

## **CHAPTER 1: ADMINISTRATIVE**

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## ARTICLE 1: ELECTED OFFICIALS

### § 1-101 CITY MAYOR; SELECTION AND DUTIES.

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

(B) The Mayor shall have the power to veto or sign any ordinance passed by the City Council. Any ordinance vetoed by the Mayor may be passed over the veto by a vote of two-thirds ( $\frac{2}{3}$ ) of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, and return the same with his or her objections in writing at the next regular meeting of the Council, the same shall become a law without his or her signature. *(Ref. 17-111 RS Neb.)*

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

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

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

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

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

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

(I) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State

of Nebraska or as the Council may by resolution confer upon the Mayor.

*(Amended by Ord. Nos. 277, 4/26/77; 348, 8/26/80; 1089, 9/22/14)*

**Statutory reference:**

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

**§ 1-101.01 MAYOR; ELECTION; QUALIFICATIONS; TERM.**

(A) The Mayor shall be elected as provided in the Election Act. The Mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. The Mayor shall be a resident and registered voter of the city. *(Ref. 17-107 RS Neb.)*

(B) The Mayor shall serve for a term of four (4) years or until his or her successor is elected and qualified. *(Ref. 32-533 RS Neb.)*

**§ 1-102 CITY COUNCIL; ACTING PRESIDENT.**

The City Council shall elect one (1) of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one (1) of its own body to occupy his place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the Municipality as if done by the elected Mayor. *(Ref. 17-148 RS Neb.)*

**§ 1-103 CITY COUNCIL; SELECTION AND DUTIES.**

The members of the City Council shall be elected and serve for a four (4) year term. The City Council shall be the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. *(Ref. 17-103, 17-104 RS Neb.)*

**§ 1-104 CITY COUNCIL; ORGANIZATION.**

City Councilmen of this Municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Councilmen who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Councilmen-elect

who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the Municipality shall be represented by at least two (2) Councilmen. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he is qualified and should any City Councilmen move from the ward from which he was elected, his office shall thereby become vacant. (*Ref. 17-104, 17-107.01, 19-613 RS Neb.*) (*Amended by Ord. No. 278, 4/26/77*)

## **§ 1-105 ELECTED OFFICIALS; VACANCY; GENERAL PROVISIONS.**

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

(B) Any vacancy on the City Council shall be filled as provided in division (C) of this section. (*Ref. 32-568 RS Neb.*)

(C) (1) (a) Except as otherwise provided in division (C)(2) or (3) or § 1-106, vacancies in city elective offices shall be filled by the Mayor and Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three (3) public places in the City the office vacated and the length of the unexpired term.

(b) The Mayor shall call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four (4) weeks after the meeting at which such notice of vacancy has been presented. The Council shall vote upon the nominee, and if a majority votes in favor of the nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at that meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon the nominations at such meeting until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if that person were elected.

(2) The Mayor and Council may, in lieu of filling a vacancy in a City elected office as provided in division (C)(1), call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (*Ref. 32-569 RS Neb.*) (*Amended by Ord. Nos. 422, 8/14/84; 540, 4/24/90; 550, 2/12/91*)

## **§ 1-106 MAYOR; VACANCY.**

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

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

(C) If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in section 1-105. (*Ref. 17-107, 17-115 RS Neb.*)

## **§ 1-107 ELECTED OFFICIALS; QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.**

(A) Members of the Council shall be residents and registered voters of the City. The Mayor and members of the Council shall hold no other elective or appointive office or employment with the City. Any Council Member who ceases to possess any of the qualifications required by this subsection or who has been convicted of a crime while in office shall forthwith forfeit such office.

(B) For purposes of this section:

(1) Elective office means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature; and

(2) High elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

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

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

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

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

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

(H) Notwithstanding subsections (E) through (G) of this section, any person holding more than one (1) high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed. (*Ref. 17-108.02, 19-613, 32-109, 32-603, 32-604 RS Neb.*) (*Ord. No. 549, 2/12/91*) (*Amended by Ord. No. 761, 9/22/98*)

#### **§ 1-108 ELECTED OFFICIALS; VACANCY DUE TO UNEXCUSED ABSENCES.**

(A) In addition to the events listed in section 32-560 RS Neb. and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five (5) consecutive regular meetings of the Council unless the absences are excused by a majority vote of the remaining members. (*Ref. 19-3101 RS Neb.*)

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

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

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

(D) At the hearing, the Council member shall have the right to present information on why one (1) or more of the absences should be excused. If the Council does not excuse one (1) or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council. (*Ord. No. 879, 5/13/03*)

## **ARTICLE 2: APPOINTED OFFICIALS**

### **§ 1-201 APPOINTED OFFICIALS; APPOINTMENT; REMOVAL.**

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

(B) All police officers may be removed, demoted or suspended at any time by the Mayor as provided in section 17-107 RS Neb. If the Municipality has a Municipal Water Commissioner, he or she may at any time, for sufficient cause, may be removed from office by a two-thirds (2/3) vote of the City Council. (Ref. 17-107, 17-541, 81-1438 RS Neb.) (Amended by Ord. Nos. 276, 4/26/77; 725, 7/22/97)

### **§ 1-202 APPOINTED OFFICIALS; MERGER OF OFFICES.**

The Governing Body may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Councilmember, 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 city manager/administrator in a city under the city manager/administrator plan of government as provided by law may in his or her discretion 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 may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Ref. 17-108.02 RS Neb.) (Amended by Ord. Nos. 423, 8/14/84; 551, 2/12/91; 914, 4/13/04)

### **§ 1-203 APPOINTED OFFICIALS; MUNICIPAL CLERK.**

(A) The City Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the City Council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the Clerk may transfer the journal of the proceedings of the City Council to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the City. (Ref. 17-605 RS Neb.)

(B) (1) It shall be the duty of the Clerk to prepare and publish the official proceedings of the

City Council within thirty (30) days after any meeting of the Council. The publication shall be in a newspaper of general circulation in the City, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one (1) item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in section 23-122 RS Neb. (*Ref. 19-1102 RS Neb.*)

(2) Publication under division (B) (1) shall be made in one (1) legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then the publication shall be made in one (1) legal newspaper published or of general circulation within the county in which the City is located. The cost of publication shall be paid out of the general funds of the City. (*Ref. 19-1103 RS Neb.*)

(C) The Clerk shall dispose of or destroy City public records when the records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to sections 84-1201 through 84-1220 RS Neb., provided the provisions of this division shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator. (*Ref. 18-1701 RS Neb.*)

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

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

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

(F) The Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at such officers, employees, or



committees. With the seal of the City, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

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

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

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

*(Amended by Ord. Nos. 275, 4/26/77; 509, 12/13/88; 603, 3/23/93; 1092, 9/22/14)*

#### **§ 1-203.01 APPOINTED OFFICIALS; DEPUTY MUNICIPAL CLERK.**

The Deputy Municipal Clerk shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds ( $\frac{2}{3}$ ) vote of the City Council and with the consent of the Mayor.

The Deputy Municipal Clerk shall assist the Municipal Clerk in the performance of his/her duties and shall report to the Municipal Clerk subject to the general directives of the Governing Body.

In the absence of the Municipal Clerk, the Deputy Municipal Clerk shall have and exercise all authority granted to the Municipal Clerk pursuant to section 1-203 of the City of Stromsburg Municipal Code. *(Ord. No. 598, 11/24/92)*

#### **§ 1-204 APPOINTED OFFICIALS; CITY TREASURER.**

(A) (1) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all

warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the Treasurer fails to render his or her account within twenty (20) days after the end of the month, or by a later date established by the City Council, the Mayor with the advice and consent of the City Council may use this failure as cause to remove the Treasurer from office.

(2) The Treasurer shall keep a record of all outstanding bonds against the City, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The Treasurer shall accompany the annual statement submitted pursuant to section 19-1101 RS Neb. with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. *(Ref. 17-606 RS Neb.)*

(B) (1) The Treasurer shall prepare and publish annually within sixty (60) days after the close of the City fiscal year a statement of the receipts and expenditures of funds of the City for the preceding fiscal year. The statement shall also include the information required by sections 16-318(3) or 17-606(2) RS Neb. Not more than the legal rate provided for in section 33-141 RS Neb. shall be charged and paid for such publication. *(Ref. 19-1101 RS Neb.)*

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

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

(2) The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date, and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed. *(Ref. 77-2202 RS Neb.)*

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

(4) The Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. *(Ref. 77-2210 RS Neb.)*

(5) The cash book, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid. *(Ref. 77-2212 RS Neb.)*

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

(E) The Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

*(Amended by Ord. Nos. 509, 12/13/88; 836, 5/28/02; 1091, 9/22/14)*

#### **§ 1-204.01 APPOINTED OFFICIALS; DEPUTY MUNICIPAL TREASURER.**

The Deputy Municipal Treasurer shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds vote of the City Council and with the consent of the Mayor.

The Deputy Municipal Treasurer shall assist the Municipal Treasurer in the performance of his/her duties and shall report to the Municipal Treasurer subject to the general directives of the Governing Body.

In the absence of the Municipal Treasurer, the Deputy Municipal Treasurer shall have and exercise all authority granted to the Municipal Treasurer pursuant to section 1-204 of the City of Stromsburg Municipal Code. *(Ord. No. 598, 11/24/92)*

#### **§ 1-205 APPOINTED OFFICIALS; TREASURER'S MONTHLY REPORT.**

*(Repealed by Ord. No. 836, 5/28/02)*

#### **§ 1-206 APPOINTED OFFICIALS; TREASURER'S ANNUAL REPORT.**

*(Repealed by Ord. No. 836, 5/28/02)*

#### **§ 1-207 APPOINTED OFFICIALS; MUNICIPAL ATTORNEY.**

The Municipal Attorney is the Municipality's legal advisor, and as such he shall commence, prosecute, and defend all suits on behalf of the Municipality. When requested by the Governing Body, he shall attend meetings of the Governing Body, and shall advise any Municipal Official in all matters of law in which the interests of the Municipality may be involved. He shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the Municipality. He shall examine all bonds, contracts, and documents on which the Governing Body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether, or not, the document is in legal, and proper form. He shall prepare complaints, attend, and prosecute violations of the Municipal ordinances when directed

to do so by the Governing Body. Without direction, he shall appear, and prosecute all cases for violation of the Municipal ordinances that have been appealed to, and are pending in any higher court. He shall also examine, when requested to do so by the Governing Body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The Governing Body shall have the right to compensate the Municipal Attorney for legal services on such terms as the Governing Body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the Municipality. (*Ref. 17-610 RS Neb.*)

#### **§ 1-208 APPOINTED OFFICIALS; MUNICIPAL PHYSICIAN.**

The Municipal Physician shall be a member of the Board of Health of the Municipality, and perform the duties devolving upon him as the medical advisor of the said board. In all injuries where a liability may be asserted against the Municipality, the Municipal Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He shall then report the results of his investigation with the name of the party injured, and all other persons who may have personal knowledge of the matter. He shall make all physical examinations, and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he shall have the right at all reasonable hours to go upon, and enter all premises, buildings, or other structures in the Municipality. He shall perform such other duties as may be required of him by the laws of the State of Nebraska, and the ordinances of the Municipality. When ordered to do so by the Governing Body he shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the Governing Body. The Municipal Physician shall receive as compensation for his services such sum as the Governing Body may from time to time set. He shall receive no compensation for his services as a member of the Municipal Board of Health. (*Ref. 17-121 RS Neb.*)

#### **§ 1-209 APPOINTED OFFICIALS; MUNICIPAL POLICE CHIEF.**

The Municipal Police Chief shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Police Chief shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector, and Building Inspector, except in the event the Municipality appoints another person. He or she shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal ordinances or the laws of the State of Nebraska. (*Ref. 17-107, 17-121 RS Neb.*) (*Amended by Ord. No. 509, 12/13/88*)

## **§ 1-210 APPOINTED OFFICIALS; MUNICIPAL POLICEMAN.**

The Municipal Police, whether regular, or special shall have the power to arrest all offenders against the laws of the State of Nebraska, or the Municipality, by day or by night, and keep the said offenders in the Municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the State of Nebraska, or the Municipality. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every Municipal Policeman shall be expected to be conversant, and knowledgeable with the Municipal and State laws and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal Policemen shall have the duty to file such complaints and reports as may be required by the Municipal ordinances, and the laws of the State of Nebraska. Any Municipal Policeman who shall willfully fail, neglect, or refuse to make an arrest, or who purposely, and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the Governing Body to retain any Municipal Policeman in that position after he shall have been duly convicted of the willful violation of any law of the United States of America, the State of Nebraska, or any ordinance of the Municipality, except minor traffic violations. It shall be the duty of every Municipal Policeman making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the Municipal Police by the Municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he shall immediately deliver his badge to the Police Chief. The Governing Body may from time to time provide the Municipal Police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (*Ref. 17-118 RS Neb.*)

## **§ 1-211 APPOINTED OFFICIALS; MUNICIPAL FIRE CHIEF.**

The Municipal Fire Chief shall be elected by the members of the Fire Department. He shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his jurisdiction. He shall, on or before the first (1st) day in April and October of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine.

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

dangers. (Ref. 17-147, 17-505, 35-102, 35-108, 81-506, 81-512 RS Neb.)

#### **§ 1-212 APPOINTED OFFICIALS; MUNICIPAL ENGINEER.**

The Municipal Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities, and the costs of labor and materials therefor. He shall accurately make all plats, sections, and maps as may be necessary under the direction of the Governing Body. Upon request, he shall make estimates of the cost of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. When a Municipality has appointed a Board of Public Works, and the Governing Body has by ordinance so authorized, the Board shall have the right to utilize its own engineering staff, and shall have the right to hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the Board of Public Works. Whenever the Governing Body has authorized, the Board of Public Works shall have the right to purchase material and employ labor for the enlargement and improvement of the water and electric departments. (Ref. 17-150, 17-405, 17-568.01, 17-919, 81-839 RS Neb.) (Amended by Ord. No. 401, 10/3/83)

#### **§ 1-213 APPOINTED OFFICIALS; SPECIAL ENGINEER.**

The Governing Body may employ a Special Engineer to make or assist the Municipal Engineer in making any particular estimate, survey, or other work. The Special Engineer shall make a record of the minutes of his surveys and all other work done for the Municipality. He shall, when directed by the Governing Body, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. All records of the Special Engineer shall be public records which shall belong to the Municipality, and shall be turned over to his successor. (Ref. 17-405, 17-568, 17-568.01, 17-919 RS Neb.) (Amended by Ord. No. 402, 10/3/83)

#### **§ 1-214 APPOINTED OFFICIALS; MUNICIPAL WATER COMMISSIONER.**

The Municipal Water Commissioner shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Water Commissioner shall have general supervision and control over the

Municipal Water System, and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the Municipality. All actions, decisions, and procedures of the Water Commissioner shall be subject to the general directives and control of the Director of Public Works. The Municipal Water Commissioner shall have the general control and supervisory authority over all employees of the Water System which the Governing Body may from time to time hire to operate and maintain the said system. Unless some other official is specifically designated, he or she shall collect all money received by the Municipality on account of the said system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer all such money collected in the name of the Municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second (2nd) copy shall be kept by the said Commissioner. He or she shall make a detailed report to the Governing Body at least once every six (6) months, of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six (6) months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the Commissioner. The Water Commissioner shall execute a bond or provide evidence of equivalent insurance to the City in a sum to be fixed by the City Council, but not less than five thousand dollars (\$5, 000.00) conditioned upon the faithful discharge of his or her duties; and such bond shall be signed by two (2) or more good and sufficient sureties, to be approved by the City Council or executed by a corporate surety. The Water Commissioner shall perform such additional duties as may be prescribed by the Director of Public Works. No member of the Governing Body may act as the Municipal Water Commissioner during his or her term of office. (*Ref. 17-107, 17-541, 17-543 RS Neb.*) (*Amended by Ord. Nos. 509, 12/13/88; 588, 8/25/92*)

#### **§ 1-215 APPOINTED OFFICIALS; MUNICIPAL ELECTRIC COMMISSIONER.**

The Municipal Electric Commissioner shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Electric Commissioner shall have the immediate control and supervision over all employees and property that make up the Municipal Electric System, subject to the general control and directives of the Director of Public Works. He or she shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the electrical system, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have such other duties as the Director of Public Works may delegate to him or her. (*Ref. 17-107 RS Neb.*) (*Amended by Ord. Nos. 509, 12/13/88; 588, 8/25/92*)

#### **§ 1-216 APPOINTED OFFICIALS; SEWER COMMISSIONER.**

The Sewer Commissioner shall be appointed by the Mayor and majority of the City Council and

shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Sewer Commissioner shall have the immediate control, and supervision over all the employees and property that make up the Municipal sewer system, subject to the general control and directives of the Director of Public Works. He or she shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the sewer system, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof.

He or she shall have such other duties as the Director of Public Works may delegate to him or her. He or she shall issue permits for all connections to the Municipal sewer system, and inspect and supervise all repairs made to the said system. (*Ref. 17-107 RS Neb.*) (*Amended by Ord. Nos. 509, 12/13/88; 588, 8/25/92*)

#### **§ 1-217 APPOINTED OFFICIALS; MUNICIPAL DUMP COMMISSIONER.**

The Municipal Dump Commissioner shall have the immediate control and supervision of the Municipal Dumping Grounds, and of all dumping of garbage, refuse, waste, and rubbish thereon, subject to the general control and directives of the Governing Body. He shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the dumping grounds and shall direct their attention to such improvements, additions, and additional employees as he may believe are needed along with an estimate of the cost thereof. He shall issue dumping permits if the Governing Body should require them and shall inspect and supervise all work done to improve or extend the dumping grounds. He shall have such other duties as the Governing Body may delegate to him. He may be removed at any time by a two-thirds (2/3) vote of the Governing Body. (*Ref. 17-107 RS Neb.*)

#### **§ 1-218 APPOINTED OFFICIALS; MUNICIPAL GAS SUPERINTENDENT.**

The Municipal Gas Superintendent shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Gas Superintendent shall have the immediate control, and supervision of the Municipal gas system, and of all employees and property that make up the gas system, subject to the general control, and directives of the Director of Public Works. He or she shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the gas system, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall issue permits for all connections to the Municipal gas system and inspect and supervise all repairs made to the said system. He or she shall also have such additional duties as the Director of Public Works may delegate to him or her. (*Ref. 17-107 RS Neb.*) (*Amended by Ord. Nos. 509, 12/13/88; 588, 8/25/92*)



## **§ 1-219 APPOINTED OFFICIALS; MUNICIPAL STREET COMMISSIONER.**

The Municipal Street Commissioner shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Street Commissioner shall have the immediate control and supervision of the Municipal Street System and of all employees and property that make up the street system, subject to the general control and directives of the Director of Public Works. The Municipal Street Commissioner shall have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the Municipality and shall perform such other duties as the Director of Public Works may require. (*Ref. 17-107, 17-119 RS Neb.*) (*Amended by Ord. Nos. 509, 12/13/88; 588, 8/25/92*)

## **§ 1-220 APPOINTED OFFICIALS; MUNICIPAL BUILDING INSPECTOR.**

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

## **§ 1-221 APPOINTED OFFICIALS; MUNICIPAL STREET SUPERINTENDENT.**

The Municipal Street Superintendent shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Street Superintendent shall be a qualified City Street Superintendent licensed under the provisions of sections 39-2301 to 39-2311 of the Nebraska Revised Statutes. The City Street Superintendent shall perform the following duties:

1. Develop and annually update a long-range plan based on needs and coordinated with adjacent local governmental units;
2. Develop an annual program for design, construction and maintenance;
3. Develop an annual budget based on programs, projects and activities;
4. Submit such plans, programs and budgets to the Governing Body for approval;
5. Implement capital improvements and maintenance activities provided for in approved plans, programs and budgets; and
6. Prepare and submit annually to the Auditor of Public Accounts and to the Board of Public Roads Classifications and Standards a report showing actual receipts, expenditures and accomplishments compared with those budgeted and programmed in the City's annual plans. He or she shall attend Council meetings at the request of the Governing Body and perform such other duties as the Governing Body may delegate to him or her.

*(Ref. 39-2512 RS Neb.) (Ord. No. 509, 12/13/88)*

#### **§ 1-222 APPOINTED OFFICIALS; MUNICIPