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CHAPTER 30: GENERAL PROVISIONS

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CITY SEAL

§ 30.01 SEAL; OFFICIAL CORPORATE.

The official corporate seal of the municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription: "The City of Hebron, Nebraska, Corporate Seal". The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances and all other official papers issued by order of the governing body and countersigned by the Municipal Clerk. (Neb. RS 17-502) (1999 Code, § 1-401)

MEETINGS OF COUNCIL

§ 30.15 DEFINED.

MEETINGS, as used in this subchapter, shall mean all regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy or the taking of any action. (Neb. RS 84-1409(2)) (1999 Code, § 1-501)

§ 30.16 PUBLIC BODY DEFINED.

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

- (1) The governing body of the municipality;
- (2) All independent boards, commissions, bureaus, committees, councils, subunits or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and
- (3) Advisory committees of the bodies listed above.

(B) This chapter shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.
(Neb. RS 84-1409(1)) (1999 Code, § 1-502)

§ 30.17 PUBLIC.

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

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

(C) The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the governing body and to the public by a method designated by the governing body, or by the Mayor, if the governing body has not designated a method. Such notice shall contain the time and specific place for each meeting, and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk.

(D) Except for items of an emergency nature, the agenda shall not be altered later than:

(1) Twenty-four hours before the scheduled commencement of the meeting; or

(2) Forty-eight hours before the scheduled commencement of a meeting of the governing body scheduled outside the corporate limits of the municipality.

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

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

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

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

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

(Neb. RS 84-1408, 84-1409, 84-1411, 84-1413) (1999 Code, § 1-503)

§ 30.18 CLOSED SESSIONS.

(A) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting.

(1) Closed sessions may be held for, but shall not be limited to, such reasons as:

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

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

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

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

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

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

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

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this subchapter. No closed session, informal meeting, chance meeting, social gathering or electronic communication shall be used for the purpose of circumventing the provisions of this subchapter.

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

(Neb. RS 84-1410) (1999 Code, § 1-504)

§ 30.19 EMERGENCY MEETINGS.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes, and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of § 30.22 shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(Neb. RS 84-1411) (1999 Code, § 1-505)

§ 30.20 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

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

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

(Neb. RS 84-1412, 84-1413) (1999 Code, § 1-506)

§ 30.21 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the

municipality utilizing an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.

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

(Neb. RS 17-616) (1999 Code, § 1-507)

§ 30.22 NOTICE TO NEWS MEDIA.

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

(Neb. RS 84-1411) (1999 Code, § 1-508)

§ 30.23 PUBLIC PARTICIPATION.

(A) Subject to the provisions of this subchapter, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to § 30.18, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself. No public body shall for the purpose of circumventing the provisions of this subchapter hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state. An agency which contracts with municipalities outside the state may hold meetings of any committee outside the state if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the state, which meeting shall comply with Neb. RS 84-1408 to 84-1414. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. RS 84-1412, 18-2438) (1999 Code, § 1-509)

§ 30.24 ORDER OF BUSINESS.

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

(1999 Code, § 1-510)

§ 30.25 CHANGE IN OFFICE.

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

(1999 Code, § 1-511)

§ 30.26 ORGANIZATIONAL.

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

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

(C) The Council shall then proceed to examine the credentials of its members and other elective officers of the city to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as “President of the Council”.

(D) The Mayor shall then nominate his or her candidates for appointive offices. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the state, the laws of the municipality and to perform faithfully and impartially the duties of his or her office, said oath to be filed in the office of the Municipal Clerk.

(E) Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.
(1999 Code, § 1-512)

§ 30.27 REGULAR MEETING.

(A) The meetings of the City Council shall be held in the City Hall Council Chambers. Regular meetings shall be held on the first Monday of each month at the hour of 6:30 p.m.

(B) A majority of all members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.
(Neb. RS 17-105) (1999 Code, § 1-513) (Ord. 847, passed 5-5-2014)

§ 30.28 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor, or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Council member known to be out of the state, or physically unable to be present. A majority of the members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(B) At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President Pro Tempore. All ordinances passed at any special meeting shall comply with procedures set forth in §§ 30.45 through 30.54.
(Neb. RS 17-106) (1999 Code, § 1-514)

§ 30.29 VIDEO CONFERENCING, WHEN ALLOWED.

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

(1) Reasonable advance publicized notice is given;

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

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

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

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

(B) Videoconferencing shall not be used to circumvent any of the public government purposes established in Neb. RS 84-1408 to 84-1414.

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

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

(Neb. RS 84-1409, 84-1411) (1999 Code, § 1-515) (Ord. 744, passed 7-10-2000)

§ 30.30 TELEPHONE CONFERENCE CALLS; WHEN ALLOWED.

(A) A meeting of the governing body of a joint entity formed under the Interlocal Cooperation Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

(1) The territory represented by the member public agencies of the entity or pool covers more than one county;

(2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;

(3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;

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

(5) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(6) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(7) The telephone conference call lasts no more than one hour; and

(8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls shall not be used to circumvent any of the public government purposes established in Neb. RS 84-1408 to 84-1414.

(Neb. RS 84-1411(3)) (1999 Code, § 1-516) (Ord. 744, passed 7-10-2000)

ORDINANCES, RESOLUTIONS AND MOTIONS

§ 30.45 GRANT OF POWER.

The governing body may make all ordinances, by-laws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government and welfare of the municipality and its trade, commerce and manufactures.

(Neb. RS 17-505) (1999 Code, § 1-601)

§ 30.46 INTRODUCTION.

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

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

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the governing body, shall read aloud the substance of the ordinance and file it for future consideration.
(1999 Code, § 1-602)

§ 30.47 PROCEDURE.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the members elected to the Council. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.
(1999 Code, § 1-603)

§ 30.48 STYLE.

The style of all municipal ordinances shall be: “Be it ordained by the Mayor and Council of the City of Hebron, Nebraska”.
(Neb. RS 17-613) (1999 Code, § 1-604)

§ 30.49 TITLE.

No ordinance shall contain a subject not clearly expressed in its title.
(Neb. RS 1 7-614) (1999 Code, § 1-605)

§ 30.50 ORDINANCES, RESOLUTIONS, ORDERS, BY-LAWS; READING; PASSAGE.

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

(B) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the governing body. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the governing body, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance or any such resolution or order, a concurrence of a majority of the whole number of members elected to the governing body shall be required.

(C) All appointments of the officers by the governing body shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the governing body to be readily seen by the public.
(Neb. RS 17-614, 17-616) (1999 Code, § 1-606)

§ 30.51 PUBLICATION OR POSTING.

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 three public places in the municipality; or

(B) In book or pamphlet form.
(Neb. RS 17-613) (1999 Code, § 1-607)

§ 30.52 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the municipality from the Municipal Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted.
(Neb. RS 17-613) (1999 Code, § 1-608)

§ 30.53 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.51 and division (B) below, an ordinance for the government of the municipality which has been adopted by the governing body without submission to the voters of the municipality shall not go into effect until 15 days after the passage of the ordinance.

(B) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three of the most public places in the municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the governing body, and be entered of record on the Municipal Clerk's minutes.
(Neb. RS 17-613, 19-3701) (1999 Code, § 1-609)

§ 30.54 AMENDMENTS AND REVISIONS.

