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GENERAL PROVISIONS**§ 30.01 QUALIFICATIONS.**

Elected officials shall be residents and registered voters of the city. Elected officials may hold any other elective office, subject to the limitations found in Neb. RS and 32-604. Further, except as provided in § 33.57 of this title, such elected officials shall not be interested in the profits or the emoluments of any contract, job, work or service for the city.
(‘79 Code, § 1-201) (Am. Ord. 764, passed 4-20-99)

Statutory reference:

Residence requirements, see Neb. RS 16-305

Contracts and conflicts of interest, see Neb. RS 49-14,103.01

Directors and employees of special districts and utility companies, Neb. RS 70-624.04

Cross-reference:

Property, see § 33.01

Charges against officials, see § 33.02

Bonds, see § 33.40

Oath of office, see § 33.41

Compensation, see §§ 33.55 through 33.57

§ 30.02 (RESERVED).**§ 30.03 ELECTED OFFICIALS ENUMERATED.**

The electors of the city shall elect a Mayor at large and two City Council members from each ward. Council members shall be registered voters of the city and residents of the ward from which they were elected. Terms of all elected officials shall commence on the first regular meeting in December of each election year.

(‘79 Code, § 1-203)

Statutory reference:

Ward residency required, see Neb. RS 16-302.01

Cross-reference:

Ward boundaries, see § 11.05

MAYOR

§ 30.15 SELECTION AND DUTIES.

The Mayor shall be elected to serve a four-year term of office. The Mayor shall preside at all the meetings of the City Council and shall have the right to vote when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the Council. He or she shall have the superintending control of all the officers and affairs of the city and shall take care that ordinances of the city and provisions of law relating to cities of the first class are complied with. He or she may administer oaths and shall sign the commissions and appointments of all the officers appointed in the city. The Mayor shall have the power to approve or veto any ordinance passed by the City Council and to approve or veto any order, by-law, resolution, award of or vote to enter into any contract or the allowance of any claim; provided, that any ordinance, order, by-law, resolution, award or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of all the members elected to the City Council. If the Mayor neglects or refuses to sign any ordinance, order, by-law, resolution, award or vote to enter into any contract or the allowance of any claim and returns the same with his or her objection in writing at the next regular meeting of the Council, the same shall become law without his or her signature. The Mayor may veto any item or items of any appropriation bill and approve the remainder thereof. The item or items so vetoed may be passed by the Council over his or her veto as in other cases. The Mayor shall from time to time communicate to the Council such information and recommend such measures as in his or her opinion may tend to improve the finances of the city, the police, health, comfort, and general prosperity of the city, and may have such jurisdiction as may be vested in him or her by ordinance over all places within two miles of the corporate limits of the city for the enforcement of health or quarantine laws and the regulation thereof. The Mayor shall have the power after the conviction of any person to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the laws of the city. In the event that there is a vacancy in the office of Mayor, see § 30.02 of this code.

(Neb. RS 16-312, 16-313, 16-314, and 16-316) ('79 Code, § 1-204)

CITY COUNCIL

§ 30.25 SELECTION AND DUTIES.

The members of the City Council shall be elected and serve for a four-year term. One Council member from each ward shall be elected at each election, so that terms are staggered. The City Council

shall be the legislative division of the city government and shall perform such duties and have such powers as may be authorized by law. The 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.

('79 Code, § 1-207)

Statutory reference:

Officers; election; qualifications; term, Neb. RS 16-302.01

Cities of the first class; officers; wards; terms; qualifications, see Neb. RS 32-534

§ 30.26 PRESIDENT; ACTING PRESIDENT.

The City Council shall elect one of its own body, in each year that new members' terms commence, 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 that 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 city as if done by the elected Mayor.

(Neb. RS 16-402) ('79 Code, § 1-206)

§ 30.27 ORGANIZATION.

City Council members of this city 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 meeting has been called to order, the City 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 city shall be represented by at least two Council members. No person shall be eligible who is not at the time of election an actual resident of the ward for which the person is qualified. If any City Council member moves from the ward from which the Council member was elected, his or her office shall thereby become vacant.

('79 Code, § 1-208)

§ 30.28 STANDING SUBCOMMITTEES.

At the organizational meeting of the City Council, the Mayor shall appoint from among members of the City Council such standing subcommittees as the City Council may by ordinance, or resolution, create. No such subcommittee shall have authority to take formal action on behalf of the City Council. The membership of such standing subcommittees may be changed at any time by the Mayor with the approval of the majority of the City Council. The Mayor shall be a member ex officio of each standing subcommittee. The members of the standing subcommittees shall serve a term of office of two years, unless reappointed.
(‘79 Code, § 2-101)

ORDINANCES, RESOLUTIONS, AND MOTIONS

§ 30.40 GRANT OF POWER.

The City Council may make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state of Nebraska, as may be necessary or expedient, in addition to the special powers otherwise granted by law, for maintaining the peace, good government and welfare of the city and its trade, commerce and manufactures for preserving order and securing persons or property from violence, danger and destruction, for protecting public and private property and for promoting the public health, safety, convenience, comfort, morals and general interests and welfare of the inhabitants of the city.
(Neb. RS 16-246) (‘79 Code, § 1-701) (Am. Ord. 696, passed 10-7-97)

§ 30.41 RULES AND REGULATIONS.

All ordinances shall be passed pursuant to such rules and regulations as the City Council may provide, and all such ordinances may be proved by the certificate of the Clerk under the seal of the city. When printed or published in book or pamphlet form and purporting to be published by authority of the city, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of ordinances shall be sufficiently proved by a certificate under seal of the city, from the Clerk, showing that the ordinance was passed and approved, and when and in what paper it was published, and when and by whom and where it was posted. When ordinances are published in book or pamphlet form, purporting to be published by authority of the City

Council, it need not be otherwise published and the book or pamphlet shall be received as evidence of the passage and legal publication of the ordinances, as of the date mentioned in the book or pamphlet, in all courts, without further proof.
(Neb. RS 16-403) ('79 Code, § 1-702)

§ 30.42 PROCEDURE FOR RESOLUTIONS AND MOTIONS.

(A) Resolutions shall be introduced in one of the methods prescribed for the introduction of ordinances; provided, however, resolutions shall not be required to be read by title on three different days. After their introduction, written resolutions having a title shall be fully and distinctly read by title in the presence and hearing of a majority of the members elected to the City Council. Any written resolution not having a title shall, after its introduction, be fully and distinctly read in its entirety upon the request of any member of the City Council who is present at the meeting.

(B) Motions shall be made, and the issue raised by any resolution or motion shall be disposed of, in accordance with the usage of parliamentary law set forth in § 33.24 or as otherwise adopted for the guidance of City Council. Unless otherwise provided by applicable law, 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 or by use of electronic voting device that allows the yeas and nays of each member of the City Council to be readily seen by the public.
(‘79 Code, § 1-710) (Am. Ord. 682, passed 7-1-97; Am. Ord. 959, passed 8-2-05)

§ 30.43 APPROPRIATION OF MONEY.

All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the Council. The Mayor may vote on such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council.
(Neb. RS 16-404) ('79 Code, § 1-703) (Am. Ord. 496, passed 2-6-90)

§ 30.44 STYLE.

The style of all city ordinances shall be:

“Be it ordained by the Mayor and Council of the City of La Vista, Nebraska:....”
(Neb. RS 16-405) ('79 Code, § 1-706)

§ 30.45 TITLE.

No ordinance shall contain a subject which is not clearly expressed in the title.
(Neb. RS 16-404) ('79 Code, § 1-707)

§ 30.46 READING AND PASSAGE.

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the members of the City Council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In the case such requirement is suspended, the ordinance shall be read by title or number and then moved for final passage. Three-fourths of the members of the City Council may require a reading of any ordinance in full before enactment under either procedure set out in this section.
(Neb. RS 16-404) ('79 Code, § 1-704) (Am. Ord. 627, passed 9-5-95)

§ 30.47 PUBLICATION.

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

(1) In some newspaper published within the city; or

(2) In pamphlet form.

(Neb. RS 19-3701)

(B) Every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in some manner prescribed in this section.
(Neb. RS 16-405) ('79 Code, § 1-705) (Am. Ord. 406, passed 12-3-85; Am. Ord. 697, passed 10-7-97)

§ 30.48 EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in § 30.47 and division (B) of this section, an ordinance for the government of the city which has been adopted by the City Council without submission to the voters of the city shall not go into effect until 15 days after the passage of the ordinance.
(Neb. RS 19-3701)

(B) In the case of riots, infectious diseases or other impending danger, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor immediately upon the first publication of the ordinance.
(Neb. RS 16-405)

(C) Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council and be entered of record on the City Clerk's minutes.
(‘79 Code, § 1-708) (Am. Ord. 698, passed 10-7-97)

§ 30.49 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 city and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. RS 16-404) (‘79 Code, § 1-709) (Am. Ord. 699, passed 10-7-97)

Statutory reference:

Ordinances revising all the ordinances of the city, see Neb. RS 16-247 and 16-404

Modifications to zoning or building districts, see Neb. RS 19-915

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CHAPTER 31: APPOINTED CITY OFFICIALS

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Cross-reference:

Property, see § 33.01

Charges against officials, see § 33.02

Bonds, see § 33.40

Oath of office, see § 33.41

Compensation, see §§ 33.55 through 33.57

Fire Chief and assistants, duties, see § 34.02

GENERAL PROVISIONS**§ 31.01 APPOINTED OFFICIALS ENUMERATED.**

The Mayor shall, by and with the approval of a majority of the City Council, appoint an Administrator, Finance Director, Clerk, Attorney, City Engineer, Public Works Superintendent, City Physician, Chief of Police and Fire Chief. Whenever the title City Treasurer, Treasurer, or a comparable title is used in the Nebraska Revised Statutes or this code of ordinances, or the ordinances, regulations, contracts, personnel documents, and other documents of the city, in reference to the treasurer of the city, the title shall be deemed to mean the Finance Director of the city, who shall perform all of the duties of the Treasurer prescribed by statute or ordinance as well as such other and additional duties as may be directed or prescribed by the city. The City Administrator shall also appoint a Librarian, a Building and Zoning Inspector, and a Recreation Director. All appointed officers may be removed at any time by the Mayor with the approval of the majority of the Council and the advice of the City Administrator. All confirmations of appointments to such offices by the Council shall be made by roll call or viva voce vote, and the concurrence of a majority shall be required. The vote by "yeas" and "nays" shall be recorded. The requirements of a roll call or viva voce vote may be satisfied by the use of an electronic voting device, which allows the yeas and nays of each Council member to be readily seen by the public.

('79 Code, § 1-301) (Am. Ord. 822, passed 10-2-00; Am. Ord. 869, passed 10-1-02)

Statutory reference:

Municipal authority, see Neb. RS 16-308

§ 31.02 CREATION OF OFFICE.

The City Council may create any office that it may deem necessary for the good government and interest of the city.

('79 Code, § 1-304)

Statutory reference:

Municipal authority, see Neb. RS 16-308

§ 31.03 MERGER OF OFFICES.

The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be

limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined.

(Neb. RS 16-305) ('79 Code, § 1-308) (Am. Ord. 373, passed 1-15-85; Am. Ord. 522, passed 3-5-91)

§ 31.04 TERM OF OFFICE.

All officers appointed by the Mayor and confirmed by the Council shall hold the office to which they may be appointed until the end of the Mayor's term of office and until their successors are appointed and qualified, unless sooner removed or the ordinance creating the office is repealed, except as otherwise specifically provided. The Fire Chief shall serve a two-year term.

(Neb. RS 16-309) ('79 Code, § 1-303) (Am. Ord. 869, passed 10-1-02)

§ 31.05 DUTIES PRESCRIBED.

The City Council may regulate and prescribe by ordinance the powers, duties and compensation of the officers of the city not specifically delineated by state law. The City Council may classify the several offices and positions of trust or employment in the public service on the basis of merit through such agency as the City Council shall provide for that purpose, upon approval by a majority of the electors of the city voting on such proposition.

(Neb. RS 16-218) ('79 Code, § 1-305)

§ 31.06 REPORTS.

The City Council may require from any officer of the city at any time a report in detail of the transactions of his or her office or of any matters connected therewith.

(Neb. RS 16-220) ('79 Code, § 1-306)

§ 31.07 VACANCY.

Whenever any vacancy shall occur in an appointive office for any reason, including removal of the official, the Mayor shall fill the office in the manner prescribed for the appointment of new appointed officials for the unexpired term.

('79 Code, § 1-302)

OFFICIALS**§ 31.20 CITY ATTORNEY.**

The City Attorney shall be the legal advisor of the City Council and city officers. The City Attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city, or that may be ordered by the City Council. The City Attorney shall attend meetings of the City Council and give opinions on matters submitted to him or her, either orally or in writing as may be required. The Mayor and City Council shall have the right to pay the City Attorney additional compensation for legal services provided for the city or to employ additional legal assistance out of funds of the city.

(Neb. RS 16-319) ('79 Code, § 1-307)

§ 31.21 CITY TREASURER.

(A) (1) The City Treasurer shall receive all money belonging to the city and shall keep books and accounts in such a manner as the Mayor and City Council shall prescribe. The Treasurer shall keep a daily cash book, which shall be footed and balanced daily, and such books and accounts shall always be subject to inspection of the Mayor, members of the City Council, and such other persons as they may designate.

(Neb. RS 16-717)

(2) The Treasurer shall keep all money in his or her hands belonging to the city separate and distinct from the Treasurer's own money. The Treasurer is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his or her custody and keeping for his or her own use and benefit or that of any other person whomsoever. Any violation of this provision shall subject the Treasurer to immediate removal from office, by the City Council, and it may declare such office vacant. The Mayor shall appoint a successor who shall be confirmed by the City Council to hold office for the remainder of the term.

(Neb. RS 16-719)

(3) The Treasurer shall be required to give bond or evidence of equivalent insurance of not less than \$25,000, or he or she may be required to give bond in double the sum of money estimated by the City Council at any time to be in his or her hands belonging to the city. The Treasurer shall be the custodian of all money belonging to the corporation. The City Council shall pay the actual premium of the bond or insurance coverage of such Treasurer. The Treasurer shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying date of payment and on what account paid. He or she shall also file copies of such receipts, except tax receipts, with his or her monthly reports, and he or she shall at the end of every month, and as often as may be requested, render an account to the

City Council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. The Treasurer shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the Clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the Council or its committee that he or she has such funds in his or her custody or under his or her control. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the Council, the Mayor with the consent of the Council may consider this failure as cause to remove the Treasurer from office. The Treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The Treasurer shall accompany the annual statement submitted pursuant to Neb. RS 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. The Treasurer may employ and appoint a delinquent tax collector, who shall be allowed a percentage upon his or her collections to be fixed by the Council not to exceed the fees allowed by law to the County Treasurer for like services. Upon taxes collected by such delinquent tax collector, the Treasurer shall receive no fees. The Treasurer shall prepare all special assessment lists and shall collect all special assessments. (Neb. RS 16-318) ('79 Code, § 1-309)

Statutory reference:

Treasurer's statutory duties, Neb. RS 16-717 through 16-722

(B) The Treasurer shall make duplicate receipts for all sums paid into the Treasury, which receipts shall:

- (1) Specify the date of payment and what account paid;
- (2) Show the source from which such funds are derived; and

(3) By distinct lines and columns, show the amount received to the credit of each separate fund, and whether same was paid in cash, in warrants, or otherwise, one of which duplicates the Treasurer shall deliver to the person making such payment and the other he or her shall retain in his or her office and file such copy (except tax receipts) with his or her monthly reports. (Neb. RS 77-2209) ('79 Code, § 1-310)

(C) The Treasurer shall daily, as moneys are received, foot the several columns of his or her cashbook and of his or her register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in such register and shall carry forward the excess. Any Treasurer who shall fail regularly to enter upon his or her cashbook the amounts so received and receipted for, or who shall fail to keep his or her cashbook footed from day to day for the space of three days, shall forfeit for each offense the sum of \$100 to be recovered in a civil action on his or her official bond by

any person holding a warrant drawn on such Treasurer, one-half to the person bringing such action and one-half to the school fund of the county in which the action is brought. The cashbook, register and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(Neb. RS 77-2210 through 77-2212) (79 Code, § 1-311)

(D) The Treasurer shall prepare and publish annually, within 60 days following the close of the city fiscal year, a statement of the receipts and expenditures of funds of the city for the preceding fiscal year. The statement shall also include the information required by Neb. RS 16-318(3). Not more than the legal rate shall be charged and paid for such publication. Such publication shall be made in one legal newspaper of general circulation in the city. Any Treasurer failing or neglecting to prepare and publish such statement of receipts and expenditures shall be deemed guilty of a misdemeanor and shall upon conviction pay a fine not to exceed \$25 and be liable in addition to removal from office for such failure or neglect.

