

TITLE III: ADMINISTRATION

Chapter

- 30. ELECTED OFFICIALS; ORDINANCES**
- 31. APPOINTED CITY OFFICIALS**
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS**
- 33. GENERAL PROVISIONS**
- 34. ELECTIONS**
- 35. FINANCE AND REVENUE**

CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

Section

Mayor

- 30.01 Election; qualifications; terms
- 30.02 Powers and duties
- 30.03 Vacancy

City Administrator

- 30.15 City Administrator; duties

City Council

- 30.30 Elections; terms; qualifications
- 30.31 Wards
- 30.32 President; Acting President
- 30.33 Vacancy; general provisions
- 30.34 Vacancy due to unexcused absence

Standing Committees

- 30.45 Appointment
- 30.46 Chairpersons
- 30.47 Special or temporary committees
- 30.48 Membership limitations
- 30.49 Meetings; public

Ordinances, Resolutions, and Motions

- 30.60 Grant of power
- 30.61 Introduction of ordinances
- 30.62 Procedure for resolutions and motions
- 30.63 Ordinances; style, title
- 30.64 Reading and passage of ordinances, resolutions, orders, bylaws
- 30.65 Publication or posting of ordinances
- 30.66 Certificate of publication or posting
- 30.67 Effective date; emergency ordinances
- 30.68 Amendments and revisions of ordinances

MAYOR

§ 30.01 ELECTION; QUALIFICATIONS; TERM.

(A) The Mayor shall be elected as provided in the Nebraska Election Act. The Mayor shall be a resident and registered voter of the City. (Neb. RS 17-107)

(B) The Mayor shall serve for a term of 4 years or until his or her successor is elected and qualified. (Neb. RS 32-533) (Am. Ord. 2452, 5-16-89)

§ 30.02 POWERS AND DUTIES.

(A) The Mayor shall preside at all meetings of the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council on any pending matter, legislation, or transaction, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. He or she shall have superintendence and control of all the officers and affairs of the City, and shall take care that the ordinances of the City and all laws governing the City are complied with. (Neb. RS 17-110; Neb. Rev. Stat. 17-614)

(B) 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, the mayor shall notify the city clerk of the veto in writing. The clerk shall notify the city council in writing of the mayor's veto. Any 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. RS 17-111)

(C) The Mayor shall, from time to time, communicate to the City Council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the City. (Neb. RS 17-112)

(D) The Mayor shall have the power, when he or she deems it necessary, to require any officer of the City to exhibit his or her accounts or other papers, and to make reports to the Council, in writing, touching any subject or matter pertaining to his or her office. (Neb. RS 17-113)

(E) The Mayor shall have such jurisdiction as may be vested in him or her by ordinance, over all places within 5 miles of the corporate limits of the City, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within 1/2 mile of the corporate limits of the City. (Neb. RS 17-114)

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

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

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

(2) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State of Nebraska or as the Council may by resolution confer upon the Mayor consistent with law. (Am. Ord. 2452, 5-16-89)

§ 30.03 VACANCY.

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

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

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

CITY ADMINISTRATOR

§ 30.15 CITY ADMINISTRATOR; DUTIES

(A) The office of Administrator of the City of Fairbury, Nebraska, is hereby established as provided by law. The City Administrator shall be appointed by the Mayor, by and with the consent of the City Council. The City Administrator shall be the Chief Administrative Officer of the City subject to the control and direction by the Mayor and City Council, and shall exercise supervision over all municipal employees directly or through subordinate supervisors such as department heads. The City Administrator shall act as an agent of the Mayor in the discharge of all duties,

responsibilities and powers set forth in this section, and shall carry out the policies and directions as determined by the Mayor and City Council. In the event the City Administrator shall be absent from the City, or is incapable of discharging his or her duties, responsibilities, and powers for any reason, the Mayor shall act during such absence or incapacity.

(B) In addition to the duties, responsibilities, and powers set forth elsewhere, and not as a limitation thereof, and subject to oversight by the Mayor and City Council, the duties, responsibilities and powers of the City Administrator shall be as follows:

(1) Serve as City Personnel Director. Shall be the authority, subject to the provisions of collective bargaining agreements entered into by the City and its employees' respective unions, to employ, evaluate, discipline, and remove all non-elected employees of the City, except for the hiring and removal of police officers, which shall be accomplished pursuant to law by the Mayor and City Council. Appointments to and removal from the offices of the City Clerk, Police Chief, Public Works Director, Municipal Utilities Superintendent, City Attorney and City Physician, shall be made by the Mayor and City Council as provided by law. The City Administrator shall oversee all department heads. Subject to approval by the Mayor and in compliance with all applicable laws and City collective bargaining agreements, the City Administrator shall coordinate all employment application procedures and interviews, implement and maintain a personnel evaluation program with the assistance of department heads, prepare and submit to the Mayor written performance evaluations for all City personnel and department heads at least once annually, and supervise and maintain payroll and benefits programs.

(2) Take no part in any selection process held for the purpose of electing any elective municipal official of the City except for the casting of his or her individual ballot.

(3) Prepare and keep up to date an inventory of all real and personal property and other public property that the City owns or has an interest in and exercise general supervision and control over through consulting, recommending and coordinating with department heads.

(4) Coordinate and supervise the timely purchase of all supplies, goods, wares, merchandise, equipment and materials which may be required for the various departmental divisions and services of the City through consulting, recommending and coordinating with department heads, and with relation to the municipal water, sewer, and electrical systems, through consulting, recommending and coordinating with the Board of Public Works and its storekeeper subject to funds appropriated and financial limits established by ordinance and at the direction of the Mayor and City Council and/or Board of Public Works as appropriate.

(5) Coordinate each Department's annual estimate of expenditures in the timely preparation of a utilities and City budget prior to the time of the passage and adoption of the annual appropriation ordinance; submit periodic budget reports to the Mayor and City Council; ensure and supervise proper maintenance of all official City documents and records

(6) Serve as ADA Coordinator and Risk Management Officer.

(7) Serve as public relations officer. In such capacity, shall endeavor to investigate and adjust all complaints filed against any employee, department, division, or service thereof of the City. Shall cooperate with all community organizations whose aim and purpose is to advance the best interests of the municipality. Shall maintain open communication with the media.

(8) Attend all City Council and Board of Public Works meetings. Shall attend and provide general assistance to and supervision of all City Boards, Commissions, Authorities, and Committees as duties may require.

(9) Seek funding sources for City operations; responsible for preparation of applications for funding, grants, and loans.

(10) Be primarily responsible for the coordination of all City economic development efforts, and shall cooperate and coordinate with, as appropriate, all community groups and City efforts, including but not limited to the City of Fairbury Community Redevelopment Authority and the Little Blue Area Development Corporation, the aims of which are to promote the City of Fairbury and enhance the economic development efforts of the City.

(11) Regularly report to the Mayor and City Council through reports at City Council meetings and otherwise the status of City operations and any other matters deemed appropriate.

(12) Advise the Mayor and City Council on all areas affecting City operations, and recommend the adoption of such measures and ordinances as are deemed necessary or expedient.

(13) Perform such other duties and exercise such powers as may be delegated to him or her from time to time by ordinance or resolution of the Mayor and City Council; or, in relation to the operation of the municipal water, sewer, and electrical systems, as may be delegated by the Board of Public Works, as approved by the Mayor.

(C) The City Administrator shall devote his or her entire time, attention and energy to the affairs of the City and the operation of the municipal water, sewer and electrical systems, and shall not, during the time of office or employment, be engaged in any other business activity.

(D) The salary of the City Administrator shall be fixed by ordinance and by the written contract of employment with the City Administrator. Said written contract of employment may also require residency within the City as a condition of such employment as City Administrator

(E) The City Administrator shall have on file with the City Clerk a bond in favor of the City for the faithful performance of his or her duties and responsibilities in the amount fixed by resolution. The premium for such bond shall be a City expense.

(Ord. _____, 1-2015)

CITY COUNCIL

§ 30.30 ELECTION; TERMS; QUALIFICATIONS.

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

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

(C) Members of the Council shall serve for terms of four years or until their successors are elected and qualified. (Neb. RS 32-533)

§ 30.31 WARDS.

The City shall redistrict as often as necessary using the most recent federal decennial census to insure that each ward is substantially equal in population. The City shall be divided into the wards shown on the map on file in the office of the City Clerk.

§ 30.32 PRESIDENT; ACTING PRESIDENT.

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

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

(C) The President and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the City as if done by the Mayor.

(Neb. RS 17-148)

§ 30.33 VACANCY; GENERAL PROVISIONS.

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

(B)(1) Except as otherwise provided in subsection (C) or (D) of this section or Neb. Rev. Stat. 32-568, vacancies in the City Council shall be filled by the mayor and Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council or board of trustees at a regular or special meeting and shall appear as a part of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.

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

(C) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in division (B), call a special city election to fill such vacancy.

(D) If vacancies exist in the offices of one-half or more of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (Neb. RS 32-569) (Am. Ord. 2303, 8-21-84; 2504, 1-15-91; 2851, 7-16-02)

§ 30.34 VACANCY DUE TO UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. RS 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 five consecutive regular meetings of the Council unless the absences are excused by a majority vote of the remaining members. (Neb. RS 19-3101)

(B) The Council shall take a vote on whether to excuse a member's absence from a meeting upon either:

- (1) A written request from the member submitted to the City Clerk; or
- (2) A motion of any other council member.

(C) If a council member has been absent from 6 consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Council shall set a date for a hearing and direct the Clerk to give the member notice of the hearing by personal service or first-class mail to the member's last-known address.

(D) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the Council does not excuse 1 or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council. (Ord. 2865, 7-15-03)

STANDING COMMITTEES

§ 30.45 APPOINTMENT.

At the first regular meeting following the organizational meeting of the City Council, held on the first regular meeting in December of each year in which a municipal election is held, the Mayor shall appoint members of those standing committees as the City Council may by ordinance or resolution create. Committee appointments shall require confirmation by a majority of a quorum of City Council members. Membership of the standing committees shall not be changed without approval of a majority of City Council members in attendance at a regular meeting of the City Council. (Am. Ord. 2866, 9-2-03; 2955, 12-5-06)

§ 30.46 CHAIRPERSONS.

(A) All chairpersons of standing committees shall be appointed by the Mayor and shall be subject to confirmation by a majority of City Council members in attendance at a regular meeting of the City Council.

(B) The mandate of this section shall be implemented at the organizational meeting of the City Council in December, 2004.
(Ord. 2866, 9-2-03)

§ 30.47 SPECIAL OR TEMPORARY COMMITTEES.

Special or temporary committees of limited duration and purpose may be appointed by the Mayor from time to time, subject to approval of a majority of Council members present at a meeting of the City Council. The Mayor shall appoint the chairperson of any such temporary or special committee. (Ord. 2866, 9-2-03)

§ 30.48 MEMBERSHIP LIMITATIONS.

No more than half of the members of the City Council shall be appointed to any standing or special committee. (Ord. 2866, 9-2-03)

§ 30.49 MEETINGS; PUBLIC.

Meetings of all standing or special committees shall be conducted in compliance with the Open Meetings Act, and applicable provisions of §§ 33.01 to 33.03 of this code. (Ord. 2866, 9-2-03)

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.60 GRANT OF POWER.

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions, under authority of and not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government, and welfare of the municipality and its trade, commerce, and manufactories. (Neb. RS 17-505) (Am. Ord. 2694, 7-1-97)

§ 30.61 INTRODUCTION OF ORDINANCES.

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

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

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

(C) The Mayor may present the proposed ordinance to the City Council by reading aloud the title thereof, in the presence and hearing of a majority of the members elected to the City Council, provided the title is included on the agenda for that Council meeting and a copy of the ordinance is submitted to the City Clerk. (Am. Ord. 2695, 7-1-97)

§ 30.62 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

Formal resolutions may be introduced by any Council member, and, unless a Council member shall request full reading of the entire text thereof, shall be submitted for a vote by recitation of the resolution number assigned by the City Clerk. Motions shall be fully and distinctly stated by the person making the motion, and, upon request of any Council member, shall be restated by the City Clerk. Passage of any resolution or motion shall require concurrence of a majority of quorum of the members elected to the governing body, except that all ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the council or board of trustees. The vote on any resolution or motion shall be by roll call vote. (Am. Ord. 2884, 4-6-04)

§ 30.63 ORDINANCES; STYLE, TITLE.

(A) *Style.* The style of all municipal ordinances shall be: "Be it ordained by the Mayor and Council of the City of Fairbury, Nebraska:" (Neb. RS 17-613)

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

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

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

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made *viva voce*, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or *viva voce* vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public. (Neb. RS 17-616)

(Am. Ords. 2628, 2-21-95; 2696, 7-1-97)

§ 30.65 PUBLICATION OR POSTING OF ORDINANCES.