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

(Neb. RS 17-614) (1999 Code, § 1-610)

§ 30.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 1-1001) (Ord. 744, passed 7-10-2000)

CHAPTER 31: CITY ORGANIZATIONS

Section

Standing Committees

31.01 General provisions

Commissions and Boards

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31.99 Penalty

STANDING COMMITTEES

§ 31.01 GENERAL PROVISIONS.

(A) At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the City Council may by ordinance or resolution create.

(B) The membership of such standing committees may be changed at any time by the Mayor.

(C) The Mayor shall be a member ex officio of each standing committee.

(D) The members of the standing committees shall serve a term of office of one year, unless reappointed.

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

- (1) Finance;
- (2) Light, Water and Sewer;
- (3) Street;
- (4) Recreation Maintenance;
- (5) Ordinance; and
- (6) Insurance.

(1999 Code, § 2-101)

COMMISSIONS AND BOARDS

§ 31.15 LIBRARY BOARD.

(A) The Library Board shall be appointed by the Mayor and confirmed by a majority vote of the City Council. The Board shall consist of five members who shall be residents of the municipality. The members of the Library Board shall serve a four-year term of office as specified by state statutes. The Board shall serve without compensation and may be required, in the discretion of the 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. At the time of the Board's first meeting in July of each year, the Board shall organize by selecting from their number a Chairperson and Secretary.

(B) It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the Board may designate.

(C) Special meetings may be held upon the call of the Chairperson, or any three members of the Board.

(D) The Library Board shall have the authority to appoint a librarian and all other employees. It shall be the duty of the Board to have general charge of the municipal library and to establish appropriate rules and regulations for the management, operation and use of the same. The Board shall have

supervisory authority over all employees of the library including the librarian. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the City Council may designate from time to time.

(E) No member of the City Council shall serve as a member of the Library Board while serving a term of office as a member of the City Council. No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(Neb. RS 51-202) (1999 Code, § 2-201)

§ 31.16 PLANNING COMMISSION.

(A) The Planning Commission shall consist of five 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 such 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 approximately one-third of the regular members of the first Commission shall serve for terms of one year, one-third for terms of two years and one-third 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 Mayor and City Council, to give bond in a sum set by resolution of the City 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 officers 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 them 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 such 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 three 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 45 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 such reports and performing such other duties as the Mayor and City Council may, from time to time, designate.

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

(Neb. RS 19-924 through 19-929) (1999 Code, § 2-202)

§ 31.17 BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment, which shall consist of five regular members, plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of three years and shall be removable for cause by the Mayor upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy

occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

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

(C) The Board shall adopt rules in accordance with the provisions of this section and Neb. RS 19-901 to 19-914. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. It shall be the duty of the Secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate.
(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. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(1) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(2) The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

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

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

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

(3) When by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

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

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

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

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

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

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

(G) In exercising the powers granted in this section, the Board may, in conformity with Neb. RS 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement,

decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

(H) Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912. (Neb. RS 19-907 through 19-910) (1999 Code, § 2-203) (Ord. 783, passed 2-7-2005)

§ 31.18 BOARD OF HEALTH.

(A) The governing body shall appoint a Board of Health which shall consist of four members. The members of the Board shall include the Mayor, who shall serve as Chairperson, the President of the City Council, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as Secretary and quarantine officer. The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position.

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

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

(Neb. RS 17-121) (1999 Code, § 2-204)

§ 31.19 PARK BOARD.

The governing body shall appoint the Park Board. The Board shall consist of three members, who shall be resident freeholders in the municipality. The members of the Board shall serve a three-year term of office unless reappointed. The Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties. At the time of the Board's first meeting in

December of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any two of the Board members. It shall be the duty of the Board to take the immediate charge of all parks and recreational facilities belonging to the municipality. The Board shall establish appropriate rules and regulations for the management, use and operation of the same. All employees of the municipality doing work in or for the municipal park shall be under the supervision and direction of the Board. All actions of the Board shall be subject to the review and control of the governing body. The Board shall be responsible for making such reports and performing such other duties as the governing body may, from time to time, designate. No member of the governing body shall serve as a member of the Park Board while serving a term of office as a member of the governing body. No member of the Park Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(Neb. RS 17-952) (1999 Code, § 2-205)

§ 31.20 CEMETERY BOARD.

The governing body shall appoint the Cemetery Board. The Board shall consist of five members, who shall be resident freeholders in the municipality. The members of the Board shall serve a three year term of office unless reappointed. The Board shall serve without compensation and may be required, in the discretion of the governing body, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of their duties. At the time of the Board's first meeting in December of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such time as the governing body may designate. Special meetings may be held upon the call of the Chairperson, or any three of the Board members. The Board shall have the general care, management and supervision of the municipal cemetery with the power and authority to limit and regulate the number of cemetery lots that may be owned by the same person; to prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; and to prohibit any diverse or improper use thereof; provided, no religious tests shall be made as to the ownership of lots, the burial therein, and the ornamentation of graves. The Board shall pass rules and regulations for the proper use of the cemetery and prescribe penalties and fines for violations thereof. The Board shall use all revenue received from the sale of lots, gifts or by devise for the care, management and administration of the cemetery. All actions of the Board shall be subject to the review and control of the governing body. The Board shall be responsible for making such reports and performing such other duties as the governing body may, from time to time, designate. No member of the governing body shall serve as a member of the Cemetery Board while serving a term of office as a member of the governing body. No member of the Cemetery Board shall hold more than one Cemetery Board office.

(Neb. RS 12-401 through 12-403) (1999 Code, § 2-206) (Ord. 870, passed 8-7-2017)

§ 31.21 COMMUNITY DEVELOPMENT AGENCY.

(A) There is hereby created a Community Development Agency which Agency shall be known as the Hebron Community Development Agency. Such Agency shall consist of the Mayor and Council of the city. Such Agency shall function in a manner prescribed in this section and may exercise all of the power and authority granted to a Community Redevelopment Authority pursuant to Neb. RS 18-2101 to 18-2144 and Neb. RS 18-2147 to 18-2151 and 18-2154. The purposes for which said Agency is formed will be to formulate for the city a workable program for utilizing appropriate, private and public resources to eliminate or prevent the development or spread of urban blight, to encourage need 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 workable program. Such workable program may include without limitation, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of substandard or 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.

(B) No member or employee of the Hebron Community Development Agency shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the Agency to be included in any 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 Agency and such disclosure shall be entered into the minutes of the Agency. If any member or employee of the Agency 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 Agency to be included in any redevelopment project, they shall immediately disclose such interest in writing to the Agency and such disclosure shall be entered upon the minutes of the Agency. Upon such disclosure, such member or employee of the Agency shall not participate in any action by the Agency affecting such property.

(1999 Code, § 2-207)

§ 31.22 HOUSING AUTHORITY BOARD.