(Neb. RS 19-1101, 19-1103, 19-1104) (79 Code, § 1-312)

(E) (1) The Treasurer shall keep a warrant register which register shall show in columns arranged for that purpose, the number, date and amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed.

(Neb. RS 77-2202)

(2) On presentation of a warrant for payment to the Treasurer when there are not sufficient moneys on hand to the credit of the proper fund to pay the same, it shall be the duty of the Treasurer to enter such warrant in his or her warrant register for payment in the order of its presentation, and he or she shall endorse on the warrant the words "registered for payment" with the date of registration and shall sign such endorsement, whereupon the warrant shall draw interest at the rate fixed by the Mayor and City Council, which rate shall be endorsed on the warrant, until notice of payment shall be given the registered owner.

(Neb. RS 45-106 and 77-2203)

(3) The Treasurer shall neither directly or indirectly contract for or purchase any city warrant at any discount whatever upon the sum due on such warrant or order, and if he or she shall so contract for or purchase any such order or warrant, he or she shall not be allowed in settlement the amount of such order or warrant, or any part thereof, and shall also forfeit the whole amount due on such order or warrant.

(Neb. RS 77-1741) (79 Code, § 1-313) (Am. Ord. 1026, passed 5-1-07; Am. Ord. 1076, passed 10-21-08; Am. Ord. 1255, passed 7-7-15)

Cross-reference:

Finance Director to perform duties of the City Treasurer, see § 31.01 of this code of ordinances

§ 31.22 CITY CLERK.

(A) (1) The Mayor shall, with the consent of a majority of the Council, appoint the City Clerk. Except when some other person is specifically appointed, the Clerk shall be and assume the duties of the City Treasurer. It shall be the duty of the City Clerk to attend every meeting of the Council and keep a record of the proceedings thereof. Whenever required by the Mayor or requested by four members of the Council, he or she shall deliver a notice to the members of the Council of any special meeting thereof and shall notify any and all committees of the Council of the business entrusted to them.

(2) The Clerk shall keep and carefully preserve all papers and books which may come into his or her possession as Clerk, filing and arranging them in a manner convenient for reference.

(3) The Clerk shall keep the seal of the city and duly attest thereby the Mayor's signature to all ordinances and all deeds and papers required to be attested, when ordered by the City Council.

(4) The Clerk shall keep all orders for money or warrants for the payment of money and shall enter the same in numerical order in a book to be kept for that purpose.

(5) The Clerk shall keep a register of all licenses granted and the purpose for which they were issued and report to the Council at every meeting. At the beginning of each month, he or she shall, if required by the City Council, furnish the Police Department with a true copy of the register of all licenses then in force. He or she shall issue licenses and collect license fees connected therewith as provided by the laws of Nebraska or the city.

(6) Within 30 days after any meeting of the Council, the Clerk shall prepare and publish the proceedings of the Council in a legal newspaper of general circulation in the city or more than one legal newspaper if directed by the Council. The charge for said publication shall not exceed the rates provided by law. The publication charge shall be paid and allowed as other claims against the General Fund.

(7) Wherever the Clerk is required to issue licenses, occupation tax receipts or permits, the City Clerk shall collect the amount required to be paid by the applicant therefor.

(8) The Clerk shall have such additional duties and receive such salary as the City Council may prescribe.
(‘79 Code, § 1-314)

(B) The City Clerk shall include in the minutes of each meeting, available for public inspection as required in § 33.19, 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 and each job title shall be descriptive and indicative of the duties and functions of the position.
(‘79 Code, § 1-315) (Am. Ord. 396, passed 11-5-85; Am. Ord. 562, passed 5-4-93)

Statutory reference:

Required duties, bonds, and reports, see Neb. RS 16-317 and 19-1102 through 19-1104

§ 31.23 CITY ADMINISTRATOR.

(A) There is hereby established in the city the office of City Administrator. The City Administrator shall be the chief administrative officer of the city and shall serve as administrative agent

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for the Mayor and City Council in the supervision of the offices and good government of the city. All the departments of the city shall be under the administrative supervision and direction of the City Administrator, and the Mayor and Council shall deal with all departments of the city and employees through the City Administrator.

(B) The office of City Administrator shall be filled by appointment of the Mayor by and with the consent of the majority of the City Council and shall serve at their pleasure. He or she need not be a resident of the city at the time of his or her appointment, but shall become a resident within such reasonable time as the Council and Mayor may allow. The City Administrator shall receive such compensation and allowances as the Mayor and Council may prescribe by ordinance.

(C) In the performance of his or her role as chief administrative officer of the city, the City Administrator shall have the following duties and powers:

(1) He or she shall take charge of and direct the operations of all city departments.

(2) He or she shall have the power, subject to the provisions of the civil service law, to employ, discipline and remove all nonelected employees of the city and members of the volunteer Fire Department; provided, however, that in respect to appointments to and removals from offices of City Treasurer, City Clerk, City Engineer, City Attorney, Public Works Superintendent, City Physician, Fire Chief and the Chief of Police same shall be made by the Mayor and Council in the manner provided in Neb. RS 16-308, with the advice of the City Administrator.

(3) He or she shall insure the enforcement of all laws and ordinances within the city and within its extraterritorial jurisdiction insofar as their enforcement is within the power of the city and consistent with the policy of the Mayor and City Council. He or she shall have supervision of the Police Department. Except for purposes of inquiry, the City Administrator shall deal with the members of the Police Department through the Chief of Police, except at such times as the Chief is unavailable. The Mayor and City Council shall constitute the "appointing authority" under the civil service law as to members of the Police Department, except that the City Administrator shall exercise those powers delegated to him or her under the Civil Service Law pursuant to Chapter 37 of this code.

(4) He or she shall serve as the City Planning Director and shall advise both the City Planning Commission and the City Council in matters pertaining to the planning of the city.

(5) He or she shall prepare and submit to the Mayor and Council the annual budget, together with his or her recommendations and comments. He or she shall be responsible for the execution and administration of the adopted budget. He or she shall supervise the maintenance and custody of all accounts and records of the city and shall provide the Mayor and Council with a report of the financial condition of the city at such times as the Mayor and City Council may require.

(6) He or she shall be responsible for the care and maintenance of all city property.

(7) He or she shall attend all meetings of the Mayor and Council and advise the Council in all matters pertaining to the city and its affairs.

(8) He or she shall supervise the performance of all contracts and agreements to which the city is a part.

(9) He or she shall serve as purchasing agent of the city, and no purchase will be made without his or her approval. In no case will he or she make or approve any such purchase unless the funds for same have been duly appropriated by the Mayor and Council, and as to those purchases where the amount involved exceeds \$5,000, he or she shall first obtain the approval of the Mayor and Council.

(10) He or she shall recommend to the Mayor and Council such measures as he or she may deem necessary or expedient for the good government and welfare of the city.

(11) He or she shall perform such other duties as the Mayor and Council may from time to time assign.

(D) The City Administrator may designate such city employees from time to time as necessary or appropriate to assist in carrying out the duties set forth in division (C) above, subject to his or her supervision and direction.

(E) The City Administrator shall take no part in any election held for the purpose of electing the Mayor, members of the City Council or other elective city office of the city, except for the casting of his or her individual ballot. The City Administrator shall be an officer of the city within the meaning of Neb. RS 16-502 and shall be subject to and bound by the prohibitions therein contained. Before taking office, the City Administrator shall file with the City Clerk a bond in favor of the city for the faithful performance of his or her duties in the amount of \$5,000, or such blanket bond or other bond or insurance in lieu of individual bond as permitted by § 33.40(B). The premium of said bond shall be paid by the city.

(‘79 Code, § 1-316) (Ord. 127, passed - -; Am. Ord. 298, passed 3-16-82; Am. Ord. 397, passed 11-19-85; Am. Ord. 440, passed 5-19-87; Am. Ord. 869, passed 10-1-02; Am. Ord. 1077, passed 10-21-08)

Statutory reference:

Appointment and removal authorized, see Neb. RS 16-308

Compensation restricted, see Neb. RS 16-502

§ 31.231 ASSISTANT CITY ADMINISTRATOR.

There is hereby established the office of Assistant City Administrator who, under the direction of the City Administrator, shall assist in the supervision of offices and good government of the city. The office of Assistant City Administrator shall be appointed by the City Administrator with the approval of the Mayor and shall serve at their pleasure. The Assistant City Administrator shall receive such

compensation and allowances as the Mayor and City Council may prescribe by ordinance. The Assistant City Administrator shall perform such duties as the City Administrator shall assign or delegate to him/her, and during such times as the City Administrator shall be absent from the city, or otherwise unable or incapacitated from performing his/her duties, the Assistant City Administrator shall be vested with the powers of, and shall perform the duties and responsibilities of, the City Administrator.

(Ord. 825, passed 1-16-01)

§ 31.24 CITY ENGINEER; SPECIAL ENGINEER.

(A) *City Engineer.* The City Engineer shall, when requested by the Mayor or City Council, make estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters, the improvement of streets, and the erection and repair of buildings and shall perform such other duties as the City Council may require. When the city has appointed a Board of Public Works, and the Mayor and City Council have by ordinance so authorized, the Board may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the board. Whenever authorized by the Mayor and City Council, the Board may purchase material and employ labor for the enlargement or improvement of the systems and works under the jurisdiction of the Board.

(Neb. RS 16-321)

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

(79 Code, § 1-317)

Statutory reference:

Employment of special engineer authorized, see Neb. RS 16-322

§ 31.25 PUBLIC WORKS DIRECTOR.

(A) The Public Works Director shall be subject to the orders of the City Council by resolution and under the immediate supervision of the City Administrator. The Public Works Director shall have general charge, direction and control over all work on the streets, sidewalks, parks, rights-of-way, sewers, culverts, and bridges of the city except where some other official is specifically designated as the official in charge of such improvements. He or she shall perform such other duties and make such reports as the City Council may require. It shall be his or her duty to see that sidewalks and the sidewalk space are not unlawfully occupied. He or she shall report all obstructions thereon and any unlawful use of the same to the City Council, except where the laws of the city require him or her to take direct action against violators of the city law governing the public ways and property. He or she shall have the authority to go upon private property at reasonable hours in the exercise of his or her official duties. He or she shall serve all notices pertaining to sidewalks, streets, alleys and other property unless some other official is specifically required to serve such notices. It shall be his or her duty to keep in a suitable book an accurate record of the performance of his or her official duties which shall include such information as may be required by the City Administrator or the City Council.

(B) The Public Works Director shall also have immediate supervision over the sewage transportation system and shall supervise and inspect repairs and maintenance work on the city sewer system. The Public Works Director shall enforce the laws of the city relating to the Sewer Department as well as carry out any order or directive of the City Administrator. All employees under his or her direction shall obey his or her orders. The Director, or his or her duly authorized agent, shall have free access at proper hours of the day to all parts of each premises and building to or in which sewer service is furnished to examine the pipes and fixtures and ascertain whether there is any disrepair or violation of city law.

('79 Code, § 1-318)

Cross reference:

Public works, see Title V

§ 31.26 CHIEF OF POLICE.

(A) The Chief of Police shall have the immediate superintendence of the police. The Chief of Police shall maintain the police department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, crime, traffic or other accident, or other call for service or assistance. The Police Chief and officers of the police department shall have the power, and it shall be their duty, to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as a sheriff, and keep them in the city prison or other place to prevent their escape until a trial or examination may be had before the proper officer; and they shall have the same power as a sheriff in relation to all criminal matters arising out of a violation of a city law and all process issued by the county court in connection with a violation of a city law.

(B) In accordance with the authority provided hereunder, the Chief of Police shall have the following duties and responsibilities, including but not limited to, in some cases, seeing that particular requirements or conditions are maintained:

- (1) Police officers shall at all times while on duty be properly uniformed; when appropriate, city-provided uniforms, badges, and insignia shall be worn.
- (2) Equipment of the department shall be properly used and well-maintained.
- (3) Police officers shall be well-informed and trained as to the laws of the state and laws of the city, and enforcement of such laws, as well as the modern methods of policing, crime detection, and prevention.
- (4) Community relations programs shall be implemented from time to time as are necessary or appropriate to develop or maintain positive relationships between the police department and the community.
- (5) Rules and regulations of the police department shall be developed, promulgated, and enforced, and a high level of discipline will be maintained within the department.
- (6) Safekeeping and proper custody of all city property used by the police department, all found property that is turned into the police department, and all evidence recovered from crime scenes.
- (7) Execution of orders of the Mayor.
- (8) Carrying out traffic control on city streets.
- (9) Making or filing, or causing to be made or filed complaints for violations of the ordinances of the city, as necessary or appropriate.
- (10) Maintaining custody and control of the city detention facility and the prisoners within and preventing their escape from same.
- (11) The Chief of Police shall be a member of the Board of Health, and Secretary and quarantine officer of said Board.

(12) The Chief of Police shall have such other duties as are assigned to or required of him or her by the Mayor and Council or otherwise provided by applicable law, rule, or regulation.

('79 Code, § 1-319)

Statutory reference:

Municipal police authority, see Neb. RS 16-225

Duties on Board of Health, see Neb. RS 16-238

Similar provisions, see Neb. RS 16-323 and 29-401

Cross reference:

Police Department, see §§ 34.25 et seq.

§ 31.27 BUILDING AND ZONING INSPECTOR.

(A) (1) The Building and Zoning Inspector is hereby authorized and directed to enforce all the provisions of the city code pertaining to zoning regulation, building construction and repair. For such purpose, he or she shall have the powers of the city police.

(2) In accordance with his or her duties and upon presentation of proper credentials, the Building and Zoning Inspector, or his or her duly authorized representative, may enter at all reasonable times any building, structure or premises to perform any duty imposed upon him or her by any Building Code, Electrical Code, Plumbing Code or Gas Code duly adopted by reference in the city code, or any provision of the city code. Whenever any building or construction work is being done contrary to the provisions of said codes, it shall be the duty of the Building and Zoning Inspector to order the work stopped, by notice, in writing, served on any persons engaged in doing or causing the work to be done. Any such person shall immediately stop, or cause to be stopped, said work until authorization is received from the Building and Zoning Inspector to continue the work. When any structure is in a dangerous condition or the building is being used contrary to the provisions of the laws of the city, the Building and Zoning Inspector may order such use discontinued or the structure, or portion thereof, in violation vacated. The Building and Zoning Inspector, acting in good faith and without malice in the discharge of his or her duties, shall not thereby render himself or herself personally liable and is hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any act or omission in the discharge of his or her duties.

(3) Any suit brought against the Building and Zoning Inspector, because of an alleged act or omission performed by him or her in the enforcement of any provision of the city codes relating to buildings or building construction shall be defended by the legal department of the city until final termination of the proceedings.

(B) It is hereby made the duty of the Building and Zoning Inspector to view and inspect all lots and parcels of land for weeds and worthless vegetation upon complaint or otherwise as often as may

required. It shall be the duty of the Building and Zoning Inspector to view and inspect all sidewalks contiguous to public property within the city to ascertain if any snow, ice, mud, or other obstructions encroach into or upon said sidewalks.

(C) The Building and Zoning Inspector may request, and shall receive so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of other officials of the city.

(D) The Inspector shall have such additional duties and make such reports as the City Council may prescribe from time to time.

('79 Code, § 1-320)

Cross reference:

Building regulations, see Chapter 150

Zoning regulations, see Chapter 153

§ 31.28 RECREATION DIRECTOR.

(A) The Recreation Director shall be appointed by the City Administrator. The Recreation Director shall plan, direct and supervise city recreational activities on the city playgrounds, parks, and recreational areas.

(B) The Recreation Director shall also assist the Park and Recreation Advisory Committee in the performance of its duty by:

(1) Advice and recommendations to the Committee on matters related to its duties for the Committee's consideration and recommendation to the City Council.

(2) Advice and recommendations to the Committee on other policy matters as may be appropriate from time to time.

(3) Making recommendations and soliciting input from the Committee on such recreational matters that necessitate subsequent City Council approval or disapproval.

('79 Code, § 1-321)

Cross reference:

Additional provisions regarding the Park and Recreation Advisory Committee, see § 32.07

Leisure and recreation, see Chapter 90

§ 31.29 LIBRARIAN.

The Librarian shall be appointed by the City Administrator. It shall be the duty of the Librarian to have daily charge over the City Library and to administer the rules and regulations for the management, operation and use of the City Library.

('79 Code, § 1-322)

Statutory reference:

Library Board of Advisors authorized to appoint librarian, see Neb. RS 51-211(1)

Cross reference:

City Administrator authorized to appoint librarian, see § 90.70

Library generally, see §§ 90.70 et seq.

§ 31.30 FIRE CHIEF.

(A) The Fire Chief shall have the immediate superintendence of the volunteer firefighters. The Fire Chief shall maintain the Fire Department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, traffic or other accident, or other call for service or assistance.

(B) In accordance with the authority provided hereunder, the Fire Chief shall have the following duties and responsibilities, including but not limited to, in some cases, seeing that particular requirements or conditions are maintained:

(1) Volunteer firefighters shall at all times while on duty be properly uniformed and/or equipped; when appropriate, city-provided uniforms, badges, and insignia shall be worn.

(2) Equipment of the Department shall be properly used and well-maintained.

(3) Volunteer firefighters shall be well-informed and trained in the modern methods of fire prevention, fire suppression, fire safety education and emergency medical service.

(4) Community relations programs shall be implemented from time to time as are necessary or appropriate to develop or maintain positive relationships between the fire department and the community.

(5) Rules and regulations of the Fire Department shall be developed, promulgated, and enforced and a high level of discipline will be maintained within the Department.

(6) Execution of orders of the Mayor.

(7) The Fire Chief shall be a member of the Board of Health.

(8) The Fire Chief shall have such other duties as are assigned to or required of him or her by the Mayor and Council or otherwise provided by applicable law, rule or regulation.
(Ord. 1017, passed 1-16-07)

CHAPTER 32: BOARDS, COMMISSIONS, AND COMMITTEES

Section

- 32.01 Library Board of Advisors
- 32.02 Planning Commission
- 32.03 Board of Adjustment and Board of Appeals
- 32.04 Board of Health
- 32.05 Civil Service Commission
- 32.06 City Personnel Board
- 32.07 Park and Recreation Advisory Committee
- 32.08 Community Development Agency

Cross-reference:

Bonds, see § 33.40

Charges against officials, see § 33.02

Citizens Advisory Review Committee - Economic Development, § 117.15

Compensation, see §§ 33.55 through 33.57

Oath of office, see § 33.41

Property, see § 33.01

§ 32.01 LIBRARY BOARD OF ADVISORS.

(A) *Creation of Board.* There is hereby created a Library Board of Advisors consisting of five voting members and the Librarian, provided, however, that the Librarian shall attend and serve as Chair of all meetings of the Board, though he or she shall not vote or be counted for quorum purposes. The Librarian further shall act as a liaison between the Board and City Council. Voting Board members shall be appointed by a majority vote of the City Council upon recommendation of the Mayor. Board members shall be appointed for a term of two years each, provided that the Board shall be constituted so that on December 31 of each odd-numbered year, the appointments of two voting members shall expire and so that on December 31 of each even-numbered year, appointments of the remaining three voting members shall expire. A member may be appointed to the Board for successive terms. Voting members of the Library Board of Advisors shall serve without pay or compensation for any services rendered as a member of the Board.

(B) *Duties of Board.* The Library Board of Advisors shall advise and make recommendations in respect to the operations and development of the City Library. The Board shall encourage and publicize the use of the City Library. The Board may recommend to the Mayor and Council such rules and

regulations as are necessary for the preservation and efficient management of the Library. The Board may recommend to the Mayor and Council such penalties and fees as are deemed appropriate for the use or abuse of library equipment, books and facilities. The Board shall recommend to the Mayor and Council such measures as it deems necessary and proper for the betterment of the City Library. The Board shall submit an annual report to the Mayor and Council for the period October 1 to September 30, each year, or as otherwise required by Neb. RS 51-213, showing monies received and expended by the city for Library purposes during said period, a statement of the condition of the Library and its needs and such other recommendations and information as may seem pertinent.

(C) *Committee duties of Librarian.* The City Librarian shall:

(1) Advise and recommend to the Board on matters related to its duties for the Board's consideration and recommendation to the City Council.

(2) Advise and recommend to the Board on other policy matters as may be appropriate from time to time.

(3) Make recommendations and solicit input from the Board on such recreational matters that necessitate subsequent City Council approval or disapproval.

(4) Serve as a nonvoting member of the Board, prepare all agenda and calls of the Board meetings.

(D) *Organization; City Administrator an ex officio member.* Immediately after its appointment and each year thereafter, the Board shall meet and organize by electing from its number a president, secretary, and such other officers as may be necessary. The Board shall have the authority to establish its own rules of procedure. A majority of the Board members in office at any particular time shall constitute a quorum for the transaction of business. Vacancies on the Board shall not be considered for purposes of determining quorum requirements. The City Administrator shall serve as an ex officio member of the Board and may attend its meetings. He or she shall serve as a representative of the Mayor and City Council and may participate in discussions but shall not vote or be counted for quorum purposes. Any member of the Board may be removed by a majority vote of the members of the City Council upon recommendation of the Mayor.

(‘79 Code, § 2-201) (Am. Ord. 328, passed 11-3-82; Am. Ord. 409, passed 3-4-86; Am. Ord. 449, passed 8-4-87)

Statutory reference:

Authority to create; powers and duties, see Neb. RS 51-201 through 51-212

Cross reference:

Library, see §§ 90.70 et seq.

§ 32.02 PLANNING COMMISSION.

(A) The Planning Commission shall consist of nine regular members who shall represent, insofar as is possible, the different professions or occupations in the city 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 city is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the city 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 1,000 residents. All regular members of the Commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908. The term of each regular member shall be three years, except that three regular members of the first Commission shall serve for terms of one year, three for terms of two years and three for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.
(Neb. RS 19-926)

(B) All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill such other of its offices as it may determine. The term of the Chairperson and the Secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the City 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 city, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the city, 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 90 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 City Council may, from time to time, designate.

(C) The Mayor, with the approval of a majority vote of the other 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 city 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.

(‘79 Code, § 2-202)

Statutory reference:

Powers and duties, see Neb. RS 19-924 through 19-929

Cross reference:

Planning, see Chapter 151

§ 32.03 BOARD OF ADJUSTMENT AND BOARD OF APPEALS.

(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 of the Board shall serve a term of three years, unless reappointed, and shall be removable only for cause by the Mayor, with the consent of the City Council, upon written charges and after a public hearing. 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. After the effective date of this section, the first vacancy occurring on the Board of Adjustment 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.

(Neb. RS 19-908)

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the Mayor and City Council, to give a bond in a sum set by resolution of the Mayor and City Council and conditioned upon the faithful performance of their duties. The Board shall conduct an organizational meeting in January of each year and elect from its membership a Chairperson and a Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board members, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be public record. All meetings of the Board shall be open to the public and shall be held at such times as the Chairperson may, in his or her discretion, call a meeting, and at such other times as the Board may determine. Special meetings may also be 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 Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914.

(C) It shall be the duty of the Board:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a city official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

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

(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any 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.

(D) (1) No 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.

(E) In exercising the above-mentioned powers, the Board may 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 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 city 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 variance in such regulation.
(Neb. RS 19-910)

(F) The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board.

(G) The Board shall also act as the Board of Appeals for purposes of building regulations contained in Chapter 150 of this Code in order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of said building regulations. If at any time there is any conflict, inconsistency or ambiguity between or among the provisions of divisions (A) and (B) above and Chapter 150, or any code thereunder, as adopted or amended from time to time, the provisions of divisions (A) and (B) above shall govern.
(‘79 Code, § 2-203) (Ord. 201, passed - -; Am. Ord. 308, passed 6-15-82; Am. Ord. 673, passed 6-17-97; Am. Ord. 1088, passed 4-7-09)

Statutory reference:

Powers and duties, see Neb. RS 16-907 through 16-910

§ 32.04 BOARD OF HEALTH.

The Mayor, with the consent of a majority of the Council, shall appoint the Board of Health. The Board of Health shall consist of five members who are residents of the city. The members of the Board shall include the Mayor, who shall serve as Chairman; the Police Chief, who shall serve as Secretary and quarantine officer; a physician who resides in the city shall serve as the medical advisor; the President of the City Council; and one other member who may be the Fire Chief. The members of the

Board shall serve, without compensation, a one-year term of office, unless reappointed. 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 City Clerk where they shall be available for public inspection at any reasonable time. The Board of Health shall be funded by the City Council 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 City Council may designate. Special meetings may be held upon the call of the Chairman or any two members of the Board. It shall be the duty of the Board to enact rules and

regulations which shall have the full force and effect of law and to safeguard the health of the residents of the city. Included in the duties of the Board shall be to enforce the said rules and regulations and to provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and shall actively enforce all laws of the state of Nebraska and ordinances of the city relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate. No member of the Board of Health shall hold more than one Board of Health position.

('79 Code, § 2-204) (Am. Ord. 334, passed 12-21-83; Am. Ord. 410, passed 3-4-86; Am. Ord. 869, passed 10-1-02)

Statutory reference:

Municipal authority, see Neb. RS 16-238

Cross reference:

Health and sanitation, see Chapter 92

§ 32.05 CIVIL SERVICE COMMISSION.

See Chapter 37 of this code for provisions relating to the Civil Service Commission.
(‘79 Code, § 2-205) (Am. Ord. 395, passed 11-19-85)

§ 32.06 CITY PERSONNEL BOARD.

(A) There is hereby created in the city a City Personnel Board which shall be composed of three persons to be appointed by the Mayor with the consent of the City Council. The members shall be residents of the city and shall serve without compensation. They shall hold no elective office in the city, nor be a candidate for such office. No member of the Personnel Board shall hold a compensated position of employment with the city. Members of the Civil Service Commission are eligible for appointment to the Personnel Board and any member or members so appointed shall serve in a separate and distinct capacity while so acting on the Personnel Board and, while so acting, shall be governed by this section and the personnel rules and regulations of the city and not by civil service laws, rules and regulations.

(B) Members of the Board shall serve for a term of six years; provided, that in the appointment of the first Board, the Mayor shall appoint one member for a term of two years; one for a term of four years; and one for a term of six years. Such original terms of office shall begin on the first day of June, 1975. At the regular City Council meeting immediately preceding the expiration of each Board member's term of office, the Mayor shall appoint a Board member for six years to succeed the Board member whose term is about to expire. The Board member may be appointed to succeed himself or herself in office.

(C) Whenever any appointed Board member is temporarily unable to perform the duties of the Personnel Board, due to unavailability or recusal, the Mayor may designate a member of the Civil Service Commission to serve as an alternate in the place of said appointed member. The alternate member shall serve only for such time as the appointed Board member is unable to perform the duties of the Personnel Board and said designation shall terminate as soon as the appointed Board member is again able to perform the duties of the Personnel Board.

(D) Whenever any vacancy occurs in the Personnel Board by reason of disqualification, resignation or death of a member thereof or by operation of law, the Mayor, with the consent of the Council, shall appoint a person meeting all of the qualifications set forth herein. Vacancies occurring during a term shall be filled for the balance of the term.

(E) The Personnel Board hereby created shall perform the following duties:

(1) Advise the Mayor, Council and City Administrator on matters of personnel policy and problems of personnel administration.

(2) Represent the public interest in the improvement of personnel administration in the city service. To this end the members of the Board shall at all times endeavor to insure the application of merit principles and public employment in the city.

(3) Make any inquiries which it may consider desirable concerning personnel administration in the city service and make recommendations to the Mayor, City Council or City Administrator with respect thereto.

(4) Insure fair and full enforcement of personnel rules and policy procedures adopted by resolution by the City Council, and to this end shall review such of the decisions of the City Administrator as shall be appealed in cases of suspension, demotion and dismissal, and such other matters as shall by said personnel rules be appealable to the Personnel Board. In such cases, the decision of the Personnel Board shall be deemed to be a final decision for the purpose of judicial review.

(F) The Personnel Board shall appoint some person as Secretary and examiner. Said Secretary and examiner shall serve without compensation. The City Administrator of the city shall advise the Personnel Board as to such matters into which the Board shall inquire or shall review, and shall make available to the Board such information as it shall request. The city shall provide legal service for the Board through the City Attorney.

('79 Code, § 2-206) (Ord. 194, passed - -; Am. Ord. 852, passed 12-4-01)

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Boards, Commissions, and Committees

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§ 32.07 PARK AND RECREATION ADVISORY COMMITTEE.

(A) *Creation of Committee.* There is hereby created a Park and Recreation Advisory Committee consisting of five voting members and the Recreation Director who shall serve as Chairman of the Committee but shall not have a vote, nor be counted for quorum purposes. The voting members of the Committee shall be appointed by the Mayor, subject to approval of the City Council for a term of two

years each, provided that the Committee shall be constituted so that on December 31 of each odd-numbered year the appointments of two voting members shall expire and so that on December 31 of each even-numbered year appointments of the three other voting members shall expire. The Recreation Director shall serve on the Committee as the nonvoting member during his/her term of employment in that capacity. A member may be appointed to the Committee for successive terms. Members of the Park and Recreation Advisory Committee shall serve without pay, but shall be reimbursed for any expenses approved by the Council and incurred in the performance of their assigned duties.

(B) *Duties of Committee.* The Committee's duties shall be to:

(1) Advise the Mayor, Council and City Administrator on matters concerning parks and recreation.

(2) Make recommendations on the locations of sites for parks and recreational areas to the Planning Commission, Mayor and City Council.

(3) Submit to the Mayor and Council annually a schedule of improvements to be undertaken in any of the five succeeding years for the location, extension and development of parks and recreational areas, which schedule shall be given due consideration in the formulation of the city's park and recreational improvements program and budget.

(4) Advise the Council on the sale, exchange, lease, transfer or acceptance of any real estate or buildings owned or to be acquired for parks and recreational purposes.

(5) Submit to the Mayor and Council annually a report on the status of the park and recreational facilities.

(6) Study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal and/or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official Comprehensive City Tree

La Vista - Administration

Plan for the city of La Vista, Nebraska. The Committee, when requested by the City Administrator, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(7) Perform such other related duties that may be assigned to the Committee by the Mayor and Council.

(C) *Committee duties of Recreation Director.* The Recreation Director shall:

(1) Advise and recommend to the Committee on matters related to its duties for the Committee's consideration and recommendation to the City Council.

(2) Advise and recommend to the Committee on other policy matters as may be appropriate from time to time.

(3) Make recommendations and solicit input from the Committee on such recreational matters that necessitate subsequent City Council approval or disapproval.

(4) Serve as a nonvoting member of the Committee, prepare all agenda and calls of Committee meetings.

(D) *Organization; City Administrator an ex officio member; removal.* Immediately after their appointment, and each year thereafter, the Park and Recreation Advisory Committee shall meet and organize by electing from their number a Chairman, a Vice Chairman, and a Secretary, and such other officers as they may deem necessary, provided, however, that the Recreation Director shall be elected each year as the Chairman. The Chairman shall conduct meetings of the Committee and act as liaison between the Committee and the City Council. In all public meetings, *Robert's Rules of Order* is the authority by which all procedural disputes shall be decided. A majority of the voting members serving on the Committee shall constitute a quorum. Vacancies on the Committee shall not be considered for the purpose of determining quorum requirements. The City Administrator shall serve as an ex officio member of the Committee and may attend its meetings. He or she shall serve as a representative of the Mayor and Council and may participate in discussions, but shall not vote or be counted toward a quorum. Members of the Committee shall serve at the pleasure of the Mayor and Council, and any member may be removed at any time from membership on the Committee by the Mayor with approval of the City Council.

(E) *Removal of members of Committee.* Members of the Committee shall serve at the pleasure of the Mayor and Council, and any member may be removed at any time from membership on the Committee by majority vote of the Mayor and Council. A Committee member's removal shall

automatically vacate his or her appointment to the Committee. Vacancies in the membership of the Committee shall be filled in the same manner as original appointments are made.

('79 Code, § 2-207) (Ord. 170, passed - -; Am. Ord. 185, passed - -; Am. Ord. 221, passed - -; Am. Ord. 408, passed 3-4-86; Am. Ord. 441, passed 6-2-87; Am. Ord. 448, passed 8-4-87)

Cross reference:

Recreation Director, see § 31.28

Leisure and recreation, see Chapter 90

§ 32.08 COMMUNITY DEVELOPMENT AGENCY.

(A) *Creation of Agency.* A Community Development Agency is hereby created pursuant to Neb. RS 18-2101.01 and 18-2103. The Agency shall consist of, and be governed by, the Mayor and City Council of the City of La Vista.

(B) *Powers of Agency.* The Community Development Agency shall function in the manner prescribed herein or otherwise by ordinance and have all powers and authority granted by applicable law, including, but not limited to, the power and authority:

(1) Granted to an authority or community redevelopment authority in Neb. RS 18-2101 through 18-2144;

(2) To do all community development activities;

(3) To cooperate with the federal government in all matters relating to community development program activities;

(4) To certify an annual tax levy and issue bonds, notes or other financing; and

(5) To exercise all other powers and authorities granted under Nebraska Statutes, including, but not limited to, Neb. RS 18-2145 through 18-2154.

(C) *Agency actions.* Actions of the Mayor and Council on behalf of the Agency shall be taken and approved in accordance with the requirements applicable to actions of the Mayor and City Council as the governing body of the city. Provided, however, any action of the Agency may be taken or approved at any regular, special or emergency meeting of the City Council of the City of La Vista conducted in accordance with the Nebraska Open Meetings Act (Ord. 1167, passed 2-7-12)

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Cross-reference:

Disposal of property, see § 34.29

GENERAL PROVISIONS**§ 33.01 PROPERTY.**

Every officer and employee of the city or of any of its boards or departments shall promptly and fully account for and deliver to his or her successor or as otherwise directed by the Mayor and Council, all money, equipment and other property of the city which he or she has in his or her possession or has received from the city during his or her term of office or employment.
(‘79 Code, § 1-403)

§ 33.02 CHARGES AGAINST OFFICIALS.

Any person may make a charge of misconduct in office against any city official, which charge shall be in writing and under oath and shall specify the nature of the misconduct claimed and which charge shall be filed with the City Clerk. Such charge shall be fully read at the next regular meeting of the City Council or at a special meeting called for that purpose, and if so ordered by the Council, a copy of such charge, certified by the City Clerk, shall be served upon the officer charged, together with a notice that he or she shall show cause, at a meeting of the Council why he or she should not be removed from office.
(‘79 Code, § 1-405)

MEETINGS

§ 33.15 DEFINITIONS.

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

PUBLIC BODY.

(1) (a) The City Council of the city,

(b) 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

(c) Advisory committees of the bodies listed above.

(2) This subchapter shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.
(Neb. RS 84-1409(1)) ('79 Code, § 1-602)

MEETINGS. All regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy or the taking of any action.
(Neb. RS 84-1409(2)) ('79 Code, § 1-601) (Am. Ord. 353, passed 12-6-83; Am. Ord. 564, passed 5-4-93)

§ 33.16 MEETINGS TO BE PUBLIC.

(A) All public meetings, as defined by law, shall be held in a city public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice required by this section designates some other public building or other specified place.

(B) The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the City Council and to the public by a method designated by the City Council or by the Mayor if the City Council has not designated a method. The 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 that is kept continually current shall be readily available for public inspection at the office of the City Clerk during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the city. The City Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(C) The minutes of the City 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, the names of each member of the City Council present or absent at each convened meeting and the substance of all matters discussed. The minutes of the City Council shall be a public record open to inspection by the public upon request at any reasonable time at the office of the City Clerk.

(D) Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the City Clerk shall show how each member voted or that the member was absent and did not vote.
(‘79 Code, § 1-603) (Am. Ord. 997, passed 6-20-06)

Statutory reference:

Meeting requirements, see Neb. RS 84-1408 through 84-1413

§ 33.17 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. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for but shall not be limited to such reasons as:

(1) (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 entire motion, the vote of each member on the question, of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. 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 motion to close 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 subdivision (A)(1)(a).

(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 or the Open Meetings Act. 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 or the Act.

(E) The provisions of this subchapter and the Act do not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power. (Neb. RS 84-1410) ('79 Code, § 1-604) (Am. Ord. 353, passed 12-6-83; Am. Ord. 563, passed 5-4-93; Am. Ord. 626, passed 9-5-95; Am. Ord. 997, passed 1-20-06; Am. Ord. 1027, passed 5-1-07)

§ 33.18 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 § 33.21 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) ('79 Code, § 1-605) (Am. Ord. 353, passed 12-6-83)

§ 33.19 MINUTES.

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. ('79 Code, § 1-606)
Statutory reference:
Conduct of meetings, see Neb. RS 84-1412 and 84-1413

§ 33.20 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 city utilizing an electronic voting device which allows the yeas and nays of each member of the City Council 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 84-1413) ('79 Code, § 1-607)

§ 33.21 NOTICE TO NEWS MEDIA.

The City Clerk, in the case of the City Council, and the secretary or other designee of each other 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) ('79 Code, § 1-608) (Am. Ord. 1028, passed 5-1-07)

§ 33.22 PUBLIC PARTICIPATION.

(A) Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed meetings called pursuant to § 33.17, 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 nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(C) No public body shall, for the purpose of circumventing the provisions of the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(D) An agency which contracts with municipalities outside the state of Nebraska may hold meetings of any committee outside the state of Nebraska 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 of Nebraska, which meeting shall comply with Neb. RS 84-1408 to 84-1414.

(E) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. 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. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public body shall be informed about the location of the posted information.

(Neb. RS 84-1412) ('79 Code, § 1-609) (Am. Ord. 353, passed 12-6-83; Am. Ord. 398, passed 11-19-85; Am. Ord. 457, passed 1-19-88; Am. Ord. 997, passed 6-20-06; Am. Ord. 1090, passed 4-7-09)

§ 33.23 ORGANIZATIONAL MEETING.

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 city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the city to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his or her candidates for appointive offices. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify within the time required by applicable law following his or her election. All appointive officers likewise shall qualify within the time following their appointment as required by applicable law. Qualification for each officer who is not required to give bond shall consist of his or her subscribing and taking an oath in form specified in Neb. RS 11-101, said oath to be filed in the office of the City Clerk. Each officer who is required to give a bond shall file the required bond in the office of the City Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon; or satisfy an alternative method of compliance described in § 33.40(B).
(‘79 Code, § 1-611) (Am. Ord. 1078, passed 10-21-08)

§ 33.24 PARLIAMENTARY PROCEDURE.

The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. When any person is called to order, he or she shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his or her seat and address himself or herself to the presiding officer and while speaking shall confine himself or herself to the question. When two or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon if requested by the City Clerk or any member of the City Council. Every member of the City Council who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the City Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the City Council making the motion or resolution shall be entered also. After each vote, the "Yeas" and "Nays" shall be taken and entered in the minutes upon the request of any member of the City Council. Before the vote is actually taken, any resolution, motion or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the City Council seconding the said resolution, motion or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum or

the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained or seconded except the previous question, a motion to table and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of the City Council for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the City Council shall decide all procedural disputes that may arise.
(‘79 Code, § 1-612)

§ 33.25 REGULAR MEETINGS; QUORUM.

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

(B) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a smaller number may adjourn from day to day and compel the attendance of absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(C) At the hour appointed for the meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President pro tempore.

(D) 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 16-401) (‘79 Code, § 1-613) (Ord. 399, passed 11-19-85; Am. Ord. 423, passed 10-7-86)

§ 33.26 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor or by four members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the City Clerk.

(B) On filing the call for a special meeting, the City Clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Council member known to be out of the state or physically unable to be present.

(C) All ordinances passed at any special meeting shall comply with procedures set forth in this subchapter.

('79 Code, § 1-614) (Ord. 399, passed 11-19-85; Am. Ord. 423, passed 10-7-86)

Statutory reference:

Council; meetings, regular and special; quorum, see Neb. RS 16-401

BOND AND OATHS

§ 33.40 BONDS; FORM.

(A) Subject to division (B) below, official bonds of the city shall be in form joint and several and shall be made payable to the city in such penalty as the City Council may set by resolution; provided however, that, absent specification by resolution, the required penalty shall be \$1,000. Provided further, however, that the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city 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 that no city official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the city. 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 city and any persons who may be injured by a breach of the conditions of such bonds, in addition to incorporating any other requirements of applicable law. Notwithstanding anything in this code to the contrary, each bond shall be required to be filed no earlier than the date that the bond is required to be filed under applicable Nebraska statute, as enacted or amended from time to time. Bonds of City Council members shall be approved by the Mayor. Bonds of all other city officials shall be approved by the City Council. The approval of each official bond shall be endorsed upon such bond by the officer approving the same. The Mayor shall be authorized to endorse approval of bonds approved by the City Council, and the Mayor shall be deemed to be and constitute the officer approving said bonds for purposes of said endorsement. The premium on any official bond required to be given shall be paid out of the general fund or other proper city fund. All official bonds, meeting the conditions herein, shall be filed with the City Clerk for his or her official records, and it shall be the duty of the City Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any appointed officer of the city, in the opinion of the Mayor, with the approval of the City Council, become insufficient, the Mayor, with approval of the City Council, may 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 of the Mayor, then, with the approval of the City

Council, the office shall, by such failure, refusal or neglect, become vacant, and another officer shall be appointed to fill said office in accordance with applicable law. Any official who is re-elected or re-appointed to office shall be required to file a new bond after each election or appointment.

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

(‘79 Code, § 1-401) (Am. Ord. 943, passed 12-7-04; Am. Ord. 1079, passed 10-21-08)

Statutory reference:

Bonds generally and similar provisions, see Neb. RS 11-103 through 11-118

Bond of council members, see Neb. RS 16-304

Bond of treasurer, see Neb. RS 16-318

§ 33.41 OATH OF OFFICE; CITY OFFICIAL.

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

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

(B) If any such officer is not required to give bond, the oath shall be filed in the office of the City Clerk.

(Neb. RS 11-101) (‘79 Code, § 1-402)

COMPENSATION

§ 33.55 CITY OFFICERS AND EMPLOYEES.

The compensation of any elective official of the city shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices. 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 City Council and will be available for public inspection at the office of the City Clerk.

('79 Code, § 1-1001)

Statutory reference:

Compensation regulated, see Neb. RS 16-305

Compensation to be established by ordinance, see Neb. RS 16-310

Elective officers; compensation; change during term prohibited; exception, see Neb. RS 16-326

Cross-reference:

Compensation changes for officers of bodies with terms ending at various times, see § 33.56

§ 33.56 CHANGE IN SALARY.

The emoluments of any elected officer shall not be increased or diminished during the term of office for which he or she was elected, except that when there are officers who are elected to the Council or other body having more than one member and terms of one or more members commence and end at different times, the compensation of all members of that body may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any elective office shall be again eligible to hold the office during the term he or she was elected to if after resignation the emoluments have been increased.
(Neb. RS 16-326) ('79 Code, § 1-1002)

§ 33.57 CONFLICT OF INTEREST INVOLVING CONTRACTS.

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

BUSINESS ASSOCIATION.

(a) A business:

1. In which the individual is a partner, limited liability company member, director, or officer; or
2. In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(b) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockholder.
(Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.
(Neb. RS 49-1425)

OFFICER.

(a) Includes:

1. A member of any board or commission of the city which spends and administers its own funds, who is dealing with a contract made by such board or commission; or
2. Any elected city official.

(b) **OFFICER** does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the County Attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The 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 governing body has benefited thereby.

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

- (a) Has a business association with the business involved in the contract; or
- (b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body, and the interested officer;

(1) Makes a declaration on the record to the governing 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 matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who has no business association with the business involved in the contract, or will not receive a direct pecuniary fee or commission as a result of the contract, shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes 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.

(F) If an officer's parent, spouse, or child is an employee of the officer's governing body, 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.

(G) Neb. RS 49-14,102 does not apply to contracts covered by this section.
(Neb. RS 49-14,103.01)

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (H)(1)(a) through (H)(1)(e) of this section about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. This information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include:

- (a) The names of the contracting parties;
- (b) The nature of the interest of the officer in question;
- (c) The date that the contract was approved by the governing body;
- (d) The amount of the contract; and
- (e) The basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept.
(Neb. RS 49-14,103.02)

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within ten days after the account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section.
(Neb. RS 49-14,103.03)

(J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.
(Neb. RS 49-14.103.05)

(K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of that body may have an interest.
(Neb. RS 49-14,103.06)

(L) No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the city other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the city, unless the same is specifically appropriated and ordered by a vote of three-fourths of all the members elected to the City Council.
(Neb. RS 16-502)
(‘79 Code, § 1-404) (Am. Ord. 352, passed 11-15-83; Am. Ord. 379, passed 2-5-85; Am. Ord. 421, passed 10-7-86; Am. Ord. 1029, passed 5-1-07)

Statutory reference:

Private gain by public officers, see Neb. RS 18-305 through 18-312

Holding dual elective offices, see Neb. RS 32-604

Penalty for violation of Neb. RS 49-14,103.01 to 49-14,103.03, see Neb. RS 49-14,103.04

Utility directors and employees permitted to serve in elected office, see Neb. RS 70-624.04

PUBLIC RECORDS

§ 33.70 RECORDS REQUESTS.

The city shall process property completed and submitted requests to examine record(s), and/or obtain copies or make memoranda, copies or abstracts thereof, in accordance with Nebraska statutes, this subchapter and other applicable law.
(Ord. 944, passed 12-7-04)

§ 33.71 POLICY.

The city hereby establishes a policy that nonpublic records, and records described in § 33.72 below, shall not constitute public records and they shall be withheld and not disclosed. (Ord. 944, passed 12-7-04)

§ 33.72 NONDISCLOSURE GENERALLY.

Pursuant to Neb. RS 84-712.05 and other applicable Nebraska statutes, the following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting, or disclosed by the city pursuant to its duties, shall not constitute public records and shall be withheld and not disclosed to the public:

(A) Medical records, other than records of births and deaths and except as provided in § 33.72(D) below, in any form concerning any person, and also records of elections filed under Neb. RS 44-2821;

(B) Subject to § 33.73(A) below, trade secrets, academic and scientific research work which is in process and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(C) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in Neb. RS 27-503;

(D) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subsection shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(E) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(F) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(G) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which

would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(H) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Nebraska Department of Revenue and those persons or entities with which the Division has entered into contractual relationships. Nothing in this subdivision shall allow the Division to withhold from the public any information relating to amounts paid persons or entities with which the Division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village or county where the prize winner resides;

(I) With respect to public utilities and except as provided in Neb. RS 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(J) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(K) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(L) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(M) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in Neb. RS 84-1409. For purposes of this subdivision, job application materials means employment applications, resumes, reference letters, and school transcripts, and finalist means any applicant who is offered and who accepts an interview by a public body or its agents, representatives, or consultants for any public employment position;

(N) Social security numbers, credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens;

(O) Nonpublic records; and

(P) All other records and parts thereof that are from time to time permitted or required to be withheld by the city under any applicable law, as enacted or amended from time to time.
(Ord. 944, passed 12-7-04)

§ 33.73 NONDISCLOSURE OF TRADE SECRETS, ACADEMIC, SCIENTIFIC PROPRIETARY, COMMERCIAL AND OTHER INFORMATION.

(A) Following are the types of records that shall be withheld pursuant to § 33.72(B) above:

(1) Trade secrets as that term is defined from time to time by state or federal courts of Nebraska applying Nebraska law, the Nebraska Trade Secrets Act or other applicable law;

(2) Academic and scientific research work which is in process and unpublished; and

(3) Other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose. To be withheld under this subsection:

(a) The information must be:

1. Proprietary or commercial information;

2. Customarily regarded as confidential in the industry; and

3. If disclosed, the information may provide an identifiable commercial or business advantage to one or more specified business competitors; and

(b) There is no public interest in disclosure, or the interests in nondisclosure outweigh any public interest in disclosure.

(B) In addition to, and not in limitation of, any other provision of this subchapter, business information received by the city in the course of administration of its economic development program shall, to the maximum extent permitted by law, be and remain confidential pursuant to § 33.72(B), § 33.73(A), Neb. RS 84-712.05, binding agreement of the city with a qualifying business participating in the economic development program requiring the city to maintain the confidentiality of business information, § 33.73(B)(1) below, and/or any other provision of applicable law now or hereafter enacted or amended, and shall not be disclosed.

(1) Members of the Citizens Advisory Review Committee, in their capacity as members and consistent with their responsibilities as members, may from time to time be permitted access to business

information received by the city in the course of its administration of the municipal economic development program, and members of the Committee shall maintain the confidentiality of and not disclose such information. Unauthorized disclosure of any business information which is confidential under Neb. RS 84-712.05 shall be a Class III misdemeanor.

(2) **BUSINESS INFORMATION** means all information of or related to a business, its owners and/or affiliates that is identified by the person providing the information as confidential, including, but not limited to, information related to operations, accounts, projects, performance, marketing, planning, financial statements, results and budgeting, but does not include:

(a) Information which is or becomes generally available to the public;

(b) Information rightfully received by the city from a third party and with respect to which there is no obligation of confidentiality of the city;

(c) Information independently developed by the city or any third party and with respect to which there is no obligation of confidentiality of the city; and

(d) Information disclosed pursuant to a court order or other operation of law.
(Ord. 944, passed 12-7-04)

§ 33.74 SEGREGABLE PORTIONS OF RECORD.

Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.
(Ord. 944, passed 12-7-04)

§ 33.75 EXPLANATION.

Any person denied any rights granted by Neb. RS 84-712 through 84-712.03 shall be provided the written information described in Neb. RS 84-712.04 by the City Administrator or his or her designee on behalf of the Mayor and City Council.
(Ord. 944, passed 12-7-04)

§ 33.76 NONPUBLIC RECORDS DEFINED.

NONPUBLIC RECORDS means all records that:

(A) Have not become generally available to the public, have not been publicly disclosed in an open court, open administrative proceeding, or open meeting, or disclosed by the city pursuant to its duties; and

(B) Are not of and do not belong to the city, as determined from the relevant facts and circumstances, including, but not limited to, any record acquired or developed by any person, other than by, for or at the request or direction of the city, and:

(1) Made available for inspection or review of the city, but originals or copies of which are not delivered to the city; or

(2) Originals or copies of which are delivered to the city, but subject to an enforceable:

(a) Condition that the city return all originals and copies upon completing its inspection or review; and/or

(b) Confidentiality and/or nondisclosure agreement with the city.
(Ord. 944, passed 12-7-04)

§ 33.77 LAWFUL CUSTODIAN.

Unless other specified by applicable law, the lawful custodian of records for purposes of this subchapter shall be the City Administrator or his or her designee, and he or she shall make all findings and determinations under this subchapter in his or her sole and absolute discretion unless otherwise directed by the Mayor and City Council.
(Ord. 944, passed 12-7-04)

§ 33.78 NO PRIVATE RIGHT OF ACTION.

This subchapter sets forth the policy and laws of the city with respect to requests for certain types of records. Nothing in or pursuant to this subchapter shall create, or be the basis or evidence of, any right or cause of action of or in any person or entity against, or liability of, the city or any city official, employee, agent or representative in any manner whatsoever arising out of or resulting from any negligence, act or omission of the city or any city official, employee, agent or representative under any such section or with respect to the withholding or disclosure of any record, document or information.
(Ord. 944, passed 12-7-04)

§ 33.79 REFERENCES.

References to statutes and other applicable law in this subchapter shall mean the referenced statutes or other applicable law, as enacted, amended, superseded or supplemented from time to time.
(Ord. 944, passed 12-7-04)

Section

Fire Department

CHAPTER 34: FIRE AND POLICE DEPARTMENTS

- 34.01 Operation and funding
- 34.02 Fire Chief and assistants, duties
- 34.03 Records
- 34.04 Fires
- 34.05 Distant fires
- 34.06 Fighting distant fires
- 34.07 Preservation of property
- 34.08 Hose tested
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- 34.10 Fire investigation
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Police Department

- 34.25 Duties
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- 34.28 Arrest and enforcement jurisdiction
- 34.29 Disposal of property

FIRE DEPARTMENTS

§ 34.01 OPERATION AND FUNDING.

(A) The city operates the City Fire Department and Licensed Ambulance Service through the City Fire Chief and firefighters. The City Council, for the purpose of defraying the cost of the management, maintenance and improving the Fire Department, may each year levy a tax not exceeding the maximum limits prescribed by state law on the taxable value of all taxable property within the city. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the City Treasurer.

(B) For the purpose of further defraying the costs of maintaining the Fire Department and to provide additional fire protection, the city may enter into an agreement with the Rural Fire District for mutual aid and protection, provided that any such agreement shall be placed on file at the office of the City Clerk for inspection at any reasonable time. The Fund shall be at all times in the possession of the City Treasurer.

('79 Code, § 3-201)

Statutory reference:

Related provisions, see Neb. RS 16-222

§ 34.02 FIRE CHIEF AND ASSISTANTS, DUTIES.

(A) Prior to appointment of the Fire Chief by the Mayor and City Council, the City Administrator shall make a recommendation for appointment based upon an eligibility list established by the Civil Service Commission of the city. The Fire Chief shall make the following appointments for the specified terms, subject to removal by the Fire Chief at any time with or without cause. The Fire Chief shall appoint the Assistant Chief(s) and District Chief(s) to office. The Assistant Chief(s) and District Chief(s) will serve four-year terms with a maximum of two consecutive terms. The Fire Chief shall appoint the Fire Training Officer and Medical Training Officer to office. The Fire Training Officer and Medical Training Officer will serve two-year terms with a maximum of two consecutive terms. The Fire Chief shall appoint the Fire Captains and Rescue Captain. The Fire Captains will serve one-year terms with a maximum of three consecutive terms. The Rescue Captain will serve a one-year term with a maximum of four consecutive terms. The Fire Chief shall appoint the Public Information Officer and Department Secretary/Parliamentarian. The Public Information Officer will serve a one-year term with a maximum of three consecutive terms. The Department Secretary/Parliamentarian will serve a one-year term with no maximum of consecutive terms. The Fire Chief, subject to approval by the City Administrator, will designate and fill as may be necessary other positions within the Department. A Fire Lieutenant and Rescue Lieutenant from each District will be elected by the membership of the Department and will serve one-year terms with a maximum of three consecutive terms.

(B) After an officer reaches the term limit for the office the officer is currently serving in, he/she shall be eligible for reapplication for that office, providing he/she meets the qualifications for office, after a period of two years. Provided, however, if an officer has reached his/her term limit and the Fire Chief determines that there are no qualified candidates who have applied to fill the position, the Fire Chief may reappoint the incumbent for one or more additional terms.

(C) Upon the written consent and directive of the City Council, the Fire Chief shall cause the repair, improvement or maintenance of Fire Department equipment and shall personally supervise and approve of the same. It shall be the duty of the Chief of the Fire Department, the Assistant Chief(s) or their designate(s) lawfully acting in his, her or their stead, in all cases of fire, and/or medical emergency, to take and have control of all members of the Fire Department and of all proper means for

the extinguishment of fires, the protection of property, the administration of emergency medical assistance and the preservation of order at and in the vicinity of fire and rescue scenes and to secure the observance of all ordinances and regulations respecting fires. After engines and other apparatus have been withdrawn from any fire or rescue scene, he or she shall have charge of the premises and/or scene until it has been properly secured or assumed by proper authorities.
(‘79 Code, § 3-202) (Am. Ord. 869, passed 10-1-02; Am. Ord. 941, passed 11-1-04; Am. Ord. 1018, passed 1-16-07; Am. Ord. 1110, passed 11-17-09)

§ 34.03 RECORDS.

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 and a record of all fires and shall make a full report of such records to the City Clerk during the last week in April each year. 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.
(‘79 Code, § 3-203)

§ 34.04 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 city and to secure the observance of all ordinances, laws and other rules and regulations with respect to fires and fire prevention.
(‘79 Code, § 3-204)

§ 34.05 DISTANT FIRES.

Upon the permission of the Mayor or Fire Chief or pursuant to any agreement with a Rural Fire District, such fire equipment of the city as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.
(‘79 Code, § 3-205)

§ 34.06 FIGHTING DISTANT FIRES.

The firefighters of the city 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 city when directed to do so by the Mayor or Chief of the Fire Department, or some person authorized to act for such Chief, and, in so doing, may take such fire equipment of the city as may be designated by the City Council.

('79 Code, § 3-206)

§ 34.07 PRESERVATION OF PROPERTY.

Any official of the City Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire or to protect adjoining property. The said officials may direct the city firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire, and the official in charge of the fire fighting effort shall have the power to blow up or cause to be blown up with powder or otherwise any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

('79 Code, § 3-207)

§ 34.08 HOSE TESTED.

All fire hoses shall be pressure tested once each year.

('79 Code, § 3-208)

§ 34.09 MANDATORY ASSISTANCE.

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

('79 Code, § 3-209) Penalty, see § 10.99

§ 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 city in which property has been destroyed or damaged. All fires of unknown origin shall be reported, and such officers shall especially make an investigation

and report as to whether such fire was the result of carelessness, accident or design. Such investigation shall be begun immediately following extinguishment of such fire or as soon as it is determined to be safe to do the same, 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 city 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) ('79 Code, § 3-210)

§ 34.11 UNLAWFUL HANDLING OF EQUIPMENT.

No person other than the Fire Chief, members of the Fire Department, or the Fire Chief's designee shall, at any time, handle, misuse, or interfere with any of the fire apparatus belonging to the city. ('79 Code, § 3-211) Penalty, see § 10.99

§ 34.12 COOPERATION AUTHORIZED.

Notwithstanding anything in §§ 34.01 through 34.11 or any other ordinance, resolution, rule, requirement or authorization of the city to the contrary, the Mayor and City Council, as permitted from time to time by applicable state law, shall be authorized to enter any interlocal cooperation agreements, joint public agency agreements or any other agreements or understandings and thereby delegate to any fire protection districts, cities or other public or nonpublic bodies, persons or entities, and retain, any or all of the rights and obligations described in §§ 34.01 through 34.11 above or specified by other authority to be exercised or carried out by the city, Fire Department, ambulance service, Fire Chief or any other firefighter, volunteer or person of or for the City. (Ord. 1199, passed 8-20-13)

POLICE DEPARTMENT

§ 34.25 DUTIES.

The Police Department shall consist of the Chief of Police and such further number of regular police officers as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department and its officers and members and shall have the custody and control of all property and books belonging to the Department. He or she shall devote his or her whole time to the city affairs, interests of the city

and to the preservation of peace, order, safety and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions and defects in the streets, avenues, alleys, business places and residences of the city. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of the city and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

('79 Code, § 3-301)

Cross-reference:

Chief of Police, see § 31.26

§ 34.26 RETIREMENT COMMITTEE.

(A) *Creation of Committee.* There is hereby created a Retirement Committee pursuant to Neb. RS 16-1014 for the purpose of supervising the general operation of the retirement system adopted for police officers of the city. The Committee shall consist of six members. Four of the six members shall be selected by the officers in the police force in the manner they so choose, and the names of the officers so chosen shall be provided to the City Council by the Chief of Police or his or her designee. The remaining two members shall be the City Administrator and the City Clerk. The City Treasurer shall be an *ex officio* member of the Committee, and may attend and participate in Committee meetings, but shall not vote or be counted for quorum purposes. The City Attorney shall act as legal consultant to the Committee. Each Committee member shall be appointed for a four year term, and vacancies shall be filled for the remainder of the terms by a person with the same representation as his or her predecessor. Members of the Retirement Committee shall receive no salary and shall not be compensated for expenses.

(B) *Duties of Committee.*

(1) It shall be the duty of the Retirement Committee to:

(a) Invest the funds of the retirement system as required by Neb. RS 16-1016 pursuant to the direction of participants in the plan in accordance with policies established by the Retirement Committee;

(b) Provide each employee a summary of plan eligibility requirements and benefit provisions;

(c) Provide within 30 days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive.

(d) Make available for review an annual report of the system's operations describing both:

1. The amount of contributions to the system from both the employee and the employer sources, and

2. An identification of the total assets of the retirement system;

(2) (a) 1. Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the Retirement Committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to Section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to Neb. RS 16-1001 to 16-1019 and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

a. The number of persons participating in the retirement plan;

b. The contribution rates of participants in the plan;

c. Plan assets and liabilities;

d. The names and positions of persons administering the plan;

e. The names and positions of persons investing plan assets;

f. The form and nature of investments;

g. For each defined contribution plan, a full description of investment policies and options available to plan participants; and

h. For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

2. If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the Retirement Committee shall cause to be prepared a quadrennial report, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the legislature a copy of such report. The

report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to Neb. RS 16-1001 to 16-1019. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.
(Neb. RS 16-1017) ('79 Code, § 3-302) (Ord. 355, passed 12-20-83; Am. Ord. 533, passed 7-2-91)

§ 34.27 RESERVE OFFICER BOND.

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the individual appointed, or a blanket surety bond arranged and paid for by the City Council and bonding all such officers of the City Council has been filed. Such bonds shall be subject to the provisions of Neb. RS Chapter 11, Article 1 (Neb. RS 11-101 et seq.).
(Neb. RS 81-1444) ('79 Code, § 3-303) (Ord. 422, passed 10-7-86)

§ 34.28 ARREST AND ENFORCEMENT JURISDICTION.

(A) Every city law enforcement officer shall have the power and authority to enforce the laws of this state and the city or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the city.

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

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

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

(3) Any city law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean:

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

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

(C) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the city in the event of disaster, emergency or civil defense emergency or in connection with any program of practice or training for such disaster, emergency or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. The city shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement of its personnel outside the limits of the city pursuant to this division (C). (Neb. RS 29-215 and 81-829.65) ('79 Code, § 3-304) (Ord. 629, passed 9-5-95; Am. Ord. 774, passed 4-4-99)

§ 34.29 DISPOSAL OF PROPERTY.

(A) *Property in possession of police.* Except as otherwise provided by applicable state statute as amended from time to time, property (other than real property) taken from persons pursuant to a lawful exercise of authority, recovered by the police department through investigation, turned in as found property, or which for any other reason is in the custody of the Chief of Police or his or her authorized designee or agent and unclaimed by the owner, and which is no longer required for evidence or other official purposes, shall be disposed of as follows:

(1) The owner of the property will be contacted or a reasonable attempt will be made to contact the owner of the property, and the owner will have 30 days after such contact or attempt to claim the property.

(2) Anyone finding property not classified as narcotics, contraband, or explosives and turning said property into the police department shall, if the property is not claimed by the owner within 30 days as provided in subdivision (A)(1) above, have ten days thereafter to reclaim the property.

(3) Any property not claimed or reclaimed as set forth above, will be disposed of in the manner described below:

(a) Money shall be held for a period of two years and then be paid into the general fund of the city.

(b) Narcotics, contraband, and explosives will be destroyed by the Chief of Police or his or her authorized designee or agent in accordance with applicable law.

(c) Abandoned motor vehicles shall be disposed of in accordance with Neb. RS 60-1901 et seq., as amended from time to time.

(d) Money having a value greater than the mint face value (collector's item), bicycles, and all other property not specifically included in subdivisions (A)(3)(a) through (c) above shall be, at the option of the city, held and used by the city or declared surplus property by the city subject to the provisions of divisions (B) and (C) below.

(B) Disposal of surplus property.

(1) All agencies and departments of the city shall submit to the person responsible for coordinating city purchasing, at such time and in such form as he or she shall prescribe, reports of all equipment, furniture, supplies, property described in subdivision (A)(3) above and other property (other than real property) that is underutilized or not utilized by the city, is obsolete, or is worn out. Upon approval of the City Administrator, the city purchasing coordinator shall have the authority to sell or otherwise dispose of any such item of property having a value of \$5,000 or less that is underutilized, not utilized, obsolete, or worn out.

(2) The purchasing coordinator shall sell or otherwise dispose of such property at public auction or sale, provided, however, that such property may be disposed of in any manner approved by the City Administrator or his or her designee (including but not limited to auction, sealed bid, private or public sale, or trade-in for other property) if in his or her estimation the property would:

(a) Generate proceeds at public auction or sale that would be less than the costs and expenses of the city to sell the property at public auction or sale; or

(b) Generate net proceeds at public auction or sale that would be less than the net benefit to the city of an alternative sale or disposition of the property.

(3) All sales and dispositions of property hereunder shall be in accordance with all applicable laws, rules, regulations, and orders, including but not limited to the Nebraska Miscellaneous Expenditures Act and the Nebraska Political Accountability and Disclosure Act. Any item of property having a value of more than \$5,000 shall require the prior approval of the Mayor and City Council before it is disposed of or sold.

(C) *Proceeds from disposal of property.* Except in the case of a sale or disposal of unclaimed property described in division (A) above, the net proceeds from any sale or disposal pursuant to division (B) above shall be paid into the general fund of the city. The net proceeds from the sale of any unclaimed property described in division (A) above, after payment of all costs and expenses of the city related to the property, shall be held by the city without interest for two years, and upon the expiration of such period, shall be paid into the general fund of the city.

(D) *Definitions.* For the purposes of this section the following definitions apply:

NET BENEFIT. The gross economic benefit from a particular sale or disposition of property, less all costs associated with the sale or disposition.

NET PROCEEDS. The gross proceeds from sale or auction of property, less all costs associated with such sale or disposition.

Section

General Provisions
CHAPTER 35: FINANCE AND REVENUE

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GENERAL PROVISIONS**§ 35.01 CONTRACTS; APPROPRIATIONS.**

No contract shall be made by the City Council or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure is ordered by the City Council or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise provided by law.
(Neb. RS 16-501) ('79 Code, § 1-920)

§ 35.02 CONTRACT VOTE.

On the passage or adoption of every resolution or order to enter into a contract or accepting of work done under contract by the Mayor or Council, the "yeas" and "nays" shall be called and entered upon the record. To pass or adopt any bylaw, ordinance or any such resolution or order, a concurrence of a majority of the whole number of the members elected to the Council shall be required. The Mayor may vote on any such matter when his or her vote shall be decisive, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council.
(Neb. RS 16-503) ('79 Code, § 1-921)

§ 35.03 CONTRACT ADVERTISING.

(A) Before the City Council shall make any contract in excess of \$30,000 for general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets or any other work or improvement where the cost of such improvement shall be assessed to the property, an estimate of the cost thereof shall be made by the City Engineer and submitted to the Council. No contract shall be entered into for any such work, improvement or enlargement of such an improvement, or for the purchase of equipment used in the construction of such enlargement or general improvement, for any price exceeding \$30,000 without advertising for bids. In advertising for bids for any such work, or for the purchase of such equipment, the Council may publish the amount of such estimate therewith. Such advertisement shall be published at least seven days in some newspaper of general circulation published in the city; provided, that in the 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 when adopted by a three-fourths vote of the Council and entered on record. If after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract for any work or improvement, or if the bids received by the city contain a price which exceeds the estimated cost of the project, the Mayor and City Council may negotiate a contract in an attempt to complete the proposed project at a cost commensurate with the estimate given.

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

(C) Any city bidding procedure may be waived by the City Council:

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

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

(3) When required to comply with any federal grant, loan, or program. ('79 Code, § 1-922) (Am. Ord. 263, passed 12-4-79; Am. Ord. 548, passed 6-16-92; Am. Ord. 692, passed 9-16-97; Am. Ord. 1161, passed 1-17-12)

Statutory reference:

Contract advertising requirements, see Neb. RS 16-321

Waiver of contract advertising requirements, see Neb. RS 16-321.01

§ 35.04 ANNUAL AUDIT; FINANCIAL STATEMENTS.

The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City Council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of 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 city as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the City Clerk and shall become a part of the public records of the City 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. The City Council shall provide and file with the City 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 13-606, 19-2901 through 19-2909) ('79 Code, § 1-905) (Am. Ord. 380, passed 2-5-85)

Statutory reference:

State municipal auditing requirements; similar provisions, see Neb. RS 13-606 and 19-2901 through 19-2909

§ 35.05 CLAIMS.

(A) All claims against the city, including claims for personal injury but not including officers' salaries and interest upon public debts, must be filed with the City Clerk. Upon the filing of any such claim, the party shall state therein his or her post office address; and, upon the disallowance of any such claim, it will be the duty of the City Clerk to notify the claimant, his or her agent or attorney by letter mailed to such address within five days after such disallowance.
(‘79 Code, § 1-917)

(B) The Council shall, prior to the allowance of any claim against the city, examine and audit the same to determine whether it is in proper form, is correctly computed and is justly and legally due and payable and shall determine the proper fund from which the same is payable.
(‘79 Code, § 1-918)

Statutory reference:

Filing and disallowance requirements, see Neb. RS 16-726

§ 35.06 WARRANTS.

Upon allowance of a claim by the Council, the order for the payment thereof shall specify the particular fund or appropriation out of which it is payable as specified in the Annual Appropriation Bill. 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 Treasury to the credit of the proper fund for its payment, and no claim shall be audited or allowed except an order or warrant for the payment thereof may legally be drawn. All warrants drawn upon the Treasury must be signed by the Mayor and countersigned by the Clerk and shall state the particular fund or appropriation to which the same is chargeable, the person to whom payable and for what particular object. No money shall be otherwise paid that has not been drawn upon such warrant. Such warrants may be delivered immediately when so drawn.

(Neb. RS 16-718) (‘79 Code, § 1-919)

§ 35.07 EXPENDITURES.

The City Council shall not have the power to appropriate, issue or draw any order or warrant on the City Treasurer for money unless the same has been appropriated or ordered by ordinance or the claim has been allowed in accordance with applicable state statute and a fund has been provided in the adopted budget statement out of which such claim is payable. Any transfer or diversion of money or credits from any fund to another fund or to a purpose other than and different from that for which proposed shall be prohibited unless authorized by a three-fourths majority of the City Council in accordance with applicable state statute,

(Neb. RS 16-706) (‘79 Code, § 1-908)

Statutory reference:

Claims against the city, see Neb. RS 16-726 through 16-729

§ 35.08 JUDGMENTS.

Should any judgment be obtained against the city, the Mayor, in consultation with the Treasurer, and with the sanction of the City Council, may borrow a sufficient amount to pay the same for a period of time not to extend beyond the close of the next fiscal year. The City Council shall then add to the amount authorized to be raised in the general tax levy the sum and interest accrued of the judgment. (Neb. RS 16-706) ('79 Code, § 1-909)

§ 35.09 SINKING FUNDS.

The City Council, subject to the limitations set forth herein and in Neb. RS 19-1301 to 19-1304, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all taxable property within the city for a term not to exceed that prescribed by state law, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the city, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the city the proposition to provide the improvement at the next general city 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 city. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the City Treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the city voting at a general election favoring such a change in the use of the sinking fund.

('79 Code, § 1-910)

Statutory reference:

Similar provisions, see Neb. RS 19-1301 through 19-1304

Investment of funds, see Neb. RS 77-2335 through 77-2339

§ 35.10 DEPOSIT OF FUNDS.

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

stockholder, director, or other officer of such bank or capital stock financial institution shall also be serving as Mayor, as a member of the City Council, as a member of a board of public works, or as any other officer of the city shall not disqualify the bank or capital stock financial institution from acting as a depository for municipal funds. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(Neb. RS 16-712) ('79 Code, § 1-911)

§ 35.11 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; SECURITY REQUIRED.

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in banks or capital stock financial institutions selected as depositories of city funds under the provisions of Neb. RS 16-712, 16-714, and 16-715. The certificates of deposit purchased and time deposits made shall bear interest and shall be secured as set forth in Neb. RS 16-714 and 16-715, except that the penal sum of such bond or the sum of such security shall be reduced in the amount of the time deposit or certificate of deposit insured by the Federal Deposit Insurance Corporation. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(Neb. RS 16-713) ('79 Code, § 1-912)

§ 35.12 DEPOSITORY BOND.

For the security of the fund so deposited, the City Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the city and be approved by the Mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of Neb. RS 16-712 through 16-715 and faithfully discharge the trust reposed in such depository. The bond shall be as nearly as practicable in the form provided in Neb. RS 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the City Clerk. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.

(Neb. RS 16-714) ('79 Code, § 1-913)

§ 35.13 DEPOSITORY SECURITIES.

In lieu of the bond required by this code, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security

Act to the City Clerk. The penal sum of the bond shall be equal to or greater than the amount of the deposit in excess of that portion of the deposit insured by the Federal Deposit Insurance Corporation. The provisions of Neb. RS 77-2366 apply to deposits in capital stock financial institutions. ('79 Code, § 1-914)

Statutory reference:

Related provisions, see Neb. RS 77-2364 and 77-2386 through 77-2397

§ 35.14 MAXIMUM DEPOSITS.

The Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation, plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation plus 1/2 of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of such bank or capital stock financial institution. The City Treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the Mayor as provided in this code or which has, in lieu of a surety bond, given security as provided in this code.

(Neb. RS 16-716) ('79 Code, § 1-915) (Am. Ord. 605, passed 1-17-95)

§ 35.15 INVESTMENT OF FUNDS.

Whenever the city shall have 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 shall exceed the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Mayor and Council are authorized to invest such surplus in certificates of deposit, in time deposits and in securities in which the state investment officer is authorized by law to invest and as provided in the authorized investment guidelines to the Nebraska Investment Council in effect on the date the investment is made.

(Neb. RS 77-2341) ('79 Code, § 1-916) (Am. Ord. 490, passed 2-6-90)

SALES TAX**§ 35.30 IMPOSITION.**

(A) A local option sales and use tax is imposed and levied for the benefit of the city at a total rate of 2% upon the same transactions that are sourced under the provisions of applicable Nebraska statutes within the corporate limits of the city, as constituted from time to time, on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time, which 2% tax shall be comprised of the following components:

(1) One percent city sales and use tax originally effective on or about April 1, 1985 and continuing in perpetuity;

(2) Additional one-half of one percent city sales and use tax originally effective on or about October 1, 1990 and continuing in effect until July 1, 2025; and

(3) Additional one-half of one percent city sales and use tax effective October 1 2014, or as otherwise required by Neb. RS 77-27,143, and continuing for a period of ten years after said effective date, unless bonds at any time are issued and some or all of the additional revenues from this additional tax are pledged for payment of said bonds, in which case the increased sales and use tax rate and additional tax of an additional one-half of one percent shall remain in effect and additional revenues collected until payment in full of said bonds and any refunding bonds, whichever is later.

(B) Additional local option sales and use taxes described in divisions (A)(2) and (3) above each shall be subject to any extensions or other modifications from time to time adopted or approved by the city in accordance with applicable law, without regard to whether or not this section also is revised to incorporate or otherwise reflect said extension or other modification.
(‘79 Code, §§ 1-106 and 10-901) (Am. Ord. 1216, passed 6-3-14)

Statutory reference:

Authority, see Neb. RS 77-27,142 et seq.

§ 35.31 ADMINISTRATION.

The administration of the sales and use tax imposed hereby, the making of return for ascertainment, assessment and collection and for the distribution of the taxes so imposed shall be as provided in the Local Option Revenue Act, Neb. RS 77-27,142 through 77-27,148, as amended from time to time.

(‘79 Code, § 10-903)

Statutory reference:

Authority, see Neb. RS 77-27,142 et seq.

ANNUAL BUDGET

§ 35.45 FINANCIAL STATEMENT.

The Mayor and Council shall cause to be published semiannually a statement of the receipts of the city and an itemized account of the expenditures of the city.
(Neb. RS 16-722) ('79 Code, § 1-901) (Am. Ord. 565, passed 5-4-93)

§ 35.46 PROPOSED BUDGET STATEMENT; CONTENTS; FILING.

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

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

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

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

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

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

(b) For all other purposes;

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

(6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.
(Neb. RS 13-504(1))

(B) 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 city as well as any funds held by the County Treasurer for the city and shall be accurately stated on the proposed budget statement.
(Neb. RS 13-504(3))

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

(Neb. RS 13-504(4))

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property and the estimated amount for reimbursements of property tax pursuant to Neb. RS 13-504(2), shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement and the itemized estimate for reimbursement of property taxes 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. 13-505) ('79 Code, § 1-902) (Am. Ord. 381, passed 2-5-85; Am. Ord. 602, passed 1-3-95; Am. Ord. 701, passed 10-21-97)

Statutory reference:

Reimbursement provisions for years 1993 through 2000, see Neb. RS 13-504(2)

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

(A) (1) After the filing of the proposed budget statement with the City Clerk, the City Council 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 city or by direct mailing of the notice to each resident within the city.

(2) When the total operating budget, including the amount necessary for reimbursement of property taxes, not including reserves, does not exceed \$10,000 per year, the proposed budget summary may be posted at the City Council' principal headquarters.

(3) After the hearing, the proposed budget statement, including the amount necessary for reimbursement of property taxes, 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, including the amount necessary for reimbursement of property taxes, 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 City Council, and

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

(3) If the adopted budget statement, including the amount necessary for reimbursement of property taxes, 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.

(Neb. RS 13-506(1))

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

(Neb. RS 13-506(2))

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

(Neb. RS 13-507) ('79 Code, § 1-903)

Statutory reference:

Reimbursement provisions for years 1993 through 2000, see Neb. RS 13-506(1)

§ 35.48 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT TAXED.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board or boards on or before September 20 of each year and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with amount of the tax required to fund the adopted budget, setting out separately:

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

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

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

(B) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under Neb. RS 13-505.

(C) The City Council shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The City Council may designate one of its members to perform any duty or responsibility required of the Council by this section.

(Neb. RS 13-508) ('79 Code, § 1-904) (Am. Ord. 603, passed 1-3-95; Am. Ord. 670, passed 6-17-97; Am. Ord. 702, passed 10-21-97; Am. Ord. 1030, passed 5-1-07; Am. Ord. 1121, passed 4-20-10)

Statutory reference:

Additional provisions regarding reimbursement of property taxes pursuant to Neb. RS 13-504(1), see Neb. RS 13-508(1)

§ 35.49 APPROPRIATION BILL.

The city 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 16-704) ('79 Code, § 1-907) (Am. Ord. 604, passed 1-3-95; Am. Ord. 671, passed 6-17-97)

§ 35.50 PROPERTY TAX REQUEST; PROCEDURE.

(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 city at least five days prior to the hearing.

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

(1) The dollar amount of the prior years 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 years tax request if applied to the current years 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. 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) ('79 Code, § 1-904.01) (Ord. 703, passed 10-21-97; Am. Ord. 1031, passed 5-1-07)

§ 35.51 PROPERTY TAX.

(A) Subject to the limits in Neb. RS 77-3442, the Mayor and City Council shall have the power to levy and collect taxes for all city purposes on the taxable property within the corporate limits of the city. All city taxes, except special assessments otherwise provided for, shall become due on the first day of December of each year.

(B) At the time provided for by law, the Council shall cause to be certified to the County Clerk the amount of tax to be levied for the purposes of the adopted budget statement on the taxable property within the corporation for the year then ensuing, as shown on the assessment roll for they year, including all special assessments and taxes as hereinbefore provided. The County Clerk shall place the same on the proper tax list to be collected in the manner provided by law for the collection of county taxes.

(C) In all sales for delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or lien on the same property, the sales shall be for all delinquent taxes. Such sales and all sales made under and by virtue of this section or the provisions of law herein referred to shall be of the same validity and, in all respects, shall be deemed and treated as though such sale had been made for the delinquent county taxes exclusively.

(D) The maximum amount of tax which may be certified, assessed, and collected for purposes of the adopted budget statement shall not require a tax levy in excess of \$0.875 on each \$100 upon the taxable value of the taxable property within the city. Any special assessments, special taxes, amounts assessed as taxes, and such sums as may be authorized by law to be levied for the payment of outstanding bonds and debts may be made by the City Council in addition to the levy of \$0.875 on each \$100 upon the taxable value of the taxable property within the city. The City Council may certify a further amount of tax to be levied which shall not require a tax levy in excess of \$0.07 on each \$100 upon the taxable value of the taxable property within the city for the purpose of establishing the sinking fund or sinking

funds authorized by Neb. RS 19-1301 to 19-1304, and, in addition thereto when required by Neb. RS 18-501, a further levy of \$0.105 on each \$100 upon the taxable value of the taxable property within the city may be imposed.

(E) Nothing in this section shall be construed to authorize an increase in the amounts of levies for any specific municipal purpose or purposes elsewhere limited by law, whether limited in specific sums or by tax levies.

(Neb. RS 16-702) ('79 Code, § 1-906)

Section

36.01 Adoption by reference

CHAPTER 36: ELECTIONS

§ 36.01 ADOPTION BY REFERENCE.

All elections within the city shall be held and conducted in accordance with state statutes regarding elections, and other state law regarding elections, all of which are hereby adopted by reference into this code of ordinances as if fully set forth herein. 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. 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 by the city shall be held as provided in the Election Act unless otherwise provided by Neb. RS 19-3001 to 19-3052.
(Neb. RS 32-404(1), 32-556) ('79 Code, § 1-801)

Section

General Provisions
CHAPTER 37: CIVIL SERVICE

- 37.01 Positions created; elimination
- 37.02 Establishment of salaries and compensation
- 37.03 Payment of compensation for services
- 37.04 City's duty to Commission
- 37.05 Political fund contribution and political service
- 37.06 Obstructing examinations
- 37.07 City Administrator, Fire Chief and Chief of Police; absences and the like
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- 37.10 Requirements for civil service position applicants
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Civil Service Commission

- 37.30 Created
- 37.31 Appointment of members
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- 37.35 Meetings
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- 37.37 Secretary and Chief Examiner
- 37.38 Quorum
- 37.39 Powers and duties

Statutory reference:

State Civil Service Act, Neb. RS 19-1825 to 19-1847

GENERAL PROVISIONS**§ 37.01 POSITIONS CREATED; ELIMINATION.**

(A) This civil service chapter shall apply only to any paid full-time Fire Chief; and all present full-time police officers of the city, including any paid full-time Police Chief, and future appointees to such full-time positions. Full-time police officers shall mean police officers in positions which require certification by the Nebraska Law Enforcement Training Center, who have the power of arrest, who are paid regularly by the city and for whom law enforcement is a full-time career, but shall not include clerical, custodial or maintenance personnel. Paid full-time Fire Chief shall mean a duly appointed firefighter who is paid regularly by the city and for whom firefighting is a full-time career. ('79 Code, § 14-101)

(B) All positions subject to the Civil Service Act shall be created or eliminated by the Mayor and Council.

(C) As used in this chapter, **COMMISSION** means the Civil Service Commission created by § 37.30. ('79 Code, § 14-102) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

Statutory reference:

State Civil Service Act, Neb. RS 19-1825 to 19-1847

Cross-reference:

Powers and duties of the City Administrator, see § 31.23

§ 37.02 ESTABLISHMENT OF SALARIES AND COMPENSATION.

This chapter shall not be construed to infringe upon the power and authority of the Mayor and Council to establish salaries and compensation of employees.

('79 Code, § 14-103) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.03 PAYMENT OF COMPENSATION FOR SERVICES.

No treasurer, auditor, comptroller, or other officer or employee of the city shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services to any person to whom this chapter and the Nebraska Civil Service Act apply, unless the person to receive such salary, wage, or other compensation has been appointed or employed in compliance with such Act.

(Neb. RS 19-1837) ('79 Code, § 14-104) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.04 CITY'S DUTY TO COMMISSION.

(A) The Mayor and Council shall provide the Commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the Commission and with such clerical assistance as may be necessary.
(Neb. RS 19-1843)

(B) It shall be the duty of the city to appropriate each fiscal year, from the general funds of the city, a sum of money sufficient to pay the necessary expenses involved in carrying out the purposes of the Civil Service Act, including but not limited to reasonable attorney's fees for any special counsel appointed by the Commission. The City Attorney shall provide general legal counsel to the Commission, unless the Mayor determines special counsel is necessary. The City Administrator may establish the hourly or monthly rate of pay of such special counsel.
(Neb. RS 19-1846)

(C) The city shall afford the Commission, its members and employees all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all positions and employments subject to civil service and shall produce such books, papers, documents and accounts. All city officers and employees shall attend and testify whenever required to do so by the Commission, the accused or the City Administrator.
(‘79 Code, § 14-105) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.05 POLITICAL FUND CONTRIBUTION AND POLITICAL SERVICE.

No person holding any position subject to civil service shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever. No person shall be removed, reduced in position or salary or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service or promise or threaten to do so for giving, withholding or neglecting to make any contribution of money, services or any valuable thing for any political purposes.
(‘79 Code, § 14-106) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.06 OBSTRUCTING EXAMINATIONS.

No Commissioner or any other person shall by himself or herself or in cooperation with one or more persons:

(A) Defeat, deceive or obstruct any person in respect to the right of examination according to the rules and regulations made pursuant to the Civil Service Act;

(B) Falsely mark, grade, estimate or report upon the examination and standing of any person examined or certified in accordance with such act or aid in so doing;

(C) Make any false representation concerning the same or concerning the person examined;

(D) Furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined or certified to be examined or certified; or

(E) Persuade any other person to permit or aid in any manner any other person to impersonate him or her in connection with any examination, application or request to be so examined.
(‘79 Code, § 14-107)

§ 37.07 CITY ADMINISTRATOR, FIRE CHIEF AND CHIEF OF POLICE; ABSENCES AND THE LIKE.

Except as provided otherwise in § 37.13(C)(18), during the absence, incapacity, suspension or vacancy in office of the City Administrator, Fire Chief or the Chief of Police, the powers herein delegated by the Mayor and City Council to the City Administrator, Fire Chief and Chief of Police shall be assumed and performed by the Acting City Administrator, Acting Fire Chief and Acting Chief of Police, respectively, or by such other person as the Mayor and City Council shall designate to act in their stead.

(‘79 Code, § 14-108) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

§ 37.08 EMPLOYEE NOTICE.

The City Administrator shall provide each person to whom this chapter and the Civil Service Act apply with a copy of this chapter.

(‘79 Code, § 14-109) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

Statutory reference:

State Civil Service Act, Neb. RS 19-1825 to 19-1847

§ 37.09 APPOINTMENTS AND PROMOTIONS.

All appointments to and promotions in the Police Department, and any appointment to the position of Fire Chief, shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation by the Commission. Appointments shall mean all means of selecting, appointing or employing any person to hold any position or employment subject to

civil service. Promotion or demotion shall mean changing from one position to another, accompanied by a corresponding change in current rate of pay. Position shall mean an individual job which is designated by an official title indicative of the nature of the work.

(‘79 Code, § 14-301) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

Statutory reference:

Similar provisions; appointment; promotion, see Neb. RS 19-1829

§ 37.10 REQUIREMENTS FOR CIVIL SERVICE POSITION APPLICANTS.

(A) An applicant for a position of any kind under civil service shall be able to read and write the English language, meet the minimum job qualifications of the position as established by the City Administrator and be of good moral character. An applicant shall be required to disclose his or her past employment history and his or her criminal record, if any, and submit a full set of his or her fingerprints and a written statement of permission authorizing the City Administrator to forward the fingerprints for identification. Prior to certifying to the City Administrator the name of the persons eligible for the position or positions, the Commission shall validate the qualifications of such person.

(B) The City Administrator shall require an applicant, as part of the application process, to submit a full set of his or her fingerprints along with written permission authorizing the City Administrator to forward the fingerprints to the Federal Bureau of Investigation through the Nebraska State Patrol for identification. Fingerprint identification shall be solely for the purpose of confirming information provided by the applicant.

(C) Any fingerprints received by the Commission or City Administrator pursuant to a request made under division (B) of this section and any information in the custody of the Commission or City Administrator resulting from inquiries or investigations made with regard to those fingerprints initiated by the Commission or City Administrator shall not be a public record within the meaning of Neb. RS 84-712 to 84-712.09 and shall be withheld from the public by the lawful custodians of such fingerprints and information and shall only be released to those lawfully entitled to the possession of such fingerprints and information. Any member, officer, agent or employee of the Commission, City Administrator or city who comes into possession of the fingerprints and information gathered pursuant to division (B) of this section shall be an official within the meaning of Neb. RS 84-712.09. (Neb. RS 19-1831) (‘79 Code, § 14-302) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 773, passed 4-4-99)

§ 37.11 FILLING OF VACANT POSITIONS.

(A) *Considerations.* If the City Administrator fills a vacancy in a position subject to the Civil Service Act, he or she shall consider factors, including but not limited to:

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- (1) The multiple job skills recently or currently being performed by the applicant which are necessary for the position;
- (2) The knowledge, skills, and abilities of the applicant which are necessary for the position;
- (3) The performance appraisals of any applicant who is already employed in the department, including any recent or pending disciplinary actions involving the employee;
- (4) The employment policies and staffing needs of the department together with contracts, ordinances and statutes related thereto;
- (5) Required federal, state, or local certifications or licenses necessary for the position; and
- (6) The qualifications of the applicants who are already employed in the Police Department or who are already members of the Volunteer Fire Department and have successfully completed all parts of the examination for the position. No person shall be reinstated in or transferred, suspended or discharged from any such position or employment contrary to the Civil Service Act.
(Neb. RS 19-1829)

(B) *Procedure for filling vacant positions.* Whenever a position subject to this chapter becomes vacant, the City Administrator shall make requisition upon the Commission for the name and addresses of the persons eligible for appointment and may decline to fill such vacancy for an indefinite period. If the Commission certifies fewer than three names for each vacancy to the City Administrator, the City Administrator may appoint one of such persons to fill the vacancy, may decline to fill the vacancy, or may order that another examination be held by the Civil Service Commission.
(Neb. RS 19-1835(1) and (3))

(C) *Temporary appointments.* If a vacancy occurs and there is no eligible list for the position or if the Commission has not certified persons from the eligible list, a temporary appointment may be made by the City Administrator. Such temporary appointment shall not continue for a period longer than four months. No person shall receive more than one temporary appointment or serve more than four months as a temporary appointee in any one fiscal year.
(Neb. RS 19-1835(4)) ('79 Code, § 14-303) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

§ 37.12 PROBATIONARY PERIOD.

(A) To enable the City Administrator to exercise a choice in the filling of positions, no appointment, employment, or promotion in any position in the civil service within the Police Department shall be deemed complete until after the expiration of a period of not less than six months nor more than one year

after certification by the Nebraska Law Enforcement Training Center for Police Officers, as such probationary period may be provided in the rules of the Civil Service Commission, during which time the City Administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the Police Department. The City Administrator may appoint one of the other persons certified by the Commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment, or promotion for the probationary period provided and then the appointment, employment, or promotion shall be complete.

(B) To enable the City Administrator to exercise a choice in filling the Fire Chief position, no appointment, employment or promotion to the Fire Chief position shall be deemed complete until after the expiration of a period of not less than three months nor more than six months, as such probationary period may be provided in the rules of the Civil Service Commission, during which time the City Administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the Fire Department. The City Administrator may appoint one of the other persons certified by the Commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment or promotion for the probationary period provided and the appointment, employment or probation shall be complete.

(Neb. RS 19-1835(5)) ('79 Code, § 14-304) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

§ 37.13 DISCIPLINARY ACTIONS.

(A) *Tenure of employment.* The tenure of a person holding a position of employment subject to this chapter shall be only during good behavior.

(B) *Causes for disciplinary action.* Any such person may be removed or discharged, suspended with or without pay, demoted, reduced in rank or deprived of vacation, benefits, compensation, or other privileges, except pension benefits, for any of the following reasons:

(1) Incompetency, inefficiency, or inattention to or dereliction of duty;

(2) Dishonesty, prejudicial conduct, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee or member of the Volunteer Fire Department, any act of omission or commission tending to injure the public service, any willful failure on the part of the employee to properly conduct himself or herself, or any willful violation of the Civil Service Act or the rules and regulations adopted pursuant to such act;

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(3) Mental or physical unfitness for the position which the employee holds;

(4) Drunkenness or the use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such an extent that the use interferes with the efficiency or mental or physical fitness of the employee or precludes the employee from properly performing the functions and duties of his or her position;

(5) Conviction of a felony or misdemeanor tending to injure the employee's ability to effectively perform the duties of his or her position; or

(6) Any other act or failure to act which, in the judgment of the Civil Service Commission, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

(Neb. RS 19-1832)

(C) *Disciplinary action procedure.*

(1) No employee in the civil service who shall have been permanently appointed or inducted into civil service under this chapter shall be removed, suspended, demoted or discharged, except for cause and then only upon the written accusation of the Police Chief, City Administrator or any citizen or taxpayer.

(2) (a) The written accusation shall set forth in general terms the alleged misconduct, charges or grounds for investigation against the employee. The written accusation shall be filed by the complainant or accuser with the Secretary of the Commission who shall cause a copy of such written accusation to be delivered within five working days after the filing:

1. To the Police Chief,

2. To the City Administrator, and

3. To the employee personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city.

(b) The Secretary of the Commission shall cause a return showing such delivery to be executed and filed in the Secretary's office.

(3) The City Administrator shall have the authority to immediately suspend, with pay, an employee against whom such written accusation has been filed, pending reinstatement, removal, demotion, discharge or further suspension of the employee, with or without pay.

(4) (a) Prior to any decision by the City Administrator regarding a written accusation, the Police Chief shall, within 30 calendar days after receiving the written accusation from the Secretary of

the Commission, investigate the alleged misconduct, charges or grounds against the employee. If the Police Chief's investigation reveals other misconduct, charges or grounds, the Police Chief shall supplement the written accusation to include the other misconduct, charges or grounds by filing a supplement to the written accusation with the Secretary of the Commission who shall cause a copy of such supplemental accusation to be delivered within five working days after the filing:

1. To the City Administrator, and
2. To the employee personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city.

(b) The Secretary of the Commission shall cause a return showing such delivery to be executed and filed in the Secretary's office.

(c) Within 30 calendar days after receiving the written accusation from the Secretary of the Commission, the Police Chief shall recommend in writing to the City Administrator that the alleged misconduct, charges or grounds set forth in the written accusation be deemed:

1. To be without merit,
2. To not warrant disciplinary action,
3. To warrant disciplinary action less severe than removal, demotion, discharge or suspension with or without pay, such as an oral or written reprimand, or
4. To warrant removal, demotion, discharge or suspension with or without pay.

(d) In the event that the Police Chief or the Fire Chief is the subject of a written accusation or is being disciplined, the City Administrator shall follow the same procedures as are followed by the Police Chief in disciplining employees under this chapter, except that the City Administrator shall not be required to submit a written recommendation for disciplinary action to himself or herself under the preceding division (C)(4)(c).

(5) (a) The City Administrator shall decide to accept the recommendation of the Police Chief or shall decide that the alleged misconduct, charges or grounds for investigation against the employee set forth in the written accusation be deemed:

1. To be without merit,
2. To not warrant disciplinary action,

3. To warrant disciplinary action less severe than removal, demotion, discharge, or suspension with or without pay such as an oral or written reprimand, or

4. To warrant removal, demotion, discharge or suspension with or without pay.

(b) The City Administrator shall not decide to take any action which may result in a suspension without pay, a demotion resulting in a reduction in pay, or a discharge without first giving the affected employee notice of the charges against him or her, an explanation of the city's evidence and an opportunity to present reasons, either in person or in writing, why the proposed disciplinary action should not be implemented.

(c) The decision of the City Administrator shall, if it results in suspension of more than five working days, a demotion resulting in a reduction in pay or a discharge, not be implemented until it has been approved by the City Council. The City Council may approve the decision of the City Administrator or modify it as the Council deems appropriate. Such approved or modified decision shall be deemed to be the decision of the Administrator for the purposes of this chapter. If Council approval is required, the City Administrator shall, within 20 working days after receiving the written recommendation of the Police Chief, file a copy of his or her decision with the City Clerk and request that the matter be reviewed by the City Council. Within 20 working days after receipt of the written recommendation of the Police Chief when City Council review is not required, and within 20 working days after the City Council's approval or modification when City Council approval is required, a copy of the City Administrator's decision shall be delivered:

1. To the Secretary of the Commission,

2. To the Police Chief, and

3. To the employee, personally or by delivery addressed to the employee and left at the residence address of the employee shown in the personnel records of the city. The City Administrator shall cause a return showing such delivery or mailing to be executed and filed in the office of the Secretary of the Commission.

(6) Pursuant to Neb. RS 19-1833(3), any employee so removed, suspended, demoted, or discharged may, within ten calendar days after receiving written notice of the City Administrator's decision, as such decision has been approved or modified if subject to City Council approval, file a written demand for an investigation and public hearing by the Civil Service Commission. The employee shall file the request for the hearing with the Secretary of the Commission within ten calendar days after the service of notice of the decision of the City Administrator. The failure to file such request within ten calendar days after the service of the notice of the decision of the City Administrator shall constitute a waiver of the employee's right to review by the Civil Service Commission, and the decision of the City Administrator, as approved or modified if subject to City Council approval, shall become final.

(7) Within three calendar days after receipt of the employee's timely written demand for an investigation and public hearing, the City Administrator shall cause to be delivered to the employee or to the employee's residence and to the Secretary of the Civil Service Commission a notice containing:

(a) A statement of the charge(s);

(b) The names of the witnesses who will be called on behalf of the city and a general statement of the nature of their testimony;

(c) Copies of the documents to be offered by the city in support of the charge(s);

(8) Within six calendar days after the filing of the employee's timely written demand for an investigation and public hearing, or within three days following his/her receipt of the information required by subdivision(C)(7), whichever is later, the employee shall deliver copies of the following to both the City Administrator and the Secretary of the Civil Service Commission:

(a) A response to the statement of the charge(s);

(b) The names of witnesses who will be called on behalf of the employee and a general statement of the nature of their testimony; and

(c) Copies of the documents to be offered by the employee in response to the charge(s).

(9) Within nine calendar days after the employee's timely filing of the written demand for an investigation and public hearing or within two days following his/her receipt of the information required by subdivision(C)(8), whichever is later, the City Administrator shall cause to be delivered to the employee or to the employee's residence and to the Secretary of the Civil Service Commission a list of rebuttal evidence expected to be presented by the city at the hearing, including a list of rebuttal witnesses with a general statement of the substance of their testimony and a list of any documents expected to be introduced to rebut the employee's evidence.

(10) If any of the deadlines provided for in subdivisions (2), (4), (5),(7), (8), or (9) of this division falls on a Saturday, Sunday or legal holiday observed by the city, then such deadline shall be extended to the next working day. Furthermore, such deadlines and time limits are directory and not jurisdictional, and the failure of either party to meet any one of such deadlines and time limits shall not prevent or bar the imposition of appropriate disciplinary action, or result in the suspension, termination or abatement of any disciplinary proceeding or disciplinary action previously imposed.

(11) Upon receipt of an employee's timely written demand for an investigation and public hearing, the Commission shall conduct an investigation. The Commission shall be represented in such investigation by the City Attorney, if authorized by the City Administrator. If the City Attorney does

not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for such investigation. The investigation shall be based upon a review of the materials filed by the City Administrator and by the employee with the Secretary of the Civil Service Commission, and shall be confined to the determination of whether the disciplinary action was made in good faith for cause, which shall mean that the action was not arbitrary or capricious and was not made for political or religious reasons. The Commission and its members may also review the submissions of the City Administrator and of the employee to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission.

(12) The Commission shall schedule a public hearing to be held after the investigation and no less than ten nor more than 20 calendar days from the date of filing of the employee's written demand for an investigation and public hearing. The Commission shall notify the City Administrator and employee in writing at least three calendar days prior to the date of the hearing of the date, time and place of hearing. The Commission may be represented at such hearing by the City Attorney, if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for such hearing.

(13) The City Administrator shall be permitted to appear in person and by counsel and to present the case of the city. The City Administrator may present evidence by testimony, documents, and other exhibits and shall be permitted to cross-examine the employee's witnesses. At the hearing, the employee shall be permitted to appear in person and by counsel and to present his or her defense. The employee may present evidence by testimony, documents, and other exhibits and shall be permitted to cross-examine the witnesses called by the city.

(14) The Commission may affirm the action taken by the City Administrator, if such action is supported by a preponderance of the evidence. If the Commission finds that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or re-employment of the employee in the position or employment from which the employee was removed, suspended, demoted or discharged, which reinstatement shall, if the Commission in its discretion so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge.

(15) Upon the hearing, in lieu of affirming the removal, suspension, demotion or discharge, the Commission may modify the order of removal, suspension, demotion or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than ten calendar days after the hearing, the Commission shall certify its findings in writing to the employee and to the City Administrator who shall enforce them.

(16) Appeals from the decision of the Civil Service Commission may be taken to the District Court in the manner provided by law.

(17) A day shall be counted as a working day under subdivisions(C)(2), (4), and (5) only if both the person required to serve a document or thing or to perform an act and the person or persons who are to receive service of the document or thing or to be the recipient or recipients of such action are both actively on duty and working for the city within the corporate limits of the city on such day. For purposes of this division (C), both the City Council and the Civil Service Commission shall be deemed to be actively on duty and working for the city within the corporate limits of the city each day that is not a Saturday, Sunday, or legal holiday observed by the city.

(18) The Acting City Administrator may act for the City Administrator under this division (C) only if the office of City Administrator is vacant or if the City Administrator is and has been incapacitated due to illness, injury, or suspension for in excess of 14 calendar days. The Acting Chief of Police may act for the Chief of Police under this division (C) only if the office of Chief of Police is vacant or if the Chief of Police is and has been incapacitated due to illness, injury, or suspension for in excess of 14 calendar days.
(‘79 Code, § 14-305) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 1018, passed 1-16-07)

Statutory reference:

Authority, see Neb. RS 19-1833

§ 37.14 LEAVE OF ABSENCE.

A leave of absence with or without pay may be granted by the City Administrator to any person under civil service. The City Administrator shall give notice of such leave to the Commission. All appointments for temporary employment resulting from such leaves of absence shall be made from the eligible list, if any, of the civil service.

(Neb. RS 19-1838) (‘79 Code, § 14-306) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.15 REDUCTION IN FORCE POLICY.

(A) *Establishment.* The Mayor and Council shall establish a reduction in force policy for employees covered by this chapter, and in so doing shall consider recommendations from the Civil Service Commission, but shall not be bound by such recommendations. Prior to the adoption of a reduction in force policy the Mayor and Council shall, after giving reasonable notice of each police officer by first class mail, conduct a public hearing.

(B) *Factors.* The Mayor and Council shall adopt a reduction in force policy which shall consider factors, including but not limited to:

- (1) The multiple job skills recently or currently being performed by the employee;

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- (2) The knowledge, skills, and abilities of the employee;
 - (3) The performance appraisal of the employee, including any recent or pending disciplinary actions involving the employee;
 - (4) The employment policies and staffing needs of the Department together with contracts, ordinances, and statutes related thereto;
 - (5) Required federal, state, or local certifications or licenses; and
 - (6) Seniority.
- (Neb. RS 19-1830(10)) ('79 Code, § 14-401) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

CIVIL SERVICE COMMISSION**§ 37.30 CREATED.**

There is hereby created in the city a Civil Service Commission which shall have five members who shall each be a citizen of the United States, a resident of the city for at least three years immediately preceding his or her appointment, and an elector of the county wherein such person resides.

(Neb. RS 19-1827(2)) ('79 Code, § 14-201) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.31 APPOINTMENT OF MEMBERS.

The members of the Civil Service Commission shall be appointed by the Mayor with the approval of the Council. At the time of any appointment, not more than three of the five members of the Civil Service Commission, including the one or ones to be appointed, shall be registered electors of the same political party.

(Neb. RS 19-1827(4)) ('79 Code, § 14-202) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

Statutory reference:

Appointing authority, see Neb. RS 19-1826(2)

§ 37.32 TERM OF OFFICE.

The term of office of the members appointed to the Civil Service Commission shall be five years, except that the first five members appointed pursuant hereto shall be appointed for different terms as follows: one to serve for a period of one year; one to serve for a period of two years; one to serve for a period of three years; one to serve for a period of four years; and one to serve for a period of five years. (Neb. RS 19-1827(2)) ('79 Code, § 14-203) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.33 REMOVAL FROM OFFICE.

The members of the Commission shall devote due time and attention to the performance of the duties specified in this Act. Any member of the Civil Service Commission may be removed from office for incompetency, dereliction of duty, malfeasance in office or other good cause by the Mayor with the approval of the Council, except that no member of the Civil Service Commission shall be removed until written charges have been preferred, due notice given such member and a full hearing had before the Mayor and Council. Any member so removed may appeal to the District Court in the manner provided by law. (Neb. RS 19-1827(3) and (4)) ('79 Code, § 14-204) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.34 COMPENSATION OF MEMBERS.

Members of the Civil Service Commission shall serve without compensation. (Neb. RS 19-1827(2)) ('79 Code, § 14-205) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.35 MEETINGS.

The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties. (Neb. RS 19-1830(1)) ('79 Code, § 14-206) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.36 CHAIRPERSON.

The Civil Service Commission shall elect one of its members as Chairperson immediately after the appointment of the first five members pursuant hereto and annually thereafter.

(Neb. RS 19-1830(1)) ('79 Code, § 14-207) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.37 SECRETARY AND CHIEF EXAMINER.

The Civil Service Commission shall appoint a Secretary and a Chief Examiner who shall keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction and perform such other duties as the Commission may prescribe. The Commission may merge the positions of Secretary and Chief Examiner and appoint one person to perform the duties of both positions. The Commission shall appoint the city's personnel officer as Secretary and Chief Examiner, if requested to do so by the Mayor. The Chief Examiner shall be responsible for administering examinations and for reporting the results thereof to the Commission. The Secretary and Chief Examiner shall be subject to suspension or discharge from his or her duties as Secretary and Chief Examiner upon the vote of a majority of the appointed members of the Commission.

(Neb. RS 19-1830(1)) ('79 Code, § 14-208) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.38 QUORUM.

Three members of the five-member Commission shall constitute a quorum for the transaction of business.

(Neb. RS 19-1827(4)) ('79 Code, § 14-209) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86)

§ 37.39 POWERS AND DUTIES.

(A) The Commission shall adopt and promulgate procedural rules and regulations which shall provide in detail the manner in which examinations may be held and shall provide for any other matters assigned to it by the City Administrator. At least one copy of the rules and regulations and any amendments shall be made available for examination and reproduction by members of the public. One copy of the rules and regulations and any amendments shall be given to each full-time police officer and to the Fire Chief.

(Neb. RS 19-1830(2))

(B) The Commission shall provide that all tests shall be practical and consist only of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include but not be limited to tests of physical fitness and of manual skill and psychological testing.
(Neb. RS 19-1830(3))

(C) By its rules and regulations, the Commission shall provide for a credit of 10% on any written examination in favor of all applicants for an appointment to an entry level position under civil service who, in time of war or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States and who have equaled or exceeded the minimum qualifying standards established by the City Administrator for such entry level position. The City Administrator shall define which positions are entry level positions qualifying for such credit.
(Neb. RS 19-1830(4))

(D) The Commission may conduct an investigation concerning and report upon all matters regarding the enforcement and effect of the Civil Service Act and the rules and regulations prescribed hereunder.
(Neb. RS 19-1830(5))

(E) The Commission may inspect all institutions, departments, positions and employments affected by the Civil Service Act to determine whether such act and all such rules and regulations are being obeyed. Such investigations may be conducted by the Commission or by any Commissioner designated by the Commission for that purpose. The Commission shall also make a like investigation on the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such an investigation. The City Attorney shall provide general legal counsel to the Commission in relation to such an investigation, unless the Mayor determines special counsel is necessary. If the Mayor determines special counsel is necessary, the Commission may be represented by special counsel appointed by the Commission in any such investigation. In the course of such an investigation, the Commission, designated Commissioner or Chief Examiner shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this state. The oaths administered and subpoenas issued shall have the same force and effect as the oaths administered by a District Judge in a judicial capacity and subpoenas issued by the District Courts of Nebraska. The failure of any person so subpoenaed to comply shall be deemed a violation of the Civil Service Act and shall be punishable as such. No investigation shall be made pursuant to this division (E) if there is a written accusation concerning the same subject matter against a person in the civil service. Such accusation shall be handled pursuant to § 37.13.
(Neb. RS 19-1830(5))

(F) The Commission shall provide that all hearings and investigations before the Commission, designated Commissioner or Chief Examiner shall be governed by the Civil Service Act and the rules

of practice and procedure to be adopted by the Commission. In the conduct thereof, they shall not be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission, except that no order, decision, rule or regulation made by any designated Commissioner conducting any hearing or investigation alone shall be of any force or effect unless it is concurred in by a majority of the appointed members of the Commission, including the vote of any Commissioner making the investigation.
(Neb. RS 19-1830(6))

(G) The Commission shall establish and maintain a roster of officers and employees.
(Neb. RS 19-1830(7))

(H) The Commission shall provide for, establish, and hold competitive tests to determine the relative qualifications of persons who seek employment in any position and, as a result thereof, establish eligible lists for the various positions.
(Neb. RS 19-1830(8))

(I) The Commission shall make recommendations concerning a reduction in force policy to the Mayor and Council.
(Neb. RS 19-1830(9))

(J) The Commission shall keep such records as may be necessary for the proper administration of the Civil Service Act.
(Neb. RS 19-1830(11))

(K) The Commission, upon request of the City Administrator, shall establish and maintain a list of names and addresses, for a period of time established by the City Administrator, of those eligible for appointment to or promotion within the Department. Such list shall be established and maintained through the open competitive examinations required in § 37.09, with the time and date of any examination to be established by the City Administrator. Any person having satisfactorily passed the examination for any position shall be placed on the list of those eligible for appointment or promotion to such position.
(Neb. RS 19-1835(2))

(L) The Commission, upon request of the City Administrator, shall certify the name of the persons who are the three highest on the eligible list, following the most recent examination, and whose qualifications have been validated by the Commission for a vacant position.
(Neb. RS 19-1835(3) part)

(M) The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of the Civil Service Act and the rules of the Commission. The Commission shall be

represented in such suits and all investigations pursuant to the Act by the City Attorney, unless the Mayor determines special counsel is necessary. If the Mayor determines special counsel is necessary, the Commission may be represented by special counsel appointed by it in any particular case. (Neb. RS 19-1839) ('79 Code, § 14-210) (Ord. 395, passed 11-19-85; Am. Ord. 411, passed 4-16-86; Am. Ord. 561, passed 5-4-93; Am. Ord. 1018, passed 1-16-07)

