the amount to be received from taxes and such amount shall be shown on the proposed budget statement pursuant to Neb. Rev. Stat. §13-504. 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.

(Neb. Rev. Stat. §13-504, 13-505) (Am. by Ord. Nos. 374, 6/7/94; 470, 6/3/97; 498, 7/7/98; 556, 5/8/01)

## **SECTION 1-621: PROPOSED BUDGET STATEMENT; NOTICE; HEARING**

A. The City Council shall each year conduct a public hearing on its proposed budget statement. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the council's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000.00 per year, the proposed budget summary may be posted at the city office. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. If the levying board represents more than one county, a member or a representative of the City Council shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. The certification of the amount to be received from personal and real property taxation shall specify separately (1) the amount to be applied to the payment of prin-

principal or interest on bonds issued by the council and (2) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

B. Upon approval by the City Council, the budget shall be filed with the auditor, who may review the budget for errors in mathematics, improper accounting, and non-compliance with the provisions of the Nebraska Budget Act or Neb. Rev. Stat. §13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the City Council of such errors. The council shall correct any such error as provided in Neb. Rev. Stat. §13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or non-compliance for which the auditor has notified the council.

(Neb. Rev. Stat. §13-506, 13-507) (Am. by Ord. No. 499, 7/7/98)

#### **SECTION 1-622: EXPENDITURES PRIOR TO ADOPTION OF BUDGET**

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

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

(Neb. Rev. Stat. §13-509.01, 13-509.2) (Ord. No. 410, 3/7/95)

#### **SECTION 1-623: ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX**

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the auditor of public accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the council and the

amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

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

C. The City Council may designate one of its members to perform any duty or responsibility required of such body by this section.

(Neb. Rev. Stat. §13-508) (Am. by Ord. Nos. 375, 6/7/94; 429, 12/5/95; 471, 6/3/97; 500, 7/7/98)

## **SECTION 1-624: REVISION OF BUDGET**

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

1. There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
2. The budget adopted violated Neb. Rev. Stat. §13-518 to 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. Rev. Stat. §13-518 to 13-522; or
3. The council has been notified by the state auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

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 such 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 council shall file with the county clerk of the county in which the city is located and with the state auditor a copy of the revised budget, as adopted, and shall certify the revised amount of tax to be levied. The council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such 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 Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the state auditor, the 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 council shall file a copy of the corrected budget with the county clerk and the state auditor. The council may then issue warrants in payment for expenditures authorized by the budget. (Neb. Rev. Stat. §13-511) (Ord. No. 545, 5/9/00) (Am. by Ord. No. 569, 7/9/02)

#### **SECTION 1-625: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION**

A. Pursuant to the Municipal Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the city.

B. The City Council may establish a separate fiscal year for each proprietary

function, except that any proprietary function which is subsidized by appropriations from the city's general fund shall have the same fiscal year as the city. For purposes of this section, "subsidization" shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the city's general fund in excess of the amount paid by the city to the proprietary function for actual service or services received.

C. If the city does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the city clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediately preceding fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
2. For the current fiscal year, the actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function. Such statement shall contain the estimated cash reserve for each fiscal year and shall whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

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

E. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the

proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the city clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the jurisdiction.

F. If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the city clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

G. Any income from a proprietary function which is transferred to the general fund of the city shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act.

(Neb. Rev. Stat. §18-2803 to 18-2808) (Ord. No. 376, 6/7/94)

#### **SECTION 1-626: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES**

The City Council has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all city purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309, to be levied upon the taxable valuation of all taxable property in the city. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the city in its annual budget and appropriation ordinance or in other legal manner as the council deems wisest and best. The city shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the city may be made by the city in addition to the all-purpose levy. (Neb. Rev. Stat. §19-1309 through 19-1312) (Am. by Ord. No. 504, 7/7/98)

#### **SECTION 1-627: PROPERTY TAX LEVY; AUTHORITY TO SET; HEARING**

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or

ordinance shall only be passed after a special public hearing, called for such purpose, is held and after notice is published in a newspaper of general circulation in the city at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was funding that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

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

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

(Neb. Rev. Stat. §77-1601, 77-1601.02) (Ord. No. 473, 6/3/97) (Am. by Ord. Nos. 503, 7/7/98; 543, 5/9/00)

## **SECTION 1-628: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED**

A. Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this subsection (A), except as provided in subsection (B) of this section. The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the city's share of revenue required under an agreement(s) executed pursuant to the Inter-local Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statute, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the city which require or obligate the city to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the city, for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this subsection (A). The limitations on tax levies provided in this subsection (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 subsection (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. Rev. Stat. §77-1606 unless approved under subsection (B) of this section.

B. The city may exceed the limits provided in subsection (A) of this section 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.

1. 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 council members and delivering a copy of the resolution to the county clerk or election commissioner; or (b) upon receipt of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the city.
2. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section 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. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through 32-631. Any excess levy authority approved under this subsection (B) 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 subsection (C) of this section, whichever is earliest. The council may pass no more than one resolution calling for an election pursuant to this subsection (B) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this subsection (B). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in subsection (A) of this section but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the

ballot question are opposed to such tax, the City Council shall not impose such tax. The county clerk or election commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. Rev. Stat. §77-3442 or the final levy allocation as provided in Neb. Rev. Stat. §77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The city may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk or election commissioner, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk or election commissioner no later than 30 days prior to the date of the election.

C. 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.

1. The City Council may call for the submission of the issue to the voters (a) by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the council members and delivering a copy of the resolution to the county clerk or election commissioner; or (b) upon request of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the city.
2. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than 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. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. Rev. Stat. §77-3442 through 77-3444) (Ord. No. 502, 7/7/98) (Am. by Ord. No. 544, 5/9/00)

## **SECTION 1-629: GENERAL PROPERTY TAX**

The City Council 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 city for the requirements of the adopted budget for the ensuing year, including all special assessments

and taxes. 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. (Neb. Rev. Stat. §17-702) (Am. by Ord. No. 501, 7/7/98)

## **SECTION 1-630: SALES AND USE TAX**

A. Pursuant to the provisions of Neb. Rev. Stat. §77-27,142 to 77-27,148, the Local Option Revenue Act, there is hereby imposed a sales and use tax of 1% on the same transactions within the corporate limits of the city on which the State of Nebraska is authorized to impose a sales and use tax pursuant to the provisions of the Nebraska Revenue Act, as amended from time to time, which tax shall remain in effect until April 1, 2017.

B. From and after the 1st day of October, 2017, pursuant to the provisions of the Local Option Revenue Act, Neb. Rev. Stat. §77-27,142 to 77-27, as amended from time to time, there is hereby imposed a sales and use tax of 1% on the same transactions within the corporate limits of the city on which the State of Nebraska is authorized to impose a sales and use tax pursuant to the provisions of the Nebraska Revenue Act, as amended from time to time; which tax shall remain in effect.

C. The administration of the sales and use tax imposed by subsection (A) above, making returns for the ascertainment, assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected, shall be as provided in Neb. Rev. Stat. §77-27,142 to 77-27,148.  
(Ord. Nos. 561, 8/7/01; 608, 5/22/07; 661, 12/9/14)

## **SECTION 1-631: MOTOR VEHICLE TAX**

The City Council may levy a tax on all motor vehicles owned or used in the city, which tax shall be paid to the county treasurer when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the road fund of the city. Such funds shall be used by such city for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof for the amortization of bonded indebtedness when created for such purposes. (Neb. Rev. Stat. §18-1214) (Ord. No. 295, 9/6/88) (Am. by Ord. No. 312, 12/5/89)



## **Article 7 – Elections**

### **SECTION 1-701: ELECTIONS GENERALLY**

The city primary and general election shall be held in accordance with the provisions of Neb. Rev. Stat. Chapter 32. Said elections shall be held in conjunction with the state primary and general election. The county clerk shall have charge of the election and shall have the authority to deputize the city clerk for city election purposes. Commencing with the statewide primary election in 1976 and every two years thereafter, those candidates for mayor and for positions on the City Council whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election. (Neb. Rev. Stat. §32-533)

### **SECTION 1-702: JOINT, GENERAL; NOTICE**

The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all city elections which are held in conjunction any other election. (Neb. Rev. Stat. §32-802)

### **SECTION 1-703: CITY COUNCIL**

City Council members shall be elected from the city at large unless the residents of the city have voted to elect its council members by wards. Council members shall serve for terms of four years, until their successors are elected and have qualified, and shall be residents and qualified electors. 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. (Neb. Rev. Stat. §32-533, 32-602)

### **SECTION 1-704: CANDIDATE QUALIFICATIONS**

Any person seeking elected office in the city shall be a registered voter prior to holding such office and shall not hold any other public elective public office. (Neb. Rev. Stat. §17-103)

### **SECTION 1-705: PETITION CANDIDATES**

A. Petitions for nomination of candidates for City Council shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the city and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a re-

ceipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

B. The number of signatures of registered voters needed to place the name of a candidate upon the ballot for a city office for the general election shall be as follows:

1. Nonpartisan ballot: 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, not to exceed 2,000.
2. Partisan ballot: at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the city, not to exceed 2,000.

C. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

D. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.

(Neb. Rev. Stat. §32-617) (Am. by Ord. No. 496, 7/7/98)

## **SECTION 1-706: WRITE-IN CANDIDATES**

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists pursuant to Neb. Rev. Stat. §32-625. A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §32-615)

## **SECTION 1-707: FILING FEE**

Prior to the filing of any nomination papers, there shall be paid to the city treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file. No nominating papers shall be filed until the proper city treasurer's

receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Neb. Rev. Stat. §32-608)

### **SECTION 1-708: BALLOTS**

It shall be the duty of the county clerk to provide printed ballots for every general city election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the city. (Neb. Rev. Stat. §32-805, 32-1202)

### **SECTION 1-709: PRIMARY OR GENERAL ELECTION NOTICE**

The county clerk shall publish in a newspaper designated by the County Board the notice of the election no fewer than 40 days prior to the primary or general election. This notice will serve the notice requirement for all city elections which are held in conjunction with the County. (Neb. Rev. Stat. §32-802)

### **SECTION 1-710: 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.

### **SECTION 1-711: EXIT POLLS**

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on Election Day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525) (Ord. No. 264, 9/3/85)

### **SECTION 1-712: RECOUNT OF BALLOTS**

The losing candidate for any office at the city election may request a recount of the ballots cast when the official canvass of such votes cast reveals that there is a difference of 25 votes or fewer between the total cast for the winner and the loser. Such recount shall be made if the losing candidate files a written request therefor with the city clerk within three days following the completion of the official canvass. (Neb. Rev. Stat. §19-3042 thru 19-3050)

### **SECTION 1-713: CERTIFICATE OF NOMINATION OR ELECTION**

After the canvass of the vote at the city election, the city clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote, and in the form as nearly as possible prescribed by state law, which shall be signed by the county clerk. The said certificates shall then be delivered to the persons so elected. (Neb. Rev. Stat. §32-1033, 32-558) (Am. by Ord. No. 542, 5/9/00)

**SECTION 1-714: SPECIAL CITY ELECTION; NOTICE**

A. 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 county clerk at least 50 days prior to the election or as prescribed by special legislation. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide primary election and no special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

B. 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 county clerk by March 1 for the primary election and by September 1 for the general election.

C. After the 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 as provided in Neb. Rev. Stat. §19-3006. The county clerk shall prepare the ballots and issue absentee ballots 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 county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the county clerk shall certify the election results to the City Council. The canvass by the Canvassing Board shall have the same force and effect as if made by the council.

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

(Neb. Rev. Stat. §19-3006, 32-559, 32-405) (Am. by Ord. No. 469, 6/3/97)

**SECTION 1-715: RECALL PROCEDURE**

A. Any or all of the elected officials of the city may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

B. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the clerk by at least one registered



voter. Such voter or voters shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

C. The city 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 to whom the papers were issued, the date of issuance, and the number of papers issued. The clerk shall certify on the papers the name of the principal circulator 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 who checks out petitions from the city clerk may distribute such petitions to registered voters residing in the city who may act as circulators of such petitions.

D. Petition signers shall conform to the requirements of the Election Act. 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 on the date of the issuance of the initial petition papers.

E. A petition demanding that the question of removing a member of the City Council be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for the person receiving the most votes for that office in the last general election.

F. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after the city clerk issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the 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 signature may be removed unless the clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the clerk for signature verification. If the petition is found to be sufficient, the city 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 clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

G. If the recall petition is found to be sufficient, the city clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the city within 90 days of the expiration of the five-day period, the council shall provide for the holding of the removal election on the same day. After the City

Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

H. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or if the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in Subsection (J) of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he or she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the City Council 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 county clerk.

I. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of another member of the City Council during the remainder of his or her term of office.

J. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within 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.

K. If an official is recalled or a vacancy needs to be filled as the result of a recall petition, the city shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to Neb. Rev. Stat. §32-1306, the city shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in Neb. Rev. Stat. §32-1202 associated with preparing for and conducting a recall or special election.

(Neb. Rev. Stat. §32-1301 through 32-1309) (Am. by Ord. No. 533, 5/4/99)

## **Article 8 – Penal Provision**

### **SECTION 1-801: VIOLATION; 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 \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 552, 5/9/00)