(A) *Generally.* The governing body shall appoint five persons who shall constitute the Housing Authority and such persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a five-year term of office or until his or her successor is duly appointed; provided that all vacancies shall be filled for the unexpired terms. The governing body may appoint one of its members to serve as one of the five members of such Housing Authority for such term as the governing body may determine. No person shall serve as a Commissioner unless he or she resides within the area of operation of that Housing Authority. A certificate of the appointment or reappointment of any Commissioner shall he or she filed with the Municipal Clerk and such certificate shall be conclusive evidence of the proper appointment of such Commissioner. A Commissioner shall receive

no compensation for his or her services, but he or she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties. A majority of Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the Commissioners present in any case the by laws of the Authority shall require a larger number. The Commissioners shall elect a Chairperson and Vice-Chairperson from among the Commissioners and shall have the power to employ an executive director who shall serve as ex officio secretary of the Authority. The Authority may also employ legal counsel, or it may call upon the chief law officer of the municipality, for such services as it may require. It may employ technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper. During his or her tenure, and for one year thereafter, no Commissioner, officer or employee of the Municipal Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such Commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as Commissioner, officer or employee, he or she shall immediately disclose his or her interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and he or she shall not participate in any action by the Authority relating to the property or contract in which he or she has any interest; provided, that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, to utility services, the rates for which are fixed or controlled by a governmental agency. The Mayor may remove a Commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The Mayor shall send a notice of removal to such Commissioner which notice shall contain a statement containing the charges against him or her. Unless within ten days from the receipt of such notice, such Commissioner files with the Clerk a request for a hearing before the governing body, the Commissioner shall be deemed as removed from office. If a request for a hearing is filed with the Clerk, the governing body of the municipality shall hold a hearing at which the Commissioner shall have the right to appear in person or by counsel and the governing body shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the Commissioner shall continue to hold his or her position. The Housing Authority shall keep an accurate account of all its activities and all of its receipts and disbursements and shall make a report to the governing body on all such information. (1999 Code, § 2-208)

(B) *Continued existence as housing agency.*

- (1) The local housing authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.
- (2) The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records and equipment and any funds, money,

revenue, receipts or assets of the authority belong to the agency as successor. All obligations, debts, commitments and liabilities of the authority are obligations, debts, commitments and liabilities of the successor agency.

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

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

(Neb. RS 71-1576) (1999 Code, § 2-208.01) (Ord. 744, passed 7-10-2000)

§ 31.23 JOINT AIRPORT ZONING BOARD.

(A) There is hereby created a Joint Airport Zoning Board. The Joint Airport Zoning Board shall have four members, two of which are appointed by the Mayor and City Council of Hebron, Nebraska and two of which are appointed by the Board of Commissioners of Thayer County, Nebraska. The membership of the Joint Airport Zoning Board shall select a Chairperson, who shall be elected by a majority of the members appointed by the two political subdivisions. The term of the members of such Board shall be four years.

(B) The Joint Airport Zoning Board created by this section shall have the power to adopt, by resolution approved by a majority of the Board, airport zoning regulations applicable to the entire airport hazard area appertaining to the Hebron Municipal Airport, similar to that authority vested by Neb. RS § 3-303.

(C) Any airport zoning regulation, or any amendment thereto, adopted by a Joint Airport Zoning Board shall be filed with the official or administrative agency responsible for the enforcement of zoning regulations in each of the political subdivisions participating in the creation of this Joint Airport Zoning Board and shall be enforced as provided in Neb. RS § 3-319.

(Ord. 863, passed 11-7-2016)

§ 31.24 COMMUNITY REDEVELOPMENT AUTHORITY; ESTABLISHMENT.

(A) *Establishment of Community Redevelopment Authority* . There is hereby established and created a Community Redevelopment Authority , pursuant to the provisions of Neb. RS 18-2101.01, which shall be legally known as the Community Redevelopment Authority of the city.

(B) *Membership*. The membership of the Community Redevelopment Authority shall consist of the mayor and all sitting members of the City Council.

(C) *Power and authority*. The Community Redevelopment Authority of the city shall possess and be empowered to exercise all of the power and authority granted to a Community Redevelopment Authority in Neb. RS 18-2101 through 18-2144. Said Community Redevelopment Authority shall be further authorized and empowered to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee, or as an agent or otherwise, under the provisions of the Federal Housing and Community Development Act of 1974, as amended through the Housing and Community Development Amendments of 1981.

(D) *Function; exercise of powers; objective*.

(1) The Community Redevelopment Authority of the city, to the greatest extent it deems to be feasible in carrying out the provisions of Neb. RS 18-2101 to 18-2144, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprises.

(2) The Community Redevelopment Authority shall give consideration to this objective in exercising its powers under Neb. RS 18-2101 through 18-2144, inclusive, including the formulation of a workable program, the approval of community redevelopment plans consistent with the general plan for the development of the city, the exercise of its zoning powers, the enforcement of other laws, codes and regulations, relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the providing of necessary public improvements.

(E) *Governing law*. The Community Redevelopment Authority established pursuant to this ordinance shall function in accordance with, and be governed by, the provisions of Neb. RS 18-2101 through 18-2144.

(1999 Code, § 2-211) (Ord. 763, passed 8-4-2003)

§ 31.25 RECREATION BOARD.

(A) The Mayor and City Council shall appoint the Recreation Board of the municipality.

(B) The appointments shall be made by the governing body at the first regularly scheduled meeting in the month of December of each year.

(C) The Board shall consist of three members, who shall be residents of the city. The members shall serve a three-year term of office unless reappointed. With respect to the initial appointment of members, one member shall be appointed to serve a one-year term, one member shall be appointed to serve a two-year term and one member shall be appointed to serve a three-year term. Thereafter, the appointments will be for a three-year term. The Board shall serve without compensation and may be required, at the discretion of the Mayor and City Council, to give a bond in a sum set by resolution of the governing body, and conditioned upon the faithful performance of its duties. At the time of the Board's first meeting in January of each year, the Board shall organize by selecting from its membership a Chairperson, Secretary and Treasurer. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business.

(D) The Board shall meet at such times as the Mayor and City Council may designate.

(E) Special meetings may be held upon the call of the Chairperson, or any two Board members.

(F) It shall be the duty of the Board to take the immediate charge of all municipal recreational facilities and to supervise all recreational activities organized and conducted at such recreational facilities.

(G) The Board shall establish appropriate rules and regulations for the management, use and operation of the same. All actions of the Board shall be subject to the review and control of the Mayor and City Council.

(H) The Board shall be responsible for making such reports and performing such other duties as the governing body, from time to time, may designate.

(I) Neither the Mayor, nor any member of the City Council, shall serve as a member of the Recreation Board while serving a term of office as a member of the governing body. No member of the Recreation Board shall serve in the capacity of both Chairperson and Secretary of the Board.

(Ord. 802, passed 2-4-2008)

§ 31.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and, upon conviction thereof, shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 2-301) (Ord. 744, passed 7-10-2000)

CHAPTER 32: ELECTIONS

Section

- 32.01 Generally
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- 32.11 Exit polls
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Statutory reference:

Election Act, see Neb. RS 32-101

§ 32.01 GENERALLY.

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

(Neb. RS 32-556)

(B) When the city holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the city shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the city.

(Neb. RS 32-404)

§ 32.02 NOTICE.

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

§ 32.03 REGISTERED VOTERS; QUALIFICATIONS.

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

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

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

Statutory reference:

Definition of elector, see Neb. RS 32-110

§ 32.04 SPECIAL ELECTIONS.

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

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

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

(Neb. RS 32-559)

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.
(Neb. RS 32-405)

§ 32.05 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

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

§ 32.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective city officers shall be nominated and elected on a nonpartisan basis unless the city provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline.
(Neb. RS 32-557)

§ 32.07 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

(A) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B). If a candidate is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between December 1 and March 1 prior to the date of the general election.
(Neb. RS 32-606)

(B) Candidate filing forms shall be filed in the office of the Election Commissioner or County Clerk.
(Neb. RS 32-607)

Statutory reference:

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

Withdrawal after filing, see Neb. RS 32-622

§ 32.08 FILING FEE.

(A) Except as provided in division (D) or (E) of this section, a filing fee shall be paid to the City Treasurer by or on behalf of each candidate for city office prior to filing for office. The fee shall be placed in the general fund of the city. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the City Treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

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

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

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

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

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

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

(i) Real property used as a home;

(ii) Household goods of a moderate value used in the home; and

(iii) Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

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

(F) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the City Council prior to the date of the election. Upon approval of the claim by the City Council, the filing fee shall be refunded.
(Neb. RS 32-608)

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

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

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

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the city, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-606. Petition signers and petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election.
(Neb. RS 32-617)

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

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 10% of the registered voters entitled to vote for the office.
(Neb. RS 32-618) (Ord. 872, passed 9-6-2017)

§ 32.10 RECALL PROCEDURE.

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

FILING CLERK. The Election Commissioner or County Clerk.
(Neb. RS 32-1301)

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

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

(C) (1) A petition demanding that the question of removing the Mayor, a member of the City Council, or any other elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for City Council office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

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

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

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

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

(Neb. RS 32-1303)

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

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

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

(Neb. RS 32-1305)

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

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

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

(Neb. RS 32-1306)

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

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

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

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

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

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

(Neb. RS 32-1308)

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

(Neb. RS 32-1309)

§ 32.11 EXIT POLLS.

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

§ 32.12 ELECTION; QUALIFICATIONS; TERMS.

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

(B) All Council members shall be nominated and elected on a nonpartisan ballot.

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

(D) Members of the Council shall serve for terms of four years or until their successors are elected and qualified.
(Ord. 871, passed 9-6-2017)

CHAPTER 33: EMPLOYEES AND OFFICIALS

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ELECTED OFFICIALS**§ 33.01 MAYOR; SELECTION AND DUTIES.**

(A) The Mayor of the municipality shall have the general, and immediate control over all property, and officials, whether elected, or appointed, of the municipality. He or she shall preside at all meetings of the City Council, and may vote when his or her vote shall be decisive and the Council is equally divided 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. His or her signature must appear on the Municipal Clerk's minutes of all meetings, and he or she must sign all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the Mayor may be passed over his or her veto by a two-thirds vote by the members of the City Council, but if the Mayor neglects or refuses to sign any ordinance, and returns it to the Council with his or her objections in writing at the next regular Council meeting, the same shall become a law without his or her signature.

(B) He or she shall from time to time communicate to the Council such information and recommendations as, in his or her opinion, may improve the municipality. He or she may require at reasonable intervals any municipal official to exhibit his or her accounts and make reports to the Council on any subject pertaining to his or her office. He or she shall have the power to remit fines or pardon any offense arising under the ordinances of the municipality. He or she may remove at any time an appointed police officer of the municipality. His or her territorial authority shall extend over all places within five miles of the corporate limits of the municipality for the enforcement of any health ordinance, and one-half mile in all matters vested in him or her except taxation. He or she shall also have such other duties as the City Council may by resolution confer upon him or her, or in any other matters which the laws of the state repose in him or her. He or she shall be elected at the municipal election, and shall serve a four-year term of office.

(Neb. RS 17-110 through 17-117) (1999 Code, § 1-101)

§ 33.02 CITY COUNCIL; ACTING PRESIDENT.

The City Council shall elect one of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council. Both the

President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the municipality as if done by the elected Mayor.
(Neb. RS 17-148) (1999 Code, § 1-102)

§ 33.03 SELECTION AND DUTIES OF CITY COUNCIL MEMBERS.

The members of the City Council shall be elected and serve for a four-year term. The City Council shall be the legislative division of the municipal government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions.
(Neb. RS 17-103, 17-104) (1999 Code, § 1-103)

§ 33.04 ORGANIZATION OF CITY COUNCIL.

City Council members of this municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the municipality shall be represented by at least two Council members. No person shall be eligible who is not at the time of his or her election an actual resident of the ward for which he or she is qualified and should any City Council member move from the ward from which he or she was elected, his or her office shall thereby become vacant.
(Neb. RS 17-104) (1999 Code, § 1-104)

§ 33.05 VACANCY.

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

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

(C) The Mayor shall within four weeks after the regular meeting at which such notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council at which time the Mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

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

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

(F) The Mayor shall cast his or her vote only in case of a tie vote of the City Council.

(G) All City Council members shall cast a ballot for or against each nominee.

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

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

(J) If there are vacancies in the offices of a majority of the members of the City Council, there shall be a special municipal election conducted by the Secretary of State to fill such vacancies.
(Neb. RS 32-568, 32-569) (1999 Code, § 1-105)

§ 33.06 MAYOR; VACANCY.

(A) Whenever a vacancy occurs in the office of Mayor, or in case of his or her disability or absence, the President of the Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.

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

(C) If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in § 33.05.

(Neb. RS 17-107) (1999 Code, § 1-106)

§ 33.07 RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

(A) The Mayor and members of the Council shall hold no other elective or appointive office or employment with the city.

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

ELECTIVE OFFICE. Any office which has candidates nominated or elected at the time of a state-wide primary election, any office which has candidates nominated at the time of a state-wide primary election and elected at the time of a state-wide general election, any office which has candidates elected at the time of a state-wide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the legislature.

HIGH ELECTIVE OFFICE. A member of the legislature, an elective office described in Article IV, §§ 1 or 20, or Article VII, §§ 3 or 10, of the Constitution of Nebraska, or a county, city or school district elective office.

(C) No candidate for member of the legislature or an elective office described in Article IV, §§ 1 or 20, or Article VII, §§ 3 or 10, of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state or national political party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus or committee to fill a vacancy, or to be declared a write-in candidate for more than one high elective office to be filled at the same election.

(D) Except as provided in divisions (E) or (G) below, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(E) No person serving as a member of the legislature or in an elective office described in Article IV, §§ 1 or 20, or Article VII, §§ 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(F) Whenever an incumbent serving as a member of the legislature or in an elective office described in Article IV, §§ 1 or 20, or Article VII, §§ 3 or 10, of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(G) No person serving in a high elective office shall simultaneously serve in any other high elective office.

(H) Notwithstanding divisions (E) through (G) above, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed.

(Neb. RS 17-108.02, 32-109, 32-603, 32-604) (1999 Code, § 1-107)

APPOINTED OFFICIALS

§ 33.20 APPOINTMENT; REMOVAL.

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

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

(Neb. RS 17-107, 17-541, 81-1438) (1999 Code, § 1-201)

§ 33.21 MERGER OF OFFICES.

(A) The governing body may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

(B) 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) (1999 Code, § 1-202)

§ 33.22 MUNICIPAL CLERK.

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

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

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

(D) The Municipal Clerk shall deliver all warrants, ordinances and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees and committees all resolutions, and communications which are directed at said officers, employees or committees. With the seal of the municipality, he or she shall duly attest the Mayor's signature to all ordinances, deeds and papers required to be attested to when ordered to do so by the governing body. Within 30 days after any meeting of the governing body the Municipal Clerk shall prepare, and publish the official proceedings of the governing body in a legal newspaper of general circulation in the municipality, and which was duly designated as such by the governing body. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the

purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the state. Said publication shall be charged against the General Fund. He or she shall then keep in a book with a proper index, copies of all notices required to be published, or posted by the Municipal Clerk by order of the governing body, or under the ordinances of the municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

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

(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 governing body. He or she shall destroy municipal records under the direction of the Nebraska Records Board pursuant to Neb. RS 84-1201 through 84-1220; provided, the governing body shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the Nebraska Records Board.

(Neb. RS 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712) (1999 Code, § 1-203)

§ 33.23 MUNICIPAL TREASURER.

(A) The Municipal Treasurer shall be the custodian of all moneys belonging to the municipality. He or she shall keep all money belonging to the municipality separate, and distinct from his or her own money. He or she shall keep a separate account of each fund or appropriation, and the debits, and credits belonging thereto. He or she shall issue duplicate receipts for all moneys received by him or her for the municipality. He or she shall give to every person paying money into the Municipal Treasury, a receipt therefor, specifying the date of payment, and the account paid. One of the receipts shall be filed with his or her monthly report, and the last copy of the said receipt shall be kept on file in his or her office. His or her books, and accounts shall always be open for inspection by any citizen of the municipality whenever any municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. He or she shall cancel all bonds, coupons, warrants and other evidences of debt against the municipality, whenever paid by him or her, by writing, or stamping on the face thereof, "Paid by the Municipal Treasurer", with the date of payment written or stamped thereon.

(B) He or she shall collect all special taxes, allocate special assessments to the several owners, and shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. The Treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such

bookkeeping methods as the governing body shall prescribe. He or she shall invest and collect all money owned by, or owed to, the municipality as directed by the governing body.
(Neb. RS 17-606 through 17-609, 84-712) (1999 Code, § 1-204)

§ 33.24 TREASURER'S MONTHLY REPORT/ANNUAL REPORT.

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

(Neb. RS 17-606) (1999 Code, § 1-205)

(B) *Treasurer's annual report.* The Municipal Treasurer shall publish in a legal newspaper having general circulation within the municipality, within 60 days following August 1 of each year, a report of the activities of his or her office which said report shall show in detail. Said report shall include all receipts, disbursements, warrants outstanding, and the debit, or credit balance of the municipality.

(Neb. RS 19-1101) (1999 Code, § 1-206)

§ 33.25 MUNICIPAL ATTORNEY.

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the governing body, he or she shall attend meetings of the governing body, and shall advise any municipal official in all matters of law in which the interests of the municipality may be involved. He or she shall draft such ordinances, bonds, contracts and other writings as may be required in the administration of the affairs of the municipality. He or she shall examine all bonds, contracts and documents on which the governing body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether, or not, the document is in legal, and proper form. He or she shall prepare complaints, attend and prosecute violations of the municipal ordinances when directed to do so by the governing body. Without direction, he or she shall appear, and prosecute all cases for violation of the municipal ordinances that have been appealed to, and are pending in any higher court. He or she shall also examine, when requested to do so by the governing body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be valid, and subsisting local laws in so far as

their passage, and approval are concerned. The governing body shall have the right to compensate the Municipal Attorney for legal services on such terms as the governing body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the municipality.

(Neb. RS 17-610) (1999 Code, § 1-207)

§ 33.26 MUNICIPAL PHYSICIAN.

The Municipal Physician shall be a member of the Board of Health of the municipality, and perform the duties devolving upon him or her as the medical advisor of the said Board. In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He or she shall then report the results of his or her investigation with the name of the party injured, and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations, and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon, and enter all premises, buildings or other structures in the municipality. He or she shall perform such other duties as may be required of him or her by the laws of the state, and the ordinances of the municipality. When ordered to do so by the governing body, he or she shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the governing body. The Municipal Physician shall receive as compensation for his or her services such sum as the governing body may from time to time set. He or she shall receive no compensation for his or her services as a member of the Municipal Board of Health.

(Neb. RS 17-121, 17-208) (1999 Code, § 1-208)

§ 33.27 COUNTY SHERIFF AS LAW ENFORCEMENT OFFICER.

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

(Neb. RS 19-3801) (1999 Code, § 1-209)

§ 33.28 MUNICIPAL FIRE CHIEF.

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

escapes. He or she shall within two days investigate the cause, origin and circumstances of fires arising within his or her jurisdiction. He or she shall, on or before April 1 and October 1 of each year, cause the Secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He or she shall have the power during the time of a fire, and for a period of 36 hours thereafter to arrest any suspected arsonist, or any person for hindering the Department's efforts, conducting himself or herself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his or her assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal and protection of property. Failure to obey such an order shall be an offense punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his or her jurisdiction for the purpose of examining the same for fire hazards and related dangers.

(Neb. RS 17-147, 17-505, 35-102, 35-108, 81-506, 81-512) (1999 Code, § 1-210)

§ 33.29 MUNICIPAL ENGINEER.

The Municipal Engineer shall make all surveys, estimates and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He or she shall accurately make all plats, sections and maps as may be necessary under the direction of the governing body. Upon request, he or she shall make estimates of the cost of labor and material which may be done or furnished by contract with the municipality, and make all surveys, estimates and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the governing body may require.

(Neb. RS 17-150, 17-405, 17-568.01, 17-919) (1999 Code, § 1-211)

§ 33.30 SPECIAL ENGINEER.

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

(Neb. RS 17-405, 17-568, 17-568.01, 17-919) (1999 Code, § 1-212)

§ 33.31 MUNICIPAL STREET SUPERINTENDENT.

The Municipal Street Superintendent shall, subject to the orders and directives of the governing body, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the municipality, and shall perform such other duties as the governing body may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the governing body make a detailed report to the governing body on the condition of the streets, sidewalks, culverts, alleys and bridges of the municipality, and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality along with an estimate of the cost thereof. He or she shall issue such permits, and assume such other duties as the governing body may direct.

(Neb. RS 17-107 17-119, 17-214) (1999 Code, § 1-213)

§ 33.32 ZONING ADMINISTRATOR.

The Mayor may appoint a Zoning Administrator, by and with the consent of the City Council. In the absence of a specific appointment by the Mayor, the City Supervisor is hereby designated as the Zoning Administrator.

(Neb. RS 17-604) (1999 Code, § 1-214)

§ 33.33 ECONOMIC DEVELOPMENT DIRECTOR.

The Municipal Economic Development Director shall have of the duties of encouraging immigration, new industries and investment and conducting and carrying on municipal publicity campaigns pursuant to Neb. RS 13-315. The Municipal Economic Development Director shall have such other duties as the governing body may delegate to that position.

(Neb. RS 13-315, 17-604) (1999 Code, § 1-215)

§ 33.34 CITY BUILDING PERMIT INSPECTOR.

(A) The position of City Building Permit Inspector is hereby established. This position shall be filled by appointment of the Mayor, with approval of the City Council.

(B) The responsibilities of the City Building Permit Inspector shall be as follows:

(1) To accept and review all building permits filed with the city, as required by ordinance;

(2) To make an initial onsite inspection to determine compliance with all building and zoning ordinances of the city prior to approval of said permit;

(3) To recommend approval or denial of building permit to the City Planning Commission;

(4) To make at least one additional onsite inspection during the period of construction for the purpose of verifying that construction is proceeding in accordance with the original building permit; and

(5) To report all recommendations of denial to the Mayor and City Council.

(C) The City Building Permit Inspector shall be compensated at the rate of \$100 per month plus \$25 for each building permit processed in accordance with division (B) above.

(1999 Code, § 1-216) (Ord. 792, passed 2-6-2006; Ord. 821, passed 12-6-2010)

§ 33.35 CITY ADMINISTRATOR.

(A) *Qualifications.* The City Administrator shall be chosen on the basis of executive and administrative qualifications with special reference to actual experience or knowledge of accepted practice in respect to the duties of the office. The Administrator need not be a resident of Hebron, Nebraska.

(B) *Duties.* The City Administrator shall:

(1) Attend all meetings of the City Council and its committees unless excused, with the duty of reporting on any matter concerning the city under the Administrator's direction; and to attend such other meetings of departments and officials as the duties may require or as may be directed by the Mayor or Council.

(2) Make investigation into all affairs of the city and to make recommendations to the Mayor and Council for the adoption of such measures and ordinances as are deemed necessary and expedient for good city government.

(3) Analyze the functions, duties and activities of the various departments, divisions and services of the city, and all employees thereof, and to make recommendations regarding the same to the Mayor and Council in coordinating the administrative functions and operations of the various departments, divisions and services.

(4) Keep the Mayor and Council fully advised as to the financial condition of the city and its needs. The Administrator shall assist in the preparation of the annual estimates of revenues and expenditures of the proposed budget for the presentation of a complete financial plan for the city to the Mayor and Council prior to the consideration and adoption of the appropriation ordinances by the City Council. With the adoption of the budget and the passage of the appropriations ordinances by the Council, the City Administrator shall be responsible for the supervision and control of the budgeted expenditures.

(5) Assist in the preparation and submission to the Mayor and Council as of the end of the fiscal year a complete report on the finances and Administrator exercises jurisdiction.

(6) Recommend to the Mayor the appointment, discipline, transfer or dismissal of all city personnel over which the Administrator exercises jurisdiction.

(7) Investigate or have investigated all complaints filed against an employee, department, division or service of the city, and to report such investigation with recommendation to the Mayor and Council.

(8) Act as the city's liaison to state and federal economic/industrial development agencies; actively pursue community grant funding and promote new business and industrial development within the city.

(9) Perform all other duties and exercise such other power as may be required by ordinance or prescribed by resolution of the Mayor and Council.
(Ord. 855, passed 11-2-2015)

BONDS AND OATHS

§ 33.45 BONDS; FORM.

(A) Official bonds of the municipality shall be in form, joint and several, and shall be made payable to the municipality in such penalty as the governing body may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity or bonding company; provided no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances.

(B) Only companies that are legally authorized to transact business in the state shall be eligible for suretyship on the bond of an official of the municipality. All said bonds shall obligate the principal, and sureties for the faithful discharge of all duties required by law of such principal, and shall inure to the benefit of the municipality and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the governing body, and all sureties are endorsed in writing on the said instrument by the Mayor and Municipal Clerk pursuant to the said approval of the governing body. The premium on any official bond required to be given may be paid out of the General Fund, or other proper municipal fund, upon a resolution to that effect by the governing body at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his or her official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the governing body.

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

(Neb. RS 11-103 through 11-118, 17-604) (1999 Code, § 1-301)

§ 33.46 OATH OF OFFICE; MUNICIPAL OFFICIALS.

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

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

(Neb. RS 11-101) (1999 Code, § 1-302)

COMPENSATION

§ 33.60 MUNICIPAL OFFICIALS.

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

(B) No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. He or she may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the governing body. (Neb. RS 17-108.02, 17-612) (1999 Code, § 1-901)

§ 33.61 CONFLICT OF INTEREST.

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

(a) Any member of any board or commission of the municipality;

(b) Any appointed official if such municipal official:

1. Serves on a board or commission which spends and administers its own funds; and
2. Is dealing with a contract made by such board or commission.

(c) Any elected municipal official.

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

(B) No officer of the municipality shall be permitted to benefit from any contract to which the municipality is a party.

(1) The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict.

(2) An action to have a contract declared void under this section may be brought by the municipality or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor or services furnished under the contract, to the extent that the municipality has benefitted thereby.

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

(a) Has a business with which the individual is associated or *BUSINESS ASSOCIATION*, which shall mean a business:

1. In which the individual is a partner, director or officer;

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

3. Is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(b) Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this section.

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

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

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

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

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

(E) (1) The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in divisions (E)(2)(a) through (E)(2)(e) below about every contract entered into by the municipality in which an officer has an interest as specified above for which disclosure is made as provided in division (C) above.

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

- (a) Names of the contracting parties;
- (b) Nature of the interest of the officer in question;
- (c) Date that the contract was approved by the municipality involved;

- (d) Amount of the contract; and
- (e) Basic terms of the contract.

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

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

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

(I) No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the municipality other than his or her salary. The governing body shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the municipality.
(Neb. RS 17-611, 18-305 through 18-312, 49-14, 103.01 through 49-14, 103.03, 70-624.04) (1999 Code, § 1-902)

§ 33.62 ELECTED OFFICIALS.

(A) Salaries of the following officers of the city payable in monthly installments in city warrants at par, in full payment of services rendered by them shall be:

- (1) Mayor, per year: \$6,600; and
- (2) Each Council member, per year: \$2,400.

(B) The salaries or wages of all other employees of said city shall be in such amount as fixed and determined by the Council at the time of their employment or when the annual budget is made.

(1) Claims for the salaries of the several officers as fixed herein need not be verified as other claims against the city and warrants for the amount due shall be issued monthly as a matter of course.

(2) The emoluments of no officer whose election or appointment is required under Neb. RS Chapter 18, as amended, shall be increased or diminished during the term for which he or she was elected or appointed.

(3) The salaries and compensation herein fixed shall not be construed to preclude the additional payment of mileage and expenses to city officers and employees, if and when claims are duly filed, audited and allowed therefor.

(1999 Code, § 1-903) (Ord. 736, passed 10-4-1999)

CHAPTER 34: FIRE DEPARTMENT

Section

- 34.01 Operation and funding
- 34.02 Fire Chief
- 34.03 Membership
- 34.04 Records
- 34.05 Fires
- 34.06 Distant fires
- 34.07 Fighting distant fires
- 34.08 Hose tested
- 34.09 Drills
- 34.10 Fire investigation

§ 34.01 OPERATION AND FUNDING.

The municipality operates the Municipal Fire Department through the Municipal Fire Chief and firefighters. The governing body, for the purpose of defraying the cost of the management, maintenance and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law, on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. In addition to the above, the Fire Department is authorized to enter into agreements with the appropriate Rural Fire Districts for the mutual aid and protection of the residents to both the municipality and of the Rural Fire Districts. The agreement so entered into shall be on file in the Fire Station for public inspection during office hours.

(Neb. RS 17-147, 17-718, 17-953) (1999 Code, § 3-501)

§ 34.02 FIRE CHIEF.

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

(1999 Code, § 3-502)

§ 34.03 MEMBERSHIP.

(A) The Fire Chief shall appoint no more than 25 members for each Fire Department Company subject to the review and approval of the governing body.

(1) All vacancies shall be filled in this manner. Said members shall be considered to be employees of the municipality for the purpose of providing them with worker's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$5,000 for death from any cause to age 65 and such policy shall, at the option of the individual firefighter, be convertible to a permanent form of life insurance at age 65; provided, that the firefighters covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the governing body. The members may organize themselves in any way they may decide, subject to the review of the governing body. They may hold meetings and engage in social activities with the approval of the governing body.

(2) The Secretary shall upon request keep a record of all meetings and shall make a report to the governing body of all meetings and activities of the Fire Department. The governing body may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the governing body. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the 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.

(B) Provided, however, volunteer firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the state or of the municipality.

(Neb. RS 33-139.01, 35-101 through 35-103, 35-108) (1999 Code, § 3-503)

§ 34.04 RECORDS.

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

(B) The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he or she shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

(1999 Code, § 3-504)

§ 34.05 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.
(1999 Code, § 3-505)

§ 34.06 DISTANT FIRES.

Upon the permission of the Fire Chief, such fire equipment of the municipality as may be designated by the governing body as rural equipment may be used beyond the corporate limits to extinguish reported fires.
(1999 Code, § 3-506)

§ 34.07 FIGHTING DISTANT FIRES.

The firefighters of the municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the municipality when directed to do so by the Chief of the Fire Department or some person authorized to act for such Chief and, in so doing, may take such fire equipment of the municipality as may be designated by the governing body.
(1999 Code, § 3-507)

§ 34.08 HOSE TESTED.

All fire hoses shall be pressure tested at least once each year.
(1999 Code, § 3-508)

§ 34.09 DRILLS.

The Municipal Fire Department shall hold Departmental fire drills at least once a month at such times as the members of the Fire Department shall decide.
(1999 Code, § 3-509)

§ 34.10 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 such officers shall especially make an investigation and report as to whether such fire was the result of carelessness,

accident or design. Such investigation shall be begun within two days of the occurrence of such fire and the State 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.

(Neb. RS 81-506) (1999 Code, § 3-510)

CHAPTER 35: TAX AND FINANCE

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§ 35.01 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) (1999 Code, § 1-801)

§ 35.02 PROPOSED BUDGET STATEMENT.*(A) Contents; filing.*

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

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

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

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source, to be allocated to each of the several funds, and for each fund: the actual or estimated 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;

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property: for the purpose of paying the principal or interest on bonds issued by the governing body; and for all other purposes;

(e) A uniform summary of the proposed budget statement which shall include a separate total for each fund, 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 governing body; and

(f) A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the Municipal Proprietary Function Act.

(2) The actual or estimated unencumbered cash balance of each fund required to be included

in the budget statement by this section shall include deposits and investments of the municipality as well as any funds held by the County Treasurer for the municipality and shall be accurately stated on the proposed budget statement.

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

(Neb. RS 13-504, 13-505) (1999 Code, § 1-802)

(B) Hearing; adoption; certification of amount to be received from taxation.

(1) After the filing of the proposed budget statement with the Municipal Clerk, the governing body shall each year conduct a public hearing on the 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 five days prior to the date set for the hearing in a newspaper of general circulation within the municipality or by direct mailing of the notice to each resident within the municipality.

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

(a) The amount to be applied to the payment of principal or interest on bonds issued by the governing body; and

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

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

(4) 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 13-506, 13-507) (1999 Code, § 1-803)

§ 35.03 ADOPTED BUDGET STATEMENT.

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

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

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

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

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

(Neb. RS 13-508) (1999 Code, § 1-804)

§ 35.04 BUDGET PROCEDURE.

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

(1999 Code, § 1-805)

§ 35.05 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS.

(A) Pursuant to the Municipal Proprietary Function Act, the governing body may prepare a proprietary budget statement for its proprietary functions separate and apart from its Municipal budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, **PROPRIETARY FUNCTION** shall mean a water supply or distribution utility, a wastewater collection or treatment

utility, an electric generation, transmission or distribution utility, a gas supply, transmission or distribution utility, an integrated solid waste management collection, disposal or handling utility, or a hospital or a nursing home owned by the municipality.

(B) The governing body 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. For purposes of this section, *SUBSIDIZATION* shall mean that 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.

(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 two 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 such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation and the amount of actual and estimated expenditure, whichever is applicable;

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

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

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

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

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

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

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

(Neb. RS 18-2803 to 18-2808) (1999 Code, § 1-806)

§ 35.06 APPROPRIATIONS.

The governing body shall adopt a budget statement pursuant to the Nebraska 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 city.

(Neb. RS 17-706) (1999 Code, § 1-807)

§ 35.07 PROPERTY TAX; CERTIFICATION OF AMOUNT.

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

(Neb. RS 17-702) (1999 Code, § 1-808)

§ 35.08 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. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least five days prior to the hearing.

(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) (1999 Code, § 1-809) (Ord. 744, passed 7-10-2000)

§ 35.09 PROPERTY TAX LEVY; MAXIMUM AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the municipality 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) below. The municipality 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 municipality'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 obtained against the municipality which require or obligate the municipality to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the municipality, 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) below.

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-Street Parking District Act may be allocated property taxes as authorized by law which are authorized by the municipality and are counted in the municipality's levy limit provided by division (A) above, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to 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. 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 municipality may be exceeded as provided in Neb. RS 77-3444. On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(2) The City Council shall:

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

(b) Forward a copy of such resolution to the Chairperson of the governing body of each of its political subdivisions.

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

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

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

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

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

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) above and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. 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. 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 (D) below, whichever is earliest. The City Council may pass no more than one resolution calling for an election pursuant to this division (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (A) above, but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax. The County Clerk or Election Commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. RS 77-3442, nor the final levy allocation as provided in Neb. RS 77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The municipality may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the County Clerk or Election Commissioner, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the County Clerk or Election Commissioner no later than 30 days prior to the date of the election.

(D) (1) The municipality 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.

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

(a) By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the 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 municipality; or

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

(3) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. 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 77-3442 through 77-3444) (1999 Code, § 1-810) (Ord. 744, passed 7-10-2000)

§ 35.10 EXPENDITURES.

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. 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.

(Neb. RS 17-708) (1999 Code, § 1-811)

§ 35.11 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace or add to the electric distribution, transmission or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over \$20,000 shall be made unless it is first approved by the governing body.

(B) Except as provided in Neb. RS 18-412.01, before the governing body makes any contract in excess of \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the

Municipal Engineer and submitted to the governing body. In advertising for bids as provided in divisions (C) and (E) below, the governing body may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$20,000 entered into:

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

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

(D) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: \$20,000 or less; \$40,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$1,000,000; \$60,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or \$80,000 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) above shall be published at least seven 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 governing body and entered of record.

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

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

(H) Any municipal bidding procedure may be waived by the governing body:

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

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

(I) 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. For purposes of this division (I):

(1) **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; and

(2) **PURCHASING** or **PURCHASE** means the obtaining of personal property by sale, lease or other contractual means.

(Neb. RS 17-568.01, 17-568.02, 18-1756) (1999 Code, § 1-812)

§ 35.12 ANNUAL AUDIT.

The governing body shall cause an audit of the municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the governing body. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the governing body. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the municipality as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter, be open for public inspection. One copy shall be filed with the Auditor of Public Accounts. Every governing body that is required herein to submit to an audit of its accounts shall provide and file with the Municipal Clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

(Neb. RS 19-2901 through 19-2909, 13-606) (1999 Code, § 1-813)

§ 35.13 CLAIMS.

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

(Neb. RS 17-714, 17-715) (1999 Code, § 1-814)

§ 35.14 WARRANTS.

All warrants drawn upon the Municipal Treasury must be signed by the Mayor and countersigned by the Municipal Clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn, and the amount already expended of such fund.

(Neb. RS 17-711) (1999 Code, § 1-815)

§ 35.15 TRANSFER OF FUNDS.

(A) Whenever during the current fiscal year it becomes apparent to the governing body that, due to unforeseen emergencies, there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the governing body may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund.

(B) No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in § 35.24, or by state law.

(C) It is unlawful for any officer or officers of the governing body to obligate funds contrary to the provisions of this section.

(Neb. RS 13-510) (1999 Code, § 1-816) (Ord. 744, passed 7-10-2000) Penalty, see § 35.99

§ 35.16 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 such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(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) (1999 Code, § 1-817)

§ 35.17 SPECIAL ASSESSMENT FUND.

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

(Neb. RS 17-710) (1999 Code, § 1-818)

§ 35.18 SINKING FUNDS.

The governing body, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the municipality for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the governing body shall declare its purpose by resolution to submit to the qualified electors of the municipality the proposition to provide the improvement at the next general municipal election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the municipality. The sinking fund may be established after the election if a majority, or more of the legal votes were in favor of the establishment of the fund. The governing body may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable state law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the governing body in the manner provided by state law. No sinking fund so established shall

be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the governing body is authorized to do so by 60% of the qualified electors of the municipality voting at a general election favoring such a change in the use of the Sinking Fund.
(Neb. RS 19-1301 through 19-1304, 77-2337, 77-2339) (1999 Code, § 1-819)

§ 35.19 DEPOSIT OF FUNDS.

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

(B) (1) The governing body shall require from all banks or capital stock financial institutions:

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

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

(2) The governing body shall approve such bond or giving of security.

(3) The Municipal Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

(4) The fact that a stockholder, director or other officer of such bank or capital stock financial institution is also serving as Mayor, as a member of the governing body, or as any other officer of the municipality shall not disqualify such bank or capital stock financial institution from acting as a depository for such municipal funds.

(C) The insurance afforded to depositors in banks or capital stock financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation. For deposits so insured, no other surety bond or other security shall be required. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(D) The Municipal Treasurer may deposit the funds received and held by him or her, by virtue of such office, with a cooperative credit association situated within the boundaries of the county, or a county adjoining thereto, where the municipality is situated, if the municipality is the depositor, as well as in a commercial state or national bank if the cooperative credit association performs all the conditions

precedent required by the laws of this state of commercial state and national banks to qualify them to receive deposits of such public funds. It shall not be necessary for the municipality, in making such a deposit of public funds, to purchase shares in such cooperative credit association or become a member thereof, and such a cooperative credit association is hereby authorized and empowered to receive such money under such conditions.

(Neb. RS 17-607, 77-2362 through 77-2364, 77-2386 through 77-2397) (1999 Code, § 1-820)

§ 35.20 INVESTMENT OF FUNDS.

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

(Ref 17-608, 17-609, 21-1316.01, 77-2341) (1999 Code, § 1-821)

§ 35.21 BOND ISSUES.

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

(Neb. RS 10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-5-29.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 39-836) (1999 Code, § 1-822)

§ 35.22 MOTOR VEHICLE TAX.

The governing body may levy a tax on all motor vehicles owned or used within the corporate limits of the municipality, which tax shall be paid to the County Treasurer when the registration fees as provided in the Motor Vehicle Registration Act are paid. Such taxes shall be credited by the County Treasurer to the Road Fund of the municipality. Such funds shall be used by the municipality for constructing, resurfacing, maintaining or improving streets, roads, alleys, public ways or parts thereof, for the amortization of bonded indebtedness when created for such purposes.

(Neb. RS 18-1214) (1999 Code, § 1-823)

§ 35.23 CREDIT CARDS; AUTHORITY TO ACCEPT.

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

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

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

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

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

(F) When authorizing acceptance of credit card or charge card payments, the governing body shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the municipality. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

(Neb. RS 13-609) (1999 Code, § 1-824)

§ 35.24 REVISION OF BUDGET.

(A) Unless otherwise provided by law, the governing body may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal, whenever during the current fiscal year it becomes apparent to the governing body 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 to 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 to 13-522; or

(3) The governing body has been notified by the State Auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

(1) The time and place of the hearing;

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

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

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

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

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

(E) Within 30 days after the adoption of the budget under Neb. RS 13-506, a governing body may, or within 30 days after notification of an error by the State Auditor, a governing body 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 governing body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such governing body is located and with the State Auditor. The governing body may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511) (1999 Code, § 1-825) (Ord. 744, passed 7-10-2000)

§ 35.25 SALES AND USE TAX.

(A) At the general election held within the city on Tuesday, November 5, 2002, the following question was submitted to the qualified electors of the city:

“Shall the governing body of the City of Hebron, Thayer County, Nebraska, impose a sales and use tax of 1% upon the same transactions within the City of Hebron on which the State of Nebraska is authorized to impose a tax, the revenue of which is to be applied to community improvement?”

(B) The election was held on November 5, 2002 and the majority of votes cast upon the question identified in division (A) above was in favor of such tax.

(C) A certified copy of the election results, a certified map of the city, and a certified copy of this ordinance shall be filed with the State Tax Commissioner no later than January 30, 2003.

(D) The 1% sales and use sales tax shall become effective on April 1, 2003, that being the first day of the next calendar quarter following receipt by the State Tax Commissioner of the documents referred to in division (C) above.

(E) A certified map of the city, clearly showing the boundaries of said city, and referred to above in division (C) above is attached to the ordinance codified herein.

(F) This section shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.
(1999 Code, § 1-826) (Ord. 759, passed 12-16-2002)

§ 35.99 PENALTY.

(A) Any person, or any person’s agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.
(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 1-1001) (Ord. 744, passed 7-10-2000)