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

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

(B) In book or pamphlet form.
(Neb. RS 17-613) (Am. Ords. 2377, 9-2-86; 2697, 7-1-97)

§ 30.66 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Municipal Clerk showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted. (Neb. RS 17-613)

§ 30.67 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.64 of this code and division (B) of this section, an ordinance for the government of the municipality which has been adopted by the City Council without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance. (Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least 3 of the most public places in the municipality. An emergency ordinance shall recite the emergency, be passed by a 3/4 vote of the City Council, and be entered of record on the Municipal Clerk's minutes. (Neb. RS 17-613) (Am. Ord. 2698, 7-1-97)

§ 30.68 AMENDMENTS AND REVISIONS OF ORDINANCES.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the municipality and modifications to zoning or building districts may be adopted as otherwise provided by law. (Neb. RS 17-614) (Am. Ord. 2699, 7-1-97)

CHAPTER 31: APPOINTED CITY OFFICIALS

Section

- 31.01 Appointment; removal; qualification
- 31.02 Merger of offices
- 31.03 Clerk/Treasurer position created
- 31.04 Municipal Clerk
- 31.05 Municipal Treasurer
- 31.06 Municipal Fire Chief and Municipal Police Chief created
- 31.07 Municipal Police Chief
- 31.08 Municipal police officers
- 31.09 Municipal Street and Sanitation Superintendent
- 31.10 Park Director
- 31.11 Municipal Utilities Superintendent
- 31.12 City Attorney

- 31.13 Deputy City Attorney
- 31.14 Municipal Physician
- 31.15 Municipal Engineer
- 31.16 Building Inspector
- 31.17 Municipal Electrical Inspector
- 31.18 Municipal Plumbing Inspector

§ 31.01 APPOINTMENT; REMOVAL; QUALIFICATION.

(A) Appointment and removal.

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

(2) The 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 subdivision (3) of this section. A police officer, including the chief of police, may appeal to the city council such removal, demotion, or suspension with or without pay. After a hearing, the city council may uphold, reverse, or modify the action. (Neb. RS 17-107)

(3) The city council shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the chief of police. The ordinance shall include a procedure for such removal, demotion, or suspension with or without pay of any police officer, including the chief of police, upon the written accusation of the police chief, the mayor, or any citizen or taxpayer. The city council shall establish by ordinance procedures for acting upon such written accusation, including: (i) Provisions for giving notice and a copy of the written accusation to the police officer; (ii) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation; (iii) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence; and (iv) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation. The ordinance shall also include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the action or their respective attorneys or representatives shall have the right at the hearing to be heard and to present evidence to the city council for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the city council shall vote to uphold, reverse, or modify the action. The failure of the city council to act within thirty days or the failure of a majority of the elected council members to vote to reverse or modify the action shall be construed as a vote to uphold the action. The decision of the city council shall be based upon its determination that, under the facts and evidence presented at the hearing, the action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. This subsection does not apply to a police officer during his or her probationary period. (Neb. RS 17-107).

(4) The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. (Neb. RS 81-1438)

(B) *Qualification for office.*

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

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

§ 31.02 MERGER OF OFFICES.

The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of these offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Neb. RS 17-108.02) (Am. Ord. 2304, 8-21-84; 2506, 1-15-91)

§ 31.03 CLERK/TREASURER POSITION CREATED.

The appointive offices of City Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the City Council by § 31.02 of this Code and state law. (Am. Ord. 2788, 12-7-99; 2792, 1-4-00)

§ 31.04 MUNICIPAL CLERK.

(A) The Municipal Clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the City Clerk may transfer such journal of the proceedings of the council or board of trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. (Neb. Rev. Stat. 17-605). He or she shall make, at the end of the fiscal year, a report of the business of the municipality transacted through his or her office for the year. He or she shall file all official bonds after the same shall have been properly executed and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

(B) The Municipal Clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the municipal ordinances. He or she shall collect all oc-

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

(C) The Municipal Clerk shall permit no records, public papers, or other documents of the municipality kept and preserved in his or her office to be taken therefrom, except by those officers of the municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

(D) (1) The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at those officers, employees, or committees. With the seal of the municipality, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

(2) Within 30 days after any meeting of the City Council, the Municipal Clerk shall prepare and publish the official proceedings of the City Council in a legal newspaper of general circulation in the municipality, and which was duly designated as such by the City Council. This publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to those 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 this publication shall not exceed the rates provided by the statutes of the state, Neb. RS 19-1102 and 23-122. (Neb. RS 19-1102)

(3) This publication shall be charged against the general fund. (Neb. RS 19-1103)

(4) The Municipal Clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by the Municipal Clerk by order of the City Council, or under the ordinances of the municipality. To each of the file copies of these notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only. (Neb. RS 19-1102)

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

(F) The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council. He or she shall destroy municipal records pursuant to the Nebraska Records Management Act, Neb. RS 84-1201 through 84-1227, provided that the City Council shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent pursuant to the Nebraska Records Management Act. (Am. Ord. 2555, 3-16-93)

§ 31.05 MUNICIPAL TREASURER.

(A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of these receipts with his or her monthly reports. The City Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of the account and the balance of money in the treasury. He or she shall also accompany these accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the City Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the governing body, the Mayor with the advice and consent of the City Council may use this failure as cause to remove the Treasurer from office. (Neb. RS 17-606)

(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. He or she shall accompany the annual statement submitted pursuant to Neb. Rev. Stat. 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. (Neb. Rev. Stat. 17-606)

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

(2) The City Treasurer shall keep a warrant register in the form required by Neb. RS 77-2202.

(3) The City Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which those funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver 1 of the duplicates to the person making the payment and retain the other in his or her office. (Neb. RS 77-2209)

(4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in

case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (Neb. RS 77-2210)

(D) (1) The City Treasurer shall prepare and publish annually within 60 days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. (Neb. RS 19-1101)

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

(E) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

(F) 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 by him or her as city treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the city council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as mayor, as a member of the city council, as a member of a board of public works, or as any other officer of the 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. 17-607)

(G) 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 council may, by resolution, direct and authorize the treasurer to invest said surplus funds in the outstanding bonds or registered warrants of the City, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen 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. (Neb. Rev. Stat. 17-608)

(H) The mayor and 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.

§ 31.06 MUNICIPAL FIRE CHIEF AND MUNICIPAL POLICE CHIEF CREATED.

When appointed, the offices of the Municipal Fire Chief and Municipal Police Chief shall be held by separate persons appointed pursuant to Chapter 31 of the Fairbury, Nebraska, Municipal Code. The Municipal Fire Chief shall act as the Building Inspector for the municipality. He or she may, after being trained in the policies and procedures for the issuance of citations by a certified law enforcement officer, issue citations for violations of the fire, health, safety, and constructional technical code. He or she shall file the necessary complaints in cases arising out of said municipal ordinances, and shall make all necessary reports required by the municipal ordinances, or the laws of the state. (Ord. 2828, 1-15-02) (Am. Ord. 2938, 6-20-06) (Neb. Rev. Stat. 17-147)

§ 31.07 MUNICIPAL POLICE CHIEF.

The Municipal Police Chief shall direct the police work of the municipality and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector for the municipality. He or she shall file the necessary complaints in cases arising out of said municipal ordinances, and shall make all necessary reports required by the municipal ordinances, or the laws of the state. (Neb. RS 17-107 and 17-121) (Am. Ord. 2938, 6-20-06)

§ 31.08 MUNICIPAL POLICE OFFICERS.

The municipal police, whether regular or special, shall have the power to arrest all offenders against the laws of the state, or the municipality, by day or by night, in the same manner as the sheriff, and keep the offenders in the municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the state or the municipality. They shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render this assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every municipal police officer shall be expected to be conversant and knowledgeable with the municipal and state laws, and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal police officers shall have the duty to file such complaints and reports as may be required by the municipal ordinances and the laws of the state. Any municipal police officer who shall willfully fail, neglect, or refuse to make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the City Council to retain any municipal police officer in that position after he or she shall have been duly convicted of the willful violation of any federal law, law of the state, or any ordinance of the municipality, except minor traffic violations. It shall be the duty of every municipal police officer making a lawful arrest and search of persons in custody, 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 according to law. All personal effects so taken from prisoners aforementioned shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the municipal police by the municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his or her badge to the Police Chief. The City Council may from time to time provide the municipal police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (Neb. RS 17-118 and 17-124) Penalty, see § 10.99

§ 31.09 MUNICIPAL STREET AND SANITATION SUPERINTENDENT.

(A) The Municipal Street and Sanitation 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 municipality. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the City Council, make a detailed report to the City Council on the condition of the streets, sidewalks, culverts, alleys, and bridges of the municipality, and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality along with an estimate of the cost thereof.

(B) The Street and Sanitation Superintendent shall have the immediate control and supervision of the municipal landfill, and of all dumping of garbage, refuse, waste, and rubbish thereon, subject to the general control and directives of the City Council. He or she shall direct the attention of the City Council to those improvements, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue dumping permits if the City Council should require them and shall inspect and supervise all work done to improve or extend the landfill. He or she shall have those 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. RS 17-107 and 17-119)

§ 31.10 PARK DIRECTOR.

(A) The Park Director shall be appointed by the Mayor with the consent of the Council. He or she shall have charge of all parks and recreational facilities belonging to the City and all recreational activities supported financially by the City, and shall establish rules for the management, care, supervision, and use of the same.

(B) It shall be the duty of the Park Director to lay out, improve, beautify, and design all grounds, bodies of water, and buildings owned or acquired for public parks and recreational facilities, and employ those persons as may be necessary for the proper direction, care, maintenance, improvement, and beautification thereof, and for program planning and leadership of recreational activities, to the extent that funds may be provided for these purposes. The Park Director shall also have the duty of continued study and promotion of the needs of the City for additional parks and recreational facilities. The Park Director shall comply with all applicable local, state, and federal laws.

(C) All actions of the Park Director shall be subject to the review and control of the City Council. The Park Director shall be responsible for making those reports and performing other duties as the City Council may, from time to time, designate.

(Ord. 2329, 7-2-85) (Am. Ord. 2944, 8-15-06)

§ 31.11 MUNICIPAL UTILITIES SUPERINTENDENT.

(A) A Utilities Superintendent shall be appointed by the Board of Public Works, subject to confirmation by the Mayor and Council. The Utilities Superintendent may be removed at any time by the Board of Public Works, after an opportunity to be heard before the Mayor and City Council if he shall so request, for malfeasance, misfeasance or neglect in office. (Neb. Rev. Stat. 17-804)

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

(1) *Water Department.* He or she shall have general supervision and control over the municipal water system, and shall be primarily responsible for its economic operation and prudent management. Included in that water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions, and procedures of the Utilities Superintendent shall be subject to the general directives and control of the Board of Public Works. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the Board of Public Works may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer all money collected in the name of the municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his or her faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the City Council at least once every 6 months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery, and such improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the waterworks system except upon the recommendation of the Superintendent. The Superintendent shall provide a bond conditioned upon the faithful discharge of his or her duties which shall amount to not less than the amount set by resolution of the City Council and on file in the office of the Municipal Clerk. He or she shall perform additional duties as may be prescribed by the Board of Public Works.

(2) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the Board of Public Works. He or she shall, at least every six months, make a detailed report to the City Council on the condition of the sewer system, and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have other duties as the Board of Public Works may delegate to him or her. He or she shall issue permits for all connections to the municipal sewer system, and inspect and supervise all repairs made to the system.

(3) *Electrical system.* The Utilities Superintendent shall have the immediate control and supervision over all employees and property that make up the municipal electric system, subject to the general control and directives of the Board of Public Works. He or she shall, at least every six months, make a detailed report to the City Council on the condition of the electrical system, and shall direct its attention to those improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have other duties as the Board of Public Works may delegate to him or her. (Neb. RS 17-107 and 17-804)

§ 31.12 CITY ATTORNEY.

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the City Council, he or she shall attend meetings of the City Council and shall advise any municipal official in all matters of law in which the interests of the municipality may be involved. He or she shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts, and documents on which the City Council will be required to act and attach thereto a brief statement in writing to all such instruments and documents as to whether or not the document is in legal and proper form when necessary. He or she shall prepare complaints, attend, and prosecute violations of the municipal ordinances when directed to do so by the City Council. Without direction, he or she shall appear and prosecute all cases for violation of the municipal ordinances that have been appealed to and are pending in any higher court. He or she shall also oversee all additional legal counsel employed to represent the City. He or she shall also examine, when requested to do so by the City Council, the ordinance records and advise and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be valid, and subsisting local laws in so far as their passage and approval are concerned. The City Council shall have the right to compensate the Municipal Attorney for legal services on such terms as the City Council and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality. (Neb. Rev. Stat. 17-610)

§ 31.13 DEPUTY CITY ATTORNEY.

The Deputy City Attorney shall assist the City Attorney in the prosecution of violations of municipal ordinances and shall perform other legal services for the City as may be requested by the City Attorney, Mayor, or Council. The Deputy City Attorney shall be appointed by the Mayor with the consent of the City Council. The Deputy City Attorney shall receive no fixed monthly salary, but shall be paid for reasonable claims submitted by him or her for services rendered on behalf of the municipality.

§ 31.14 MUNICIPAL PHYSICIAN.

(A) The Municipal Physician shall be a member of the Board of Health of the municipality and perform the duties devolving upon the position as the medical advisor of that board.

(B) In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the injuries, the extent thereof, and the circumstances. He or she shall then report the results of the investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto and issue those health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the municipality. He or she shall perform those other duties as may be required by the laws of the state and the ordinances of the municipality. When ordered to do so by the City Council, he or she shall disinfect or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and call upon indigent sick persons and perform other professional services at the direction of the City Council.

(C) The Municipal Physician shall receive as compensation for services that sum as the City Council may from time to time set. He or she shall receive no compensation for services as a member of the Municipal Board of Health.

§ 31.15 MUNICIPAL ENGINEER.

(A) The Municipal Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities and the costs of labor and materials therefor. He or she shall accurately make all plats, sections, and maps as may be necessary under the direction of the City Council.

(B) Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require.

§ 31.16 BUILDING INSPECTOR.

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

§ 31.17 MUNICIPAL ELECTRICAL INSPECTOR.

(A) The Municipal Electrical Inspector, if one has been appointed, shall enforce all laws relating to the installation of electrical wiring, and connections thereto. The person chosen to fill the office of Electrical Inspector shall be possessed of such executive ability as is required for the performance of his or her duties, and shall have a thorough knowledge of the standards of materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety of persons and property, the statutes of the state relating to electrical work and any orders, rules, and regulations issued by the authority thereof, and the National Electrical Code; and shall have had at least five years experience in electrical work or in the installations of electrical equipment, or in lieu of that experience shall be a graduate in electrical or mechanical engineering of a recognized college or university and shall have had two years of electrical experience.

(B) (1) When acting in good faith and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or her, or by reason of any act or omission in the discharge of his or her duties.

(2) He or she shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He or she shall perform other duties and issue any permits that the City Council may direct.
(Am. Ord. 2944, 8-15-06)

§ 31.18 MUNICIPAL PLUMBING INSPECTOR.

(A) The Municipal Plumbing Inspector, if one has been appointed, shall enforce all laws relating to the installation of plumbing and connections thereto, and shall comply with all provisions of Neb. Rev. Stat. 18-1901 to 1920 as applicable. The person chosen to fill the office of Plumbing Inspector shall be possessed of such executive ability as is required for the performance of his or her duties, and shall have a thorough knowledge of the standards of materials and methods used in the installation of plumbing equipment; shall be well versed in approved methods of construction for safety of persons and property, the statutes of the state relating to plumbing work and any orders, rules, and regulations issued by the authority thereof, and the National Standard Plumbing Code; and shall have had at least five years experience in plumbing work or in the installations of plumbing equipment, or in lieu of that experience shall be a graduate in mechanical engineering, or its equivalent, of a recognized college or university and shall have had two years of plumbing experience.

(B) When acting in good faith and without malice in the scope of his or her official duties, he or she shall not himself or herself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or her or by reason of any act or omission in the discharge of his or her duties. He or she shall, in the discharge of his or her official duties, and upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He or she shall perform other duties and issue any permits that the City Council may direct.
(Am. Ord. 2944, 8-15-06)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

Boards and Commissions

- 32.001 Planning Commission
- 32.002 Board of Adjustment
- 32.003 Board of Health
- 32.004 Board of Public Works
- 32.005 Library Board
- 32.006 Museum Board
- 32.007 Airport Authority Board
- 32.008 Joint City-County Civil Defense Organization
- 32.009 Housing Agency Board
- 32.010 Community Redevelopment Authority

Economic Development Program; Citizen Advisory Review Committee

- 32.025 Program adoption
- 32.026 Committee created
- 32.027 Committee composition
- 32.028 Committee members; appointment; vacancies; removal
- 32.029 Member terms
- 32.030 Committee officers
- 32.031 Committee meetings
- 32.032 Reports to City Council
- 32.033 Program administration
- 32.034 Disclosure of confidential information

Utility Departments

- 32.045 Water Department; operation and, funding
- 32.046 Sewer Department; operation and funding
- 32.047 Electrical system; operation and funding

Fire Department

- 32.060 Operation and funding
- 32.061 Fire Chief
- 32.062 Membership
- 32.063 Records
- 32.064 Fires
- 32.065 Distant fires
- 32.066 Inspections
- 32.067 Notice of violation
- 32.068 Power of arrest
- 32.069 Fire investigation

Police Department

- 32.080 Duties
- 32.081 Reserve officer bond
- 32.082 Arrest and enforcement jurisdiction
- 32.083 Officers; discipline or removal from duty; notice and hearing; determination

BOARDS AND COMMISSIONS

§ 32.001 PLANNING COMMISSION.

(A) The Planning Commission shall consist of nine regular members who shall represent, insofar as is possible, the different professions or occupations in the municipality and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the City Council. Two of the regular members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall

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

(B) All regular members of the Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the Council, and conditioned upon the faithful performance of their duties. The Commission shall elect its chairperson and a secretary from its members and create and fill such other of its offices as it may determine. The term of the chairperson and the secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the chairperson and secretary of the Commission. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection during office hours. The Commission shall be funded by the City Council from time to time out of the general fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures nor agreements for expenditures shall be valid in excess of those amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently and the chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any 3 members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record. The Commission shall make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Mayor and City Council. The Commission shall make its recommendations to the City Council so that they are received by the City Council within 60 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making those reports and performing those other duties as the City Council may, from time to time, designate. (Am. Ord. 2594, 6-21-94; 2631, 2-21-95)

§ 32.002 BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of 5 regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of 3 years and shall be removable for cause by the Mayor and City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the City, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within that area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. (Neb. RS 19-908)

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

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

(D) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. This appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on

application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Neb. RS 19-909)

(E) The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council, have only the following powers: (1) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under subsection (3) of section Neb. Rev. Stat. 19-929; (2) to hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (3) when by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under Neb. Rev. Stat. 19-910 and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(F) No such variance shall be authorized by the board unless it finds that: (1) The strict application of the zoning regulation would produce undue hardship; (2) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (3) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (4) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(G) In exercising the powers granted in this section, the board may, in conformity with Neb. Rev. Stat. 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912. (Neb. RS 19-910)
(Am. Ord. 2687, 6-17-97)

§ 32.003 BOARD OF HEALTH.

(A) A Board of Health is created consisting of four members: the Mayor, who shall serve as chairperson, the President of the City Council, and two other members appointed by the Mayor with the consent of the City Council. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as secretary and quarantine officer.

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

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

(D) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the City, may enforce them, and may provide fines and punishments for the violation thereof. The Board shall have power to and shall make all needful rules and regulations relating to matters of sanitation of the City, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, waterclosets, cesspools, stables, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the City relating to nuisances or to matters of sanitation of the City. The Board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of the City. (Neb. RS 17-121)

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

§ 32.004 BOARD OF PUBLIC WORKS.

(A) The Mayor shall appoint the Board of Public Works, subject to the approval of City Council. Members of the Board may be removed by Mayor and a majority of the members of Council at any time. The Board shall consist of five members who are residents of the municipality. The members of the Board shall serve a four-year term of office, at a salary set by ordinance of the City Council. Each of the members shall be required to give a bond to the municipality in the sum of \$5,000 and shall be conditioned on the faithful performance of the duties of their office; provided, the premium on this bond shall be paid out of a municipal fund designated by the City Council. No member of the Board shall ever be financially interested in a contract entered into by the Board on behalf of the municipality. The members of the Board shall be required to take an oath to faithfully perform the duties of their office before entering upon the discharge thereof. At the time of the Board's first meeting in June of each year, the

Board members shall organize by selecting from among their number a chairperson and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any time. All meetings of the Board of Public Works shall be recorded by an audio recording device. The minutes of each meeting shall be published in a legal newspaper of general circulation in the municipality within 30 days after it is held. The Board shall meet at regularly established times. Special meetings may be held upon the call of the chairperson, or any 3 members of the Board. A majority of the Board members shall constitute a quorum for the transaction of business. It shall be the duty of the Board to operate any utility owned by the municipality and to exercise all powers to the same extent, in the same manner, and under the same restrictions conferred by law upon the City Council of the municipality for the operation of utilities if no such board of public works existed, except that the Board shall not make an expenditure or contract any indebtedness other than for ordinary running expenses exceeding the amount of \$10,000 without first obtaining the approval of the City Council. The Board may, in its discretion, employ a commissioner to operate 1 or more of the municipal utilities and who shall be under the immediate authority of the Board of Public Works. The Board shall be responsible for making those reports and performing other duties as the City Council may, from time to time, designate. No member of the City Council shall serve as a member of the Board of Public Works while serving a term of office as a member of the City Council. No member of the Board of Public Works shall serve in the capacity of both the chairperson and secretary of the Board. (Neb. RS 17-801 through 17-808 and 17-810) (Am. Ord. 2273, passed 10-18-1983; Am. Ord. 2797, passed 4-4-2000)

(B) The Board of Public Works may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the Board. The Board may purchase material and employ labor for the enlargement or improvement of the systems and works under the jurisdiction of the Board. (Neb. RS 17-568.01)

§ 32.005 LIBRARY BOARD.

(A) (1) The Library Board shall consist of five appointed members who shall be residents of the municipality and who shall serve terms of 4 years. The Board members shall be appointed by a majority vote of the members of the City Council. Neither the Mayor nor any member of the City Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In cases of vacancies by resignation, removal, or otherwise, the City Council shall fill the vacancy for the unexpired term. No member shall receive any pay or compensation for any services rendered as a member of the Library Board. (Neb. RS 51-202)

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

(B) (1) The members of the Library Board shall immediately after their appointment meet and organize by electing from their number a president, a secretary, and such other officers as may be necessary. A majority of the members of the Library Board shall constitute a quorum for the transaction of business. (Neb. RS 51-204)

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

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

§ 32.006 MUSEUM BOARD.

The Mayor, with the approval of the Council, shall appoint a Museum Board of not less than five but not more than nine members to be chosen from the citizens of the municipality, of which Board neither the Mayor nor any member of the Council shall be a member. The members of the Board shall hold their offices for a term of 5 years. No member shall receive compensation for his or her services on the Board. The Directors shall immediately after their appointments meet and organize by electing from their number a president, secretary, and such other officers as may be necessary. Three members of the Board shall constitute a quorum for the transaction of business. The Board shall have the power to make and adopt rules and regulations for its own guidance and for the government of the Museum as it may deem expedient and not inconsistent with the provisions of this code and state law. The Board shall have the power to employ any and all personnel necessary for the operation of the Museum and to fix their salaries. The Board shall have the exclusive control of expenditures of all money collected or donated to the credit of the Museum Fund; of the renting and construction of the museum building; and the supervision, care, and custody of the grounds, rooms or buildings constructed, leased, or set apart for that purpose. All taxes levied or collected shall be kept for the use of the museum, separate and apart from other funds of the City. They shall be drawn upon and paid out by the treasurer of the City upon vouchers signed by the president of the museum board and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner. All funds donated or in any other way acquired from private sources, including paid memberships in a local museum association, for the erection, maintenance, or support of any museum shall be kept for the use of the museum, separate and apart from all other funds of the City. They shall be drawn upon and paid out by the treasurer of such museum board upon vouchers signed by the president of the museum board and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner. The Board shall on or before the second Monday in June of each year, make a report to the City Council as to the condition of its trust on June 1 of each year, showing all money received and expended and a general report of its activities in the operation and supervision of the museum and any information and suggestions it may deem of general interest, or as the City Council may require. The report shall be in writing and verified by affidavit of the proper officers of such board. The museum board may, by resolution of the majority of the board, direct the sale, conveyance, or disposition of any real estate or other property owned by the museum board or by the museum upon such terms and conditions as the museum board deems in the best interest of the museum, except that the provisions of this section shall not include any items or property subject to the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq. The museum board shall properly document the sale, conveyance, or disposition of any real estate or other property, including a brief description of the real estate or other property, the disposition made, the name of the recipient of the real estate or other property, the amount tendered or a description and stated value of real estate or other property received in exchange, and the date of the transaction. All funds derived from such sales shall be deposited in the museum fund and kept for use by the museum separate and apart from other funds of the City (Neb. RS 51-501 through 51-

513) (Am. Ord. 2611, 10-18-94)

§ 32.007 AIRPORT AUTHORITY BOARD.

The Airport Authority Board shall have that existence, authorities, powers, duties, and obligations as provided in the Nebraska Cities Airport Authorities Act, Neb. Rev. Stat. 3-501 to 3-514. (Neb. RS 3-501 through 3-514)

§ 32.008 JOINT CITY-COUNTY CIVIL DEFENSE ORGANIZATION.

There is established within the City in conjunction with the county a Joint Civil Defense Organization. The organization shall be operated in conformity with the State Civil Defense Act of 1973, as amended, and shall be known as the City-County Civil Defense Agency.

§ 32.009 HOUSING AGENCY BOARD.

(A) (1) The City Council shall appoint 5 persons who shall constitute the Housing Agency, and these persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a 5-year term of office or until his or her successor is duly appointed; provided, that all vacancies shall be filled for the unexpired terms. A certificate of the appointment or reappointment of any Commissioner shall be filed with the Municipal Clerk, and this certificate shall be conclusive evidence of the proper appointment of that Commissioner. Every commissioner shall be a resident of the area of operation of the housing agency which he or she has been appointed to serve. However, if after appointment a commissioner ceases to reside in the local housing agency's area of operation, his or her term of office shall automatically terminate and a successor shall be appointed to fill such vacancy in the manner provided in Neb. Rev. Stat. 71-1594 to 71-15,105. Any commissioner who ceases to reside within the area of operation of the local housing agency in which such commissioner serves shall immediately so inform the board of commissioners of the agency and the City Council of his or her change in residence. No person who has been convicted of a felony shall be eligible for appointment or service as a commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties. Three Commissioners shall constitute a quorum of the Agency for the purpose of conducting its business, exercising its powers, and for all other purposes. Except for any matter with respect to which the resolution or ordinance creating the agency or its bylaws requires a higher number or proportion of votes, action may be taken by the agency upon the vote of a majority of the commissioners present and voting. The Commissioners shall elect a chairperson and vice-chairperson from among the Commissioners and shall have the power to employ an executive director who shall serve as ex-officio secretary of the Agency. The Agency may also employ legal counsel, or it may call upon the City Attorney, for such services as it may require. It may employ accountants, appraisers, technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The Agency may delegate other powers and duties to its agents or employees as it may deem proper.

(2) A commissioner may be removed for neglect of duty, misconduct in office, or conviction of any felony by the Mayor. In such case, the Mayor shall send a notice of removal to such commissioner, which notice shall set forth the charges against him or her. Unless within ten days from the receipt of such notice the commissioner files with the City Clerk a request for a hearing before the City Council, the commissioner shall be deemed removed from office. If a request for hearing is so filed, the City Council shall hold a hearing not sooner than ten days after the date a hearing is requested, at which hearing the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be upheld. If

the removal is not upheld by the City Council, the commissioner shall continue to hold his or her office.

(B) The Housing Agency shall operate pursuant to the Nebraska Housing Agency Act, Neb. Rev. Stat. 71-1572 to 15,168.

(Neb. Rev. Stat. 71-1572 to 15,168) (Ord. 2817, 1-16-01)

§ 32.010 COMMUNITY REDEVELOPMENT AUTHORITY.

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

(B) *Membership.* The Mayor or, if the Mayor shall fail to act within 90 days after the passage of this ordinance, the President of the City Council, with the approval of the Council, shall appoint five persons who shall constitute the Authority. The terms of office of the members of the Authority initially appointed shall be for one year, two years, three years, four years, and five years, as designated by the Mayor, or the President of the Council in the event he or she must act as heretofore stated. As the terms of the members of the Authority expire, the Mayor, with the approval of the Council, shall appoint or reappoint a member of the Authority for a term of five years to succeed the member whose term expires. Vacancies shall be filled for any unexpired term of a member of the Authority in the same manner as the original appointment. Members of the Authority so appointed shall hold office until their successors have been appointed and qualified. All members of the Authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

(C) *Organization and Officials.* The Authority shall organize by electing one of its members chairperson and another vice-chairperson. The said body shall have power to employ counsel, a director who shall be ex officio secretary of the Authority, and such other officers and employees as may be desired, and shall fix the term of office, qualifications, and compensation of each. The holder of the office of community redevelopment administrator or coordinator of the City may, but need not, be appointed the director but at no additional compensation by the Authority. The Authority may secure the services of a director, community redevelopment administrator, or coordinator and other officers and employees as may be desired through contract with the Department of Economic Development upon terms which are mutually agreeable.

(D) *Manner of Acting.* The Authority may validly and effectively act on all matters requiring a resolution or other official action by the concurrence of three members of the five-member Authority present and voting at a meeting of the body. Orders, requisitions, warrants, and other documents may be executed by the chairperson or vice-chairperson or by or with others designated in the Authority's bylaws.

(E) *No Interested Members.* No member or employee of the Authority shall have any interest directly or indirectly in any contract for property, materials, or services to be required by the body.

(F) *Oversight by City Council.* The Authority shall keep an accurate account of all its activities and of all receipts and disbursements and make an annual report of such activities, receipts, and disbursements to the City Council.

(G) *Initial Loan Authorized.* The City Council is hereby authorized to appropriate and loan to the Authority a sum not exceeding \$10,000.00 for the purposes of paying expenses of organizing and supervising the work of the Authority at the beginning of its activities. The loan shall be authorized by resolution of the City Council which shall set forth the terms and time of the repayment of the loan. The said loan may be appropriated out of the general funds or any sinking fund of the City.

(H) *Finances of Authority.* All income, revenue, profits, and other funds received by the Authority from whatever source derived, appropriated by the City, realized from tax receipts or comprised in the special revenue fund of the City designated for the Authority, from the proceeds of bonds, or otherwise received, shall be deposited with the City Treasurer as ex officio treasurer of the Authority without commingling the money with any other money under his or her control and disbursed by him or her by check, draft, or order only upon warrants, orders, or requisitions by the chairperson of the Authority or other person authorized by the Authority, which shall state distinctly the purpose for which the same are drawn. A permanent record shall be kept by the Authority of all warrants, orders, or requisitions so drawn, showing the date, amount, consideration, and to whom payable. When paid, the same shall be canceled and kept on file by the City Treasurer. The books of the Authority shall from time to time be audited upon the order of the City Council in such manner as it may direct, and all books and records of the Authority shall at all times be open to public inspection. The Authority may contract with the holders of any of its bonds or notes as to collection, custody, securing investment, and payment of any money of the Authority or any money held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes. The Authority may carry out the contract notwithstanding that such contract may be inconsistent with the previous provisions of this subdivision.

(I) *Relocation of Persons Displaced.* When any property consisting of housing is acquired for redevelopment by the Authority, it shall provide for relocation of any persons displaced as a result thereof.

(J) *Formulation of Workable Program.* The City Council, or the Authority at the City Council's direction, for the purposes of the Community Development Law, may formulate for the entire municipality a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such program. The said workable program may include, without limitation, provision for the prevention of the spread of blight into areas of the City which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.

(K) *Disaster Assistance.* Notwithstanding any other provisions of the Community Development Law, where the City Council certifies that an area is in need of redevelopment or rehabilitation as a result of flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the state has certified the need for disaster assistance under federal law, the Council may approve a redevelopment plan and a redevelopment project with respect to such area without regard to the provisions of the Community Development Law requiring a general plan for the City and notice and public hearing or findings other than herein set forth.

(L) *Restriction on Interest in Redevelopment Project or Property.* No member or employee of the Authority shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the Authority to be included in any such project, or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary, such member or employee shall immediately disclose such interest in writing to the Authority and such disclosure shall be entered upon the minutes of the body. If any member or employee of the Authority presently owns or controls or owned or controlled within the preceding two years an interest, direct or indirect, in any property included or planned by the Authority to be included in any redevelopment project, he or she immediately shall disclose such interest in writing to the Authority and such disclosure shall be entered upon the minutes. Upon such disclosure such member or employee of the Authority shall not participate in any action by the body affecting such property.

(M) *Powers and Duties of Authority.* The Authority shall constitute a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law and Neb. Rev. Stat. §§18-2147 to 2151, including the power:

- (1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with the Community Development Law;
- (2) To prepare or cause to be prepared and recommend redevelopment plans to the City Council and to undertake and carry out redevelopment projects within its area of operation;
- (3) To arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project; and, notwithstanding anything to the contrary contained in the Community Development Law or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project provisions to fulfill such federally imposed conditions as it may deem reasonable and appropriate;
- (4) Within its area of operation, to purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear, or prepare for redevelopment any such property; to sell, lease for a term not exceeding 99 years, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal

property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions, and conditions as the Authority may deem necessary to prevent a recurrence of substandard and blighted areas or to effectuate the purposes of the Community Development Law; to make any of the covenants, restrictions, or conditions of the foregoing contracts covenants running with the land and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the Authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money, issue bonds, and provide security for loans or bonds; to establish a revolving loan fund; to insure or provide for the insurance of any real or personal property or the operation of the Authority against any risks or hazards, including the power to pay premiums on any such insurance; to enter into any contracts necessary to effectuate the purposes of the Community Development Law; and to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan. No statutory provision with respect to the acquisition, clearance, or disposition of property by other public bodies shall restrict an Authority exercising powers hereunder, in such functions, unless the Legislature shall specifically so state;

(5) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks or other banks may legally invest funds subject to their control; and to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price; and such bonds redeemed or purchased shall be canceled;

(6) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, from the state, county, municipality or other public body or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or bequests for purposes of the Community Development Law, to give such security as may be required, and to enter into and carry out contracts in connection therewith; and notwithstanding any other provision of law, to include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the Authority may deem reasonable and appropriate and which are not inconsistent with the purposes of the Community Development Law;

(7) Acting through one or more members of the Authority or other persons designated by the Authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths and to issue commissions for the examination of witnesses who are outside of the state or unable to be present before the Authority or excused from attendance; and to make available to appropriate agencies or public officials, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, demolishing unsafe or unsanitary structures, or eliminating conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals, or welfare;

(8) Within its area of operation, to make or have made all surveys, appraisals, studies, and plans, not including the preparation of a Comprehensive Plan for the community, necessary to the carrying out of the purposes of the Community Development Law and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies, and plans;

(9) To prepare plans and provide reasonable assistance for the relocation of families, business concerns, and others displaced from a redevelopment project area to permit the carrying out of the redevelopment project to the extent essential for acquiring possession of and clearing such area or parts thereof; and to make relocation payments to or with respect to such persons for moving and expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(10) To make such expenditures as may be necessary to carry out the purposes of the Community Development Law; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(11) To certify on or before September 20 of each year to the City Council the amount of tax to be levied for the succeeding fiscal year for community redevelopment purposes, not to exceed 2.6¢ on each \$100.00 upon the taxable value of the taxable property in the City, which levy is subject to allocation under Neb. Rev. Stat. §77-3443 on and after July 1, 1991. The City Council shall levy and collect the taxes so certified at the same time and in the same manner as other city taxes are levied and collected and the proceeds of such taxes, when due and as collected, shall be set aside and deposited in the special account or accounts in which other revenue of the Authority is deposited. Such proceeds shall be employed to assist in the defraying of any expenses of redevelopment plans and projects, including the payment of principal and interest on any bonds issued to pay the costs of any such plans and projects;

(12) To exercise all or any part or combination of powers granted in this section;

(13) To plan, undertake, and carry out neighborhood development programs consisting of redevelopment project undertakings and activities in one or more community redevelopment areas which are planned and carried out on the basis of annual increments in accordance with the Community Development Law and Neb. Rev. Stat. §§18-2145 and 18-2146 for planning and carrying out redevelopment projects; and

(14) To agree with the City Council for the imposition of an occupation tax for an enhanced employment area.

(N) *Limitation on Acquiring Real Property.* The Authority shall not acquire real property for a redevelopment project unless the City Council has approved the redevelopment plan, as prescribed in the Community Development Law.

(O) *Declaration of Blight and Substandard Conditions Required Prior to Redevelopment Plan.* The Authority shall not prepare a redevelopment plan for a redevelopment project area unless the City Council has, by resolution adopted after a public hearing with notice provided as specified in the Community Development Law, declared such area to be a substandard and blighted area in need of redevelopment.

(P) *Comprehensive Development Plan Required Prior to Redevelopment Plan.* The Authority shall not recommend a redevelopment plan to the City Council until a Comprehensive Plan for the development of the City has been prepared.

(Q) *Preparation of Redevelopment Plan.* The Authority may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such a plan to the Authority. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the redevelopment project area, and shall include without being limited to: (1) the boundaries of the redevelopment project area, with a map showing the existing uses and condition of the real property therein; (2) a land-use plan showing proposed uses of the area; (3) information showing the standards of population densities, land coverage, and building intensities in the area after redevelopment; (4) a statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, or building codes and ordinances; (5) a site plan of the area; and (6) a statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment. Any redevelopment plan may include a proposal for the designation of an enhanced employment area.

(R) *Redevelopment Plan Consideration by Planning Commission.* Prior to recommending a redevelopment plan to the City Council for approval, the Authority shall submit such plan to the Planning Commission for review and recommendations as to its conformity with the Comprehensive Plan for the development of the City as a whole. The Planning Commission shall submit its written recommendations with respect to the proposed redevelopment plan to the Authority within 30 days after receipt of the plan for review. Upon receipt of the recommendations of the Planning Commission or, if no recommendations are received within such 30-day period, then without such recommendations, the Authority may recommend the redevelopment plan to the City Council for approval.

(S) *Redevelopment Plan Consideration; Cost-Benefit Analysis.*

(1) Prior to recommending a redevelopment plan to the City Council for approval, the Authority shall consider whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the Comprehensive Plan, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations or conditions of blight.

(2) The Authority shall conduct a cost-benefit analysis for each redevelopment project whose redevelopment plan includes the use of funds authorized by Neb. Rev. Stat. §18-2147. In conducting the cost-benefit analysis, the Authority shall use a cost-benefit model developed for use by local projects. Any cost-benefit model used by the Authority shall consider and analyze the following factors: (a) tax shifts resulting from the approval of the use of funds pursuant to Neb. Rev. Stat. §18-2147; (b) public infrastructure and community public service needs impacts

and local tax impacts arising from the approval of the redevelopment project; (c) impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project; (d) impacts on other employers and employees within the City and the immediate areas that are located outside of the boundaries of the area of the redevelopment project; and (e) any other impacts determined by the Authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.

(T) *Recommendation of Redevelopment Plan to City Council.* The recommendation of a redevelopment plan by the Authority to the City Council shall be accompanied by the recommendations, if any, of the Planning Commission concerning the redevelopment plan; a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenue from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

(U) *City Council Rejection of Redevelopment Plan; Modifications to Redevelopment Plan.* A redevelopment plan which has not been approved by the City Council when recommended by the Authority may again be recommended to the City Council with any modifications deemed advisable. A redevelopment plan may be modified at any time by the Authority, provided that, if modified after the lease or sale of real property in the redevelopment project area, the modification must be consented to by the redeveloper or redevelopers of such real property or their successor or successors in interest affected by the proposed modification. Where the proposed modification will substantially change the redevelopment plan as previously approved by the City Council, the modification must similarly be approved by the Council.

(V) *Sale, Transfer, or Lease of Real Estate.* The Authority may sell, lease for a term not exceeding 99 years, exchange, or otherwise transfer real property or any interest therein in a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use in accordance with the redevelopment plan, subject to such covenants, conditions, and restrictions as it may deem to be in the public interest or to carry out the purposes of the Community Development Law. Such real property shall be sold, leased, or transferred at its fair value for uses in accordance with the redevelopment plan. In determining the fair value of real property for uses in accordance with the redevelopment plan, the Authority shall take into account and give consideration to the uses and purposes required by such plan; the restrictions upon and the covenants, conditions and obligations assumed by the redeveloper of such property; the objectives of the redevelopment plan for the prevention of the recurrence of substandard and blighted areas; and such other matters as the Authority shall specify as being appropriate. In fixing rentals and selling prices, the Authority shall give consideration to appraisals of the property for such uses made by land experts employed by the Authority.

(W) *Redevelopment Contracts.*

(1) The Authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the City, prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the Authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area or any part thereof which the City Council has declared to be in need of redevelopment. Such notice shall identify the area and shall state that such further information as is available may be obtained at the

office of the Authority. The Authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The Authority may accept any such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the Authority has, not less than 30 days prior thereto, notified the City Council in writing of its intention to accept such redevelopment contract proposal. Thereafter, the Authority may execute such redevelopment contract in accordance with the provisions of Neb. Rev. Stat. §18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the Authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of Neb. Rev. Stat. §18-2118.

(2) In the case of any real estate owned by a redeveloper, the Authority may enter into a redevelopment contract providing for such undertakings as the Authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.

(X) *Conveyance of Project Property For Public Use.* In carrying out a redevelopment project, the Authority may: (1) Convey to the City such real property as, in accordance with the redevelopment plan, is to be laid out into streets, alleys, and public ways; (2) grant servitudes, easements, and rights-of-way for public utilities, sewers, streets, and other similar facilities in accordance with the redevelopment plan; and (3) convey to the City, County, or other appropriate public body, such real property as, in accordance with the redevelopment plan, is to be used for parks, schools, public buildings, facilities, or other public purposes.

(Y) *Temporary Operation of Real Property.* The Authority may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for redevelopment without regard to the provisions of Neb. Rev. Stat. §§18-2118 and 18-2119 for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan.

(Z) *Eminent Domain.*

(1) The Authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a redevelopment project or for its purposes under the provisions of the Community Development Law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 to 76-724.

(2) When the Authority has found and determined by resolution that certain real property described therein is necessary for a redevelopment project or for its purposes under the provisions of the Community Development Law, the resolution shall be conclusive evidence that the acquisition of such real property is necessary for the purposes described therein.

(AA) *Acquisition of Undeveloped Vacant Land.* Upon a determination by resolution of the City Council that the acquisition and development of undeveloped vacant land not within a substandard or blighted area is essential to the proper clearance or redevelopment of substandard or blighted areas or a necessary part of the general community redevelopment program of the City,

that the acquisition and development of land outside the City but within a radius of three miles thereof is necessary or convenient to the proper clearance or redevelopment of one or more substandard or blighted areas within the City, or is a necessary adjunct to the general community redevelopment program of the City, the acquisition, planning, and preparation for development or disposal of such land shall constitute a redevelopment project which may be undertaken by the Authority in the manner provided in the foregoing sections.

(BB) *Issuance of Bonds.* The Authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes, including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. The Authority shall also have power to issue refunding bonds for the purpose of paying, retiring, or otherwise refinancing, or in exchange for any or all of the principal or interest upon bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: (1) exclusively from the income, proceeds, and revenue of the redevelopment project financed with proceeds of such bonds; (2) exclusively from the income, proceeds, and revenue of any of its redevelopment projects, whether or not they are financed in whole or in part with the proceeds of such bonds; (3) exclusively from its revenue and income, including such tax revenue or receipts as may be herein authorized, including those which may be pledged under Neb. Rev. Stat. §18-2150, and from such grants and loans as may be received; or (4) from all or part of the income, proceeds and revenue enumerated in subdivisions (1), (2), and (3) of this section, provided that any such bonds may be additionally secured by a pledge of any loan, grant, or contributions or parts thereof from the federal government or other source or a mortgage of any redevelopment project or projects of the Authority, and that the Authority shall not have the power to pledge the credit or taxing power of the State or any political subdivision thereof, except such tax receipts as may be authorized under this section or pledged under Neb. Rev. Stat. §18-2150 or to place any lien or encumbrance on any property owned by the state, county, or city used by the Authority.

(CC) *Bonds; Liability; Exempt from Taxation; Anticipation Notes; Renewal Notes; Terms.*

(1) Neither the members of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority, and such bonds and obligations shall so state on their face, shall not be a debt of the City and the City shall not be liable on such bonds, except to the extent authorized by Neb. Rev. Stat. §18-2147 to 18-2150, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the Authority acquired for the purposes of Neb. Rev. Stat. §§18-2101 to 2144, except to the extent authorized by Neb. Rev. Stat. §§18-2147 to 2150. Except to the extent otherwise authorized, the bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes. All bonds shall be general obligations of the issuing Authority and shall be payable out of any revenue, income, receipts, proceeds, or other money of the Authority, except as may be otherwise provided in the instruments themselves.

(2) The Authority shall have power from time to time to issue bond anticipation notes, referred to as notes herein, and from time to time to issue renewal notes, such notes in any case to mature not later than 30 months from the date of incurring the indebtedness represented thereby in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or theretofore authorized. Payment of such notes shall be made from any money or revenue

which the Authority may have available for such purpose or from the proceeds of the sale of bonds of the Authority or such notes may be exchanged for a like amount of such bonds. The Authority may pledge such money or revenue of the Authority, subject to prior pledges thereof, if any, for the payment of such notes and may in addition secure the notes in the same manner as herein provided for bonds. All notes shall be issued and sold in the same manner as bonds. The Authority shall have power to (a) make contracts for the future sale from time to time of notes on terms and conditions stated in such contracts and (b) pay such consideration as it shall deem proper for any commitments to purchase notes and bonds in the future. Such notes shall also be collaterally secured by pledges and deposits with a bank or trust company, in trust for the payment of such notes, of bonds in an aggregate amount at least equal to the amount of such notes and, in any event, in an amount deemed by the issuing Authority sufficient to provide for the payment of the notes in full at the maturity thereof. The Authority may provide in the collateral agreement that the notes may be exchanged for bonds held as collateral security for the notes or that the trustee may sell the bonds if the notes are not otherwise paid at maturity and apply the proceeds of such sale to the payment of the notes. Such notes shall bear interest at a rate set by the Authority and shall be sold at such price as shall cause an interest cost thereon not to exceed such rate.

(3) It is the intention hereof that any pledge of revenue, income, receipts, proceeds, or other money made by the Authority for the payment of bonds or notes shall be valid and binding from the time such pledge is made; that the revenue, income, receipts, proceeds, and other money so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without the physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(DD) *Terms of Bonds.* Bonds of the Authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide.

(EE) *Sale of Bonds.* The bonds may be sold by the Authority in such manner and for such price as the body may determine, at par or above par, at private sale or at public sale after notice published prior to such sale in a legal newspaper having general circulation in the City or in such other medium of publication as the Authority may deem appropriate, or may be exchanged by the Authority for other bonds issued by it under Neb. Rev. Stat. §§18-2101 to 18-2144 and 18-2147 to 18-2151. Bonds which are issued under this section may be sold by the Authority to the federal government at private sale at par or above par and, in the event that less than all of the authorized principal amount of such bonds is sold by the Authority to the federal government, the balance or any portion of the balance may be sold by the Authority at private sale at par or above par.

(FF) *Validity of Signatures on Bonds.* In case any of the members or officers of the Authority whose signatures appear on any bonds or coupons shall cease to be such members or officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such members or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to the provisions of Neb. Rev. Stat. §18-2124 shall be fully negotiable.

(GG) *Authority and Powers Regarding Bonds.* In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, the Authority, in addition to its other powers, shall have power:

(1) To pledge all or any part of its gross or net rents, fees, or revenue to which its right then exists or may thereafter come into existence;

(2) To mortgage all or any part of its real or personal property then owned or thereafter acquired;

(3) To covenant against pledging all or any part of its rents, fees, and revenue or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence, or against permitting or suffering any lien on such revenue or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any redevelopment project or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it;

(4) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to covenant for the redemption of the bonds and to provide the terms and conditions thereof;

(5) To covenant, subject to the limitations contained in the Community Development Law, as to the amount of revenue to be raised each year or other period of time by rents, fees, and other revenue and as to the use and disposition to be made thereof; to establish or to authorize the establishment of special funds for money held for operating costs, debt service, reserves, or other purposes and to covenant as to the use and disposition of the money held in such funds;

(6) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(7) To covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried thereon, and the use and disposition of insurance money and to warrant its title to such property;

(8) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenants, conditions, or obligations; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(9) To vest in any obligees of the Authority the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in any obligee or obligees holding a specified amount in bonds the right, in the event of a default by the Authority, to take possession of and use, operate, and manage any redevelopment project or any part thereof, title to which is in the Authority, or any funds connected therewith, and to collect the rents and revenue arising therefrom and to dispose of such money in accordance with the agreement of the Authority with such obligees; to provide for the powers and duties of such obligees and to limit the liabilities thereof; and to provide the terms and conditions upon which such obligees may enforce

any covenant or rights securing or relating to the bonds;

(10) To pledge all of the revenue from any occupation tax received or to be received with respect to any enhanced employment area; and

(11) To exercise all or any part or combination of the powers herein granted; to make such covenants, other than and in addition to the covenants herein expressly authorized, and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

(HH) *Default on Bonds.* The Authority will have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instruments, by suit, action, or proceeding in any court of competent jurisdiction: (1) to cause possession of any redevelopment project or any part thereof, title to which is in the Authority, to be surrendered to any such obligee; (2) to obtain the appointment of a receiver of any redevelopment project of said Authority or any part thereof, title to which is in the Authority, and of the rents and profits therefrom. If such receiver be appointed, he or she may enter and take possession of, carry out, operate, and maintain such project or any part thereof; collect and receive all fees, rents, revenue, or other charges thereafter arising therefrom and shall keep such money in a separate account or accounts, applying the same in accordance with the obligations of said Authority as the court shall direct; and (3) to require the Authority and the members, officers, agents, and employees thereof to account as if it and they were the trustees of an express trust.

(II) *Federal Government; Contract for Financial Assistance.* In any contract for financial assistance with the federal government, the Authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage notwithstanding any other laws, to convey to the federal government possession of or title to the redevelopment project and land therein to which such contract relates which is owned by the Authority, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants or conditions to which the Authority is subject. Such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the redevelopment project in accordance with the terms of such contract; provided, the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the redevelopment project have been cured and that the redevelopment project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Authority the redevelopment project as then constituted.

(JJ) *Property Exempt from Execution.* All property including the Authority's funds shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against the Authority be a charge or lien upon its property; provided, the provisions of this section shall not apply to or limit the right of obligees to fore-close or otherwise enforce any mortgage of the Authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees, grants, or revenue.

(KK) *Authority Property Exempt from Taxation; Payment in Lieu of Taxes.* The property of the Authority is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes. Whenever the Authority shall purchase or acquire real property pursuant to Neb. Rev. Stat. §§18-2101 to 18-2144, it shall annually, so long as it shall

continue to own such property, pay out of its revenue to the State of Nebraska, county, city, township, school district or other taxing subdivision in which such real property is located a sum, in lieu of taxes, equal to the amount which such state, county, city, township, school district or other taxing subdivision received from taxation from such real property during the year immediately preceding the purchase or acquisition of such real property by the Authority. The County Board of Equalization may, in any year subsequent to the purchase or acquisition of such property by the Authority, determine the amount that said Authority shall pay out of its revenue to the State of Nebraska and its several governmental subdivisions in lieu of taxes, which sum shall be as justice and equity may require, notwithstanding the amount which the state and its governmental subdivisions may have received from taxation during the year immediately preceding the purchase or acquisition of such property; provided, with respect to any property in a redevelopment project, the tax exemption provided herein shall terminate when the Authority sells, leases, or otherwise disposes of such property to a redeveloper for redevelopment. The members of the Authority shall not incur any personal liability by reason of the making of such payments.

(LL) *City Council May Appropriate Funds to Authority.* The Authority may, at such time as it may deem necessary, file with the City Council an estimate of the amounts necessary to be appropriated by the Council to defray the expenses of the Authority. The Council is hereby authorized to appropriate from its general fund, in its discretion, and to place at the disposal of the Authority an amount sufficient to assist in defraying such expenses. The City may grant funds to the Authority for the purpose of aiding it in carrying out any of its powers and functions under the provisions of Neb. Rev. Stat. §§18-2101 to 18-2144. To obtain funds for this purpose, the City may levy taxes and may issue and sell its bonds. Any bonds to be issued by the City pursuant to the provisions of this section shall be issued in the manner and within the limitations, except as otherwise provided by Neb. Rev. Stat. §§18-2101 to 18-2144, prescribed by the laws of this state for the issuance and authorization of bonds by the City for any public purpose. (Ord. 2765, 2-2-99) (Am. Ord. 3011, 8-2-11)

ECONOMIC DEVELOPMENT PROGRAM; CITIZEN ADVISORY REVIEW COMMITTEE

§ 32.025 PROGRAM ADOPTION.

The Mayor and City Council shall by ordinance adopt an Economic Development Program for the City as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. §§ 18-2701 *et seq.* The “City of Fairbury, Nebraska Economic Development Plan,” attached to Ordinance No. 2995 as Exhibit “A” and incorporated therein by reference, is incorporated herein by reference. (Ord. 2762, 11-17-98) (Am. Ord. 2995, 6-1-10)

§ 32.026 COMMITTEE CREATED.

There is hereby created, in and for the City, a Citizen Advisory Review Committee as authorized by the Local Option Municipal Economic Development Act, Neb. RS 18-2701 *et seq.* (Ord. 2762, 11-17-98)

§ 32.027 COMMITTEE COMPOSITION.

(1) The Citizen Advisory Review Committee shall consist of not less than five or more than ten registered voters of the City who shall be appointed to the committee by the Mayor subject to

approval by the City Council. At least one member of the committee shall have expertise or experience in the field of business finance or accounting.

(2) No member of the citizen advisory review committee shall be an elected or appointed city official, an employee of the city, a participant in a decisionmaking position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the economic development program or of any financial institution participating directly in the economic development program.

(Ord. 2762, 11-17-98) (Neb. Rev. Stat. 18-2701 to 2739)

§ 32.028 COMMITTEE MEMBERS; APPOINTMENT; VACANCIES; REMOVAL.

(A) The members of the Citizen Advisory Review Committee shall be appointed by the Mayor by and with the approval of the Council. Vacancies occurring in the membership of the Citizen Advisory Review Committee other than by reason of the expiration of terms shall be filled by the Mayor by and with the approval of the Council.

(B) Any member of the Citizen Advisory Review Committee may be removed from office by the Mayor by and with the approval of the Council.

(Ord. 2762, 11-17-98)

§ 32.029 MEMBER TERMS.

The members of the Citizen Advisory Review Committee shall serve five-year terms. (Ord. 2762, 11-17-98)

§ 32.030 COMMITTEE OFFICERS.

The Citizen Advisory Review Committee shall elect its chairperson from its members and shall create and fill such other offices as it may determine. The term of the chairperson shall be one year, with eligibility for reelection. (Ord. 2762, 11-17-98)

§ 32.031 COMMITTEE MEETINGS.

The Citizen Advisory Review Committee shall hold regular meetings on the second Wednesday in January, April, July, and October of each year to review the functioning and progress of the Economic Development Program of the City and to advise the City Council with regard to the Program. Special meetings of the Citizen Advisory Review Committee shall be held whenever called by the Mayor or the chairperson of the Committee. (Ord. 2762, 11-17-98; 2981, 3-3-09)

§ 32.032 REPORTS TO CITY COUNCIL.

At least once in every six-month period after the effective date of this subchapter, the Citizen Advisory Review Committee shall report to the City Council on its findings and suggestions at a public hearing called for that purpose. (Ord. 2762, 11-17-98)

§ 32.033 PROGRAM ADMINISTRATION.

The Mayor shall be responsible for the administration of the Economic Development program of the City, shall be an ex-officio member of the committee, and shall be responsible for assisting the committee and providing it with necessary information and advice on the Economic

Development Program. (Ord. 2762, 11-17-98)

§ 32.034 DISCLOSURE OF CONFIDENTIAL INFORMATION.

(A) Members of the citizen advisory review committee, in their capacity as members and consistent with their responsibilities as members, may be permitted access to business information received by the City in the course of its administration of the economic development program, which information would otherwise be confidential (a) under Neb. Rev. Stat. 84-712.05, (b) by agreement with a qualifying business participating in the economic development program, or (c) under any ordinance of the city providing access to such records to members of the committee and guaranteeing the confidentiality of business information received by reason of its administration of the economic development program.

(B) Unauthorized disclosure of any business information which is confidential under Neb. Rev. Stat. 84-712.05 shall be a Class III misdemeanor. Any person who knowingly releases this confidential information other than to persons who are authorized to have access to the information in accordance with the provisions of this section shall be guilty of a misdemeanor. (Ord. 2762, 11-17-98) Penalty, see § 10.99

UTILITY DEPARTMENTS

§ 32.045 WATER DEPARTMENT; OPERATION AND FUNDING.

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

§ 32.046 SEWER DEPARTMENT; OPERATION AND FUNDING.

(A) The municipality owns the municipal sewer system and operates it through the Board of Public Works.

(B) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the municipality, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the municipality. The revenue from the tax shall be known as the Sanitary Sewer Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system and for all purposes allowed by law.

(C) The Utilities Superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Board of Public Works. The City Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time.

§ 32.047 ELECTRICAL SYSTEM; OPERATION AND FUNDING.

The municipality owns the municipal electrical system and operates it through the Board of Public Works. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal electrical system may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from this tax shall be known as the Electrical Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the municipal electrical system and shall faithfully carry out the duties of his or her office. The Board of Public Works shall have the authority to adopt rules and regulations for the safe and efficient management of the electrical system subject to the supervision and review of the City Council. The City Council shall by ordinance set the rates to be charged for services rendered and shall file the same in the office of the Municipal Clerk for public inspection at any reasonable time. (Neb. RS 17-902 through 17-904, 17-906, and 17-909)

FIRE DEPARTMENT

§ 32.060 OPERATION AND FUNDING.

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

§ 32.061 FIRE CHIEF.

The Fire Chief or principal appointed City public safety official shall manage the Fire Department, and it shall be his or her duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. The Fire Chief or principal appointed City public safety official shall cause the repair, improvement, or maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief or principal appointed City public safety official to come before the City Council at a regular meeting in January of each year to give an annual report to the City Council of the general condition and the proposed additions or improvements recommended by him or her. (Am. Ord. 2944, 8-15-06) (Neb. Rev. Stat. 17-147)

§ 32.062 MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief or principal appointed City public safety official shall

appoint no more than 25 members for each fire department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

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

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

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

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

(F) For purposes of Neb. RS 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City. (Neb. RS 33-139.01)
(Am. Ords. 2338, 9-3-85; 2892, 9-7-04)

§ 32.063 RECORDS.

(A) (1) The Fire Chief or principal appointed City public safety official shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of these records to the Municipal Clerk during the last week in April each year.

(2) The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved.

(3) In the event of sizable property damage, he or she shall include the information of whether the losses were covered by insurance, and if so, in what amount.

(B) All records shall be available to the public at any reasonable time.

§ 32.064 FIRES.

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

§ 32.065 DISTANT FIRES.

(A) Upon the permission of the Fire Chief or principal appointed City public safety official, such fire equipment of the municipality as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

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

§ 32.066 INSPECTIONS.

It shall be the duty of the Fire Chief or principal appointed City public safety official to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than two times a year, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits,; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof; and chemicals, prozilin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Am. Ord. 2944 8-15-06)

§ 32.067 NOTICE OF VIOLATION.

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

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

shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal. Penalty, see § 10.99

§ 32.068 POWER OF ARREST.

The Municipal Fire Chief or principal appointed City public safety official or official serving as an assistant of such officer shall have the power, if he or she is a certified law enforcement officer, to arrest any suspected arsonist or other person hindering or resisting the firefighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The officials shall be severally vested with the usual powers and authority of municipal police officers to command all persons to assist them in the performance of their duties. (Am. Ord. 2941, 6-20-06)

§ 32.069 FIRE INVESTIGATION.

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

POLICE DEPARTMENT

§ 32.080 DUTIES.

The Police Department shall consist of the Chief of Police and that further number of regular police officers as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. The Chief shall devote his or her whole time to the municipal affairs and interests of the municipality and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of the municipality and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same. (Neb. Rev. Stat. 17-107; 17-118; 17-124)

§ 32.081 RESERVE OFFICER BOND.

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the City Council and bonding all such officers of the City Council has been filed. The bonds shall be subject to the provisions of Neb. RS Ch. 11, Art. 1. (Neb. Rev. Stat. 81-1444) (Ord. 2379, 9-2-86)

§ 32.082 ARREST AND ENFORCEMENT JURISDICTION.

(1) A law enforcement officer has the power and authority to enforce the laws of this state and of the City or otherwise perform the functions of that office anywhere within the City.

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

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

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

(c) Any such law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and

(d) The City may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, each participating political subdivision shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802.

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

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

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

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

(Neb. RS 29-215)

(4) If municipal law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the municipality in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The municipality shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. (Neb. RS 81-829.65) (Ord. 2632, 2-21-95) (Am. Ord. 2750, 10-20-98; 2892, 9-7-04)

§ 32.083 OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION.

(A) No police officer, including the Police Chief, shall be suspended, demoted, or removed except upon written accusation by the Police Chief, the Mayor, or any citizen or taxpayer stating the accusation. Notice and a copy of the written accusation shall be delivered to the police officer. Such notice shall also inform the police officer of:

(1) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation;

(2) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence;

(3) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation; and

(4) the right of the police officer to appeal any decision to remove, demote, or suspend the officer to the City Council for a hearing within 10 days after being notified of the decision to remove, demote, or suspend the officer filing with the Municipal Clerk a written demand for a hearing before the City Council. The City Council shall set the matter for hearing not less than 10 nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than 7 nor more than 14 days prior to the hearing.

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

(1) Respond in person to the charges and to present witnesses and documentary evidence;

(2) Confront and cross-examine available adverse witnesses; and

(3) Be represented by counsel.

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

(D) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.
(Neb. RS 17-107) (Ord. 2655, 2-20-96)

CHAPTER 33: GENERAL PROVISIONS

Section

Meetings

33.01 (Reserved)

33.02 (Reserved)

33.03 (Reserved)

33.04 (Reserved)

33.05 (Reserved)

33.06 (Reserved)

33.07 (Reserved)

33.08 (Reserved)

33.09 (Reserved)

33.10 (Reserved)

33.11 (Reserved)

33.12 (Reserved)

- 33.13 Order of business
- 33.14 Parliamentary procedure
- 33.15 Change in office
- 33.16 Organizational meetings

Bonds and Oaths

- 33.30 Bonds; form
- 33.31 Oath of office; municipal officials
- 33.32 Blanket Bond

Compensation

- 33.45 Compensation; how fixed; increase or diminishment
- 33.46 Conflicts of interest
- 33.47 (Reserved)
- 33.48 Employee Handbook

MEETINGS

All meetings of the City subject to the Nebraska Open Meetings Act shall be conducted pursuant to the Act, Neb. Rev. Stat. §§ 84-1407 to 1414.

§ 33.01 (Reserved)

§ 33.02 (Reserved)

§ 33.03 (Reserved)

§ 33.04 (Reserved)

§ 33.05 (Reserved)

§ 33.06 (Reserved)

§ 33.07 (Reserved)

§ 33.08 (Reserved)

§ 33.09 (Reserved)

§ 33.10 (Reserved)

§ 33.11 (Reserved)

§ 33.12 (Reserved)

§ 33.13 ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting of the City Council, the

members of the City Council, the Municipal Clerk, the Mayor, and those other municipal officials that may be required shall take their regular stations in the meeting place, and the business of the municipality shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

§ 33.14 PARLIAMENTARY PROCEDURE.

In all cases in which provisions are not made by this Code or state law for conduct of meetings of the City Council and other City bodies, *Robert's Rules of Order* is the authority by which the City Council and such bodies shall decide all procedural disputes that may arise.

§ 33.15 CHANGE IN OFFICE.

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

§ 33.16 ORGANIZATIONAL MEETINGS.

(A) The newly elected Council shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a municipal election is held immediately after the prior Council adjourns and proceed to organize itself for the ensuing year. The Mayor, elected for the new municipal year or continuing in office, as the case may be, shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City, if such elections have not previously been certified by law, to see that each has been duly and properly elected and to see that those oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, if such qualification has not previously been certified by law, the Council shall then elect one of its own body who shall be styled President of the Council. The Mayor may then nominate a number of candidates for appointive offices as are necessary to be made at that time, consistent with the Mayor's statutory code and other legal authority regarding removal and appointment of officers, including police officers, and the City Council's statutory and code authority to give advice and consent on mayoral nominations made. The Mayor shall then proceed with the regular order of business.

(B) 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 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 subscribing and taking an oath to support the federal Constitution, the state Constitution, and the laws of the municipality and to perform faithfully and impartially the duties of office, this oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

(Am. Ord. No. 3003, 1-18-2011)

BONDS AND OATHS

§ 33.30 BONDS; FORM.

(A) The City Council may require from all officers and servants, elected or appointed, bonds and security for the faithful performance of their duty. Official bonds of the municipality shall be in form, joint and several, and shall be made payable to the municipality in such penalty as the City Council may set by resolution, provided that the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in the bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company, provided that no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in this state shall be eligible for suretyship on the bond of an official of the municipality. All these bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of the principal and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of the bonds. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on that instrument by the Mayor and Municipal Clerk pursuant to that approval of the City Council.

(B) The premium on any official bond required to be given may be paid out of the general fund or other proper municipal fund, upon a resolution to that effect by the City Council at the beginning of any municipal year. All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required. (Neb. Rev. Stat. §11-104 (2)) (Am. Ord. 2695, 10-16-07)

(C) All official bonds meeting the conditions herein shall be filed with the Municipal Clerk for his or her official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee, which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer of the municipality, in the opinion of the City Council, become insufficient, the City Council may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by that failure, refusal, or neglect, become vacant, and it shall be the duty of the City Council to appoint a competent and qualified person to fill the office. Any official who is reelected to office shall be required to file a new bond after each election.

§ 33.31 OATH OF OFFICE; MUNICIPAL OFFICIALS.

(A) All officials of the municipality, whether elected or appointed, shall before entering upon their respective duties take and subscribe the following oath, which shall be endorsed upon their respective bonds:

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

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

COMPENSATION

§ 33.45 COMPENSATION; HOW FIXED; INCREASE OR DIMINISHMENT.

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

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

(C) The emoluments of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices, except that when there are officers elected to the Council, or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected if during the same time the emoluments thereof were increased. (Neb. RS 17-612)

§ 33.46 CONFLICTS OF INTEREST.

For purposes of conflicts of interest, the City and its officials shall adhere to all applicable provisions of the Nebraska Political Accountability and Disclosure Act.

§ 33.47 (Reserved)

§ 33.48 EMPLOYEE HANDBOOK. The City shall maintain an Employee Handbook which shall contain those rules and regulations relating to full- and part-time employees of the City as the Council deems necessary for good management of the City.

CHAPTER 34: ELECTIONS

Section

General Election Provisions

- 34.01 Generally
- 34.02 Notice
- 34.03 Registered voters; qualifications
- 34.04 Special elections
- 34.05 Election of officers; certification
- 34.06 Partisan ballot; when allowed; requirements
- 34.07 Filing fee
- 34.08 Petition, write-in, and other candidates for general election ballot; procedures
- 34.09 Exit polls
- 34.10 Certificate of nomination or election

GENERAL ELECTION PROVISIONS

§ 34.01 GENERALLY.

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

§ 34.02 NOTICE.

The notice of election required to be published by the Election Commissioner or County Clerk no less than 40 days prior to an election shall serve as the notice requirement for all municipal elections which are held in conjunction with the statewide primary or general election. (Neb. Rev. Stat. 32-802)

§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.

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

REGISTERED VOTER. An elector who has a valid voter registration record on file with the election commissioner or county clerk in the county of his or her residence. (Neb. RS 32-115)

(B) All registered voters residing within the corporate limits of the municipality on or before election day shall be entitled to vote at all municipal elections. (Neb. RS 17-602)

§ 34.04 SPECIAL ELECTIONS.

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

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

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council. (Neb. RS 32-559)

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

(Neb. RS 32-405) (Ord. 2305, 8-21-84) (Am. Ords. 2700, 7-1-97; 2892, 9-7-04)

§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.

(A) All municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (Neb. RS 32-556)

(B) No later than January 5 of each even-numbered year, the City Council shall certify to the Secretary of State, the Election Commissioner, or the County Clerk the name of the municipality, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Neb. RS 32-404(2))

§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective municipal offices shall be nominated and elected on a nonpartisan basis unless the City Council provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. The ordinance providing for nomination and

election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (Neb. RS 32-557)

§ 34.07 FILING FEE.

(A) Except as provided in divisions (C) or (D) of this section, a filing fee shall be paid to the Municipal Treasurer by or on behalf of each candidate prior to filing for office. The filing fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate. The fee shall be placed in the general fund of the municipality. No candidate filing forms shall be filed until the proper receipt showing payment of the filing fee is presented to the filing officer. On the day of the filing deadline, the City treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(B) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the County Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

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

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

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

AVAILABLE RESOURCES. Include every type of property or interest in property that an individual owns and may convert into cash except real property used as a home; household goods of a moderate value used in the home; and assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

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

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

(Neb. RS 32-608)

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

(A) (1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general

election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. 32-617 and Neb. RS 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in Neb. Rev. Stat. 32-617 and 32-618, files as a write-in candidate as prescribed in Neb. RS 32-615, or is nominated by political party convention or committee pursuant to Neb. Rev. Stat. 32-627 or 32-710. (Neb. RS 32-616)

(B) Petitions for nomination for partisan and nonpartisan offices shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the municipality, as appropriate.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality, not to exceed 2,000.
(Neb. RS 32-618) (Am. Ord. 2868, 9-2-03)

§ 34.09 EXIT POLLS.

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. RS 32-1525) Penalty, see § 10.99

§ 34.10 CERTIFICATE OF NOMINATION OR ELECTION.

(A) The Election Commissioner or County Clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each municipal office. No person shall be issued a certificate of nomination as a candidate of a political party unless that person has received a number of votes at least equal to 5 % of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves.

Neb. Rev. Stat. 32-1033) (Ord. 2813, 1-16-01)

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

- 35.01 Public funds defined
- 35.02 Annual audit; financial statements
- 35.03 Claims; warrants
- 35.04 Expenditures
- 35.05 Expenditures from contingency fund
- 35.06 Expenditures exceeding \$1,000
- 35.07 Miscellaneous expenditures
- 35.08 Collection of special assessments; procedure
- 35.09 Special assessment fund
- 35.10 Sinking funds
- 35.11 Deposit of funds
- 35.12 Certificates of deposit; time deposits; conditions
- 35.13 Investment of funds
- 35.14 Bond issues
- 35.15 Debt collection; authority to contract with collection agency
- 35.16 Credit cards; authority to accept
- 35.17 Intergovernmental risk management; authority

Contracts and Purchases

- 35.30 Contracts and purchases; bidding and other requirements
- 35.31 Bids; advertisement content; bid opening
- 35.32 Resident and nonresident bidders
- 35.33 Fair labor standards; compliance required
- 35.34 Violations; early opening or disclosure

Annual Budget

- 35.45 Fiscal year
- 35.46 Budget procedures
- 35.47 Expenditures prior to adoption of budget
- 35.48 Proposed budget statement; contents; availability; correction
- 35.49 Proposed budget statement; hearing; adoption; certification of amount to be received from taxation
- 35.50 Adopted budget statement; filing; certification of amount of tax
- 35.51 Appropriation bill
- 35.52 Revision of budget
- 35.53 Proprietary functions; fiscal year; budget statements; filing; hearing; adoption; reconciliation

Tax Levies

- 35.65 All-purpose levy; allocation; abandonment; extraordinary levies
- 35.66 Property tax levy; maximum; authority to exceed
- 35.67 Property tax; certification of amount
- 35.68 Property tax levy and request; authority to set
- 35.69 Motor vehicle tax

GENERAL PROVISIONS

§ 35.01 PUBLIC FUNDS DEFINED.

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

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If a municipality has a lottery established under the 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. RS 13-503(7)) (Ord. 2629, 2-21-95)

§ 35.02 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) The City Council shall cause an audit of the municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. This audit shall be made on a cash or accrual method at the discretion of the City Council. The audit shall be completed and the annual audit report made not later than 6 months after the close of the fiscal year. The accountant making the audit shall submit not less than 3 copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of these audits shall appear separately in the annual audit report, and the audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the municipality as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the Auditor of Public Accounts.

(B) The City Council shall provide and file with the Municipal Clerk not later than August 1 each year financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. RS 13-606) (Am. Ord. 2307, 8-21-84)

§ 35.03 CLAIMS; WARRANTS.

(A) All liquidated and unliquidated claims and accounts payable against the City shall: (1) Be presented in writing; (2) state the name and address of the claimant and the amount of the claim; and (3) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

(B) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. Rev. Stat. 13-903, the claimant shall file such claim within ninety days of the

accrual of the claim in the office of the City Clerk.

(C) The City Clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.

(D) No costs shall be recovered against the City in any action brought against it for any claim or for any claim allowed in part which has not been presented to the City Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due. (Neb. Rev. Stat. 17-714)

(E) No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the municipal treasury for the appropriate fund against which it is to be drawn, provided that in the event there exist at the time such warrant is drawn obligated funds from the federal government or the State of Nebraska, or both from the federal government and the State of Nebraska, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn to the additional extent of one hundred percent of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn. Neb, Rev. Stat. 17-715)

(F) All warrants drawn upon the municipal treasury must be signed by the Mayor and countersigned by the Municipal Clerk, stating the particular fund to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of that fund. (Neb. RS 17-711)

§ 35.04 EXPENDITURES.

(A) No municipal official shall have the power to appropriate, issue, or draw any order or warrant on the municipal treasury for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of Neb. Rev. Stat. 17-714 and 17-715, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law. (Neb. RS 17-708)

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

§ 35.05 EXPENDITURES FROM CONTINGENCY FUND.

Expenditures from the contingency fund of the municipality shall require a 3/4 vote of the City Council. (Ord. 2344, 11-5-85)

§ 35.06 EXPENDITURES EXCEEDING \$1,000.

No municipal official, member of any municipal board or commission, or any other municipal employee, shall obligate or expend municipal funds exceeding the amount of \$1,000, other than for recurring operational expenses and routine repairs and maintenance, without first obtaining the approval of the City Council. This provision shall not apply to the Board of Public Works. (Ord. 2394, 5-5-87) (Am. Ord. 2578, 10-19-93)

§ 35.07 MISCELLANEOUS EXPENDITURES.

(A) In addition to other expenditures authorized by law, the City Council may approve the expenditure of public funds for the payment of reimbursement of the following authorized expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or authorized expenses shall be:

(1) Registration costs, tuition costs, fees, or charges;

(2) Mileage at the rate allowed by Neb. RS 81-1176, resolution adopted by the governing body, or actual travel expense if travel is authorized by commercial or charter means; and

(3) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of that rate and those additional expenses are expressly approved by the City Council.

(B) Authorized expenditures shall not include expenditures for meals of members of the City Council provided while the members are attending a public meeting of the City Council unless the meeting is a joint public meeting with one or more other governing bodies.

(C) No expenditure for authorized expenses shall be approved by the City Council unless the following conditions have been met:

(1) Prior to attendance, a request in writing has been made to the Mayor for authority to attend the educational workshop, and the like;

(2) The purpose of the attendance has been concisely described in writing by the requesting party to the Mayor and the requesting party shall have submitted in writing to the Mayor an estimated cost for travel and attendance relating to the educational workshop, and the like;

(3) Prior to attendance, the Mayor has approved the travel and attendance in writing; and

(4) After attendance, the requesting party shall submit to the City Clerk an accounting for reimbursement of actual and necessary authorized expenses incurred by the individual, and the City Council shall consider the claim at its next duly convened meeting.

(D) In no event shall a claim be submitted or approved for any alcoholic beverages. Nothing in this section shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse or other family member of any elected or appointed official, employee, or volunteer unless the spouse or other family member is also an elected or appointed official, employee, or volunteer of the municipality.

(Ord. 2580, 11-16-93)

§ 35.08 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

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

(B) If the municipality elects to collect its special assessments, notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom the special assessments are assessed or to the lending institution or other party responsible for paying the special assessments. Failure to receive this notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.

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

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

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

(Neb. RS 18-1216)

§ 35.09 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the Municipal Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and this money shall be used for no other purpose whatever, unless to reimburse the municipality for money expended for any such improvement. (Neb. RS 17-710)

§ 35.10 SINKING FUNDS.

(A) The City Council, subject to the limitations set forth in Neb. Rev. Stat. 19-1301 to 19-1304, shall have the power to levy a tax not to exceed ten and five-tenths cents on each one hundred dollars in any one year upon the taxable value of all taxable property within the municipality for a term not to exceed ten years in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: Municipal library; municipal auditorium or community house for social or recreational purposes; city hall; municipal public library, auditorium, or community house in a single building; municipal swimming pool and appurtenances thereto; municipal jail; municipal building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; municipal park; municipal cemetery; municipal medical clinic building, together with furnishings and equipment; or municipal hospital. The City shall not be authorized to levy the tax or to establish

the sinking fund as provided in this section if, having bonded indebtedness, the City has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in Neb. Rev. Stat. 19-1303. (Neb. RS 19-1302)

(B) Before any sinking fund or funds shall be established or before any annual tax shall be levied for planned municipal improvement mentioned in Neb. Rev. Stat. 19-1302 by the City, the City Council shall declare its purpose by resolution to submit to the qualified electors of the municipality at the next general municipal election the proposition to provide the improvement. The resolution shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of the annual levy, over a definite period of years (not exceeding 10 years) required to pay that cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at that election. Notice of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. No such sinking fund shall be established unless the same shall have been authorized by a majority or more of the legal votes of such city or village cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this section, the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with Neb. Rev. Stat. 19-1301 to 19-1304. Provisions of the statutes of this state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section. (Neb. Rev. Stat. 19-1303)

(C) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by said treasurer, with the written approval of the City Council, in the manner provided in Neb. Rev. Stat. 77-2341. Whenever investments of said sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council, and said investment report shall be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of Neb. Rev. Stat. 19-1301 to 19-1304, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by sixty percent of the qualified electors of the City voting at a general election favoring such change in the use of said sinking fund or sinking funds; Provided, that the question of the change in the use of said sinking fund or sinking funds, when it shall fail to carry, shall not be resubmitted in substance for a period of one year from and after the date of said election. (Neb. Rev. Stat. 19-1304)

§ 35.11 DEPOSIT OF FUNDS.

(A) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as City Treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also

serving as Mayor, as a member of the City Council, as a member of the Board of Public Works, or as any other officer of the City shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds.

(B) (1) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions:

(a) 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,

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

(2) The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. (Neb. RS 17-607)

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

(D) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 17-607, 77-2362) (Am. Ord. 2769, 2-16-99; 2864, 7-15-03; 2892, 9-7-04)

§ 35.12 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in this state to the extent that those certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 through 16-716. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 17-720)

§ 35.13 INVESTMENT OF FUNDS.

Whenever the City has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in the sinking fund exceeds the amount necessary to pay the principal and interest of any bonds which become due during the current year, the City Council may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in

the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Neb. RS 77-2341(1)) (Am. Ord. 2463, 12-5-89; 2474, 4-17-90)

§ 35.14 BOND ISSUES.

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

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

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

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

(1) There has been an attempt to advise the debtor by first class mail, postage prepaid, at the last known address of the debtor:

(a) Of the existence of the debt; and

(b) That the debt may be assigned to a collection agency for collection if the debt is not paid, and

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

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

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

(Neb. RS 45-623)

§ 35.16 CREDIT CARDS; AUTHORITY TO ACCEPT.

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

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

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

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

(E) The City Council may choose to participate in the state contract for these payment services. If the City Council chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with 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 these 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 municipality, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

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

ELECTRONIC FUNDS TRANSFER. The movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (Neb. RS 13-609) (Ord. 2770, 2-16-99)

§ 35.17 INTERGOVERNMENTAL RISK MANAGEMENT; AUTHORITY.

The City Council and any one or more public agencies, as defined in Neb. RS 44-4303, may make and execute an agreement providing for joint and cooperative action in accordance with Neb. RS 44-4301 through 44-4339, to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

- (A) General liability;
 - (B) Damage, destruction, or loss of real or personal property, including but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
 - (C) Errors and omissions liability; and
 - (D) Workers' compensation liability.
- (Neb. RS 44-4301 through 44-4339) (Ord. 2414, 10-6-87)

CONTRACTS AND PURCHASES

§ 35.30 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. Rev. Stat. 18-412.01, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over thirty thousand dollars, shall be made unless it is first approved by the City Council.

(B) Except as provided in Neb. Rev. Stat. 18-412.01, before the City Council makes any contract in excess of thirty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer and submitted to the City Council. In advertising for bids as provided in subsections (C) and (E) of this section, the City Council may publish the amount of the estimate.

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

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

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

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

(1) \$30,000 or less;

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

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

(4) \$120,000 or less and the municipal electric utility has gross annual revenue from re-

tail sales in excess of \$10,000,000.

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

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

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

(H) Any municipal bidding procedure may be waived by the City Council:

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

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503. (Neb. RS 17-568.02)

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

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

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

PURCHASING or **PURCHASE**. The obtaining of personal property by sale, lease, or other contractual means.
(Neb. RS 18-1756) (Am. Ord. 2271, 10-4-83; 2724, 1-20-98; 2754, 10-20-98)

§ 35.31 BIDS; ADVERTISEMENT CONTENT; BID OPENING.

In advertising for bids for road contract work, public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work of any character whatsoever are received for the municipality or any of its departments or agencies, there shall be fixed not only the day upon which the bids shall be returned, received, or opened, but also the hour at which the bids shall close, or be received, or opened, and it shall be provided that the bids shall be immediately and simultaneously opened in the presence of the bidders or representatives of the bidders when the hour is reached for the bids to close; provided, that where bids are being opened on more than one contract, the officials having charge of the opening of the bids may, if they deem it advisable, award each contract as the bids are opened. (Neb. RS 73-101)

§ 35.32 RESIDENT AND NONRESIDENT BIDDERS.

(A) When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used herein shall mean any person, partnership, association, or foreign or domestic corporation authorized to engage in business in this state and who shall have met the residence requirements of the state of the nonresident bidders, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced, or has had a bona fide establishment for doing business within this state for the length of time established by the state of the nonresident bidders, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced.

(B) Any contract entered into without compliance with this section shall be null and void. The provisions of this section shall not apply to any contract for any project upon which federal funds would be withheld because of these provisions.
(Neb. RS 73-101.01 and 73-101.02)

§ 35.33 FAIR LABOR STANDARDS; COMPLIANCE REQUIRED.

(A) *Statement of compliance.* In awarding contracts for public works, all contractors bidding shall be required to file with the municipality a statement that they are complying with, and will continue to comply with, fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. There shall be written into each and every contract for public works, in addition to other provisions as are necessary and prescribed by law, a provision that in the execution of the contract fair labor standards shall be maintained. (Neb. RS 73-102)

(B) *Noncompliance; bidder disqualification.* A showing in a public hearing by interested parties, to the satisfaction of the letting authority, that any contractor bidding upon public works and having filed the statement as required herein, has not complied with fair labor standards in the pursuit of his or her business or occupation, shall be the basis for disqualification of the low bid, in which case the awarding authority shall let the bid to the next lowest responsible bidder. (Neb. RS 73-103)

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

FAIR LABOR STANDARDS. A scale of wages and conditions of employment as are paid and maintained by at least 50% of the contractors in the same business or field of endeavor as the contractor filing the statement.
(Neb. RS 73-104)

§ 35.34 VIOLATIONS; EARLY OPENING OR DISCLOSURE.

It shall be unlawful for any officer or person who may be in charge of any bids referred to herein prior to the time fixed for the simultaneous opening, to open prior to that time, or otherwise disclose to any bidder the contents, amount, or other details of any rival bid. (Neb. RS 73-105) Penalty, see § 10.99

ANNUAL BUDGET

§ 35.45 FISCAL YEAR.

The fiscal year of the municipality and any public utility of the municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. RS 17-701) (Am. Ord. 2573, 8-17-93; 2683, 6-17-97)

§ 35.46 BUDGET PROCEDURES.

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

§ 35.47 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the municipality. Except as provided in division (B) of this section, those 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. These expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted. (Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the municipality in excess of that authorized by any other statutory provision.
(Neb. RS 13-509.02) (Ord. 2630, 2-21-95)

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

(A) The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. Rev. Stat. 13-506. A 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. The statement shall contain the cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. 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 50% of the total budget adopted exclusive of capital outlay items;

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

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

(b) For all other purposes.

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

(6) A list of the proprietary functions which are not included in the budget statement. The 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 municipality as well as any funds held by the County Treasurer for the municipality and shall be accurately stated on the proposed budget statement.

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

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

(Neb. RS 13-505) (Am. Ord. 2306, 8-21-84; 2590, 6-21-94; 2701, 7-1-97; 2755, 10-20-98)

§ 35.49 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION.

(A) The City Council shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least 5 days prior to the date set for the hearing in a newspaper of general circulation within the municipality.

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

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

(2) The amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes. (Neb. RS 13-506)

(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Neb. RS 13-507) (Am. Ord. 2862, 7-1-03)

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

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board 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:

(a) The amount to be levied for the payment of principal or interest on bonds issued

by the City Council; and

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

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

(B) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year 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 these 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 that body by this section.

(Neb. RS 13-508) (Am. Ord. 2591, 6-21-94; 2685, 6-17-97; 2702, 7-1-97; 2757, 10-20-98)

§ 35.51 APPROPRIATION BILL.

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

(Neb. RS 17-706) (Am. Ord. 2593, 6-21-94; 2686, 6-17-97)

§ 35.52 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 the proposal whenever during the current fiscal year 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 was adopted;

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

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

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

(1) The time and place of the hearing;

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

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

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

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

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

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

(E) Within 30 days after the adoption of the budget under Neb. RS 13-506, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the City Council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511) (Am. Ords. 2850, 7-1-02; 2861, 7-1-03)

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

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

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

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

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

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

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

(C) (1) If the municipality does not include its proprietary functions in its municipal budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the State Auditor and filed with the Municipal Clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

(a) For the immediate 2 prior 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;

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

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

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

(2) This statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. (Neb. RS 18-2805)

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

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

(E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprie-

tary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for the fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Municipal Clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for the fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. (Neb. RS 18-2807)

(F) Any income from a proprietary function which is transferred to the general fund of the municipality shall be shown as a source of revenue in the municipal budget statement created pursuant to the State Budget Act. (Neb. RS 18-2808)
(Ord. 2574, 8-17-93) (Am. Ord. 2592, 6-21-94)

TAX LEVIES

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

(A) 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 municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be levied upon the taxable valuation of all taxable property in the municipality. (Neb. RS 19-1309)

(B) (1) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. (Neb. RS 19-1312)

(2) The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best. (Neb. RS 19-1310)

(B) The municipality shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon the method in succeeding fiscal years. (Neb. RS 19-1311)

(C) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the municipality may be made by the municipality in addition to the all-purpose levy. (Neb. RS 19-1309)
(Am. Ord. 2752, 10-20-98)

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

(A) Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The City may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include

amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the City which require or obligate the City to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of the City, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C). (Neb. RS 77-3442)

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

(2) On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude that political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(3) (a) The City Council shall:

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
2. Forward a copy of the resolution to the chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue. (Neb. RS 77-3443)

(C) (1) The City may exceed the limits provided in division (A) by an amount not to exceed

a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Neb. RS 77-3444) (Am. Ord. 2863, 7-15-03)

§ 35.67 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the municipality which the municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. RS 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. RS 17-702. (Neb. RS 17-702) (Am. Ord. 2758, 10-20-98)

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

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

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

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

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

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

(C) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply.

(D) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.
(Neb. RS 77-1601.02) (Ord. 2703, 7-1-1997) (Am. Ords. 2751, 10-20-98; 2814, 1-16-01)

§ 35.69 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 of the county in which the City is located when the registration fees as provided in The Motor Vehicle Registration Act are paid. These taxes shall be credited by the County Treasurer to the Road Fund of the City. These funds shall be used by the City for constructing, resurfacing, maintaining, or improving streets, roads alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for those purposes.
(Neb. RS 18-1214) (Ord. 2432, 10-4-88) (Am. Ord. 2464, 12-5-89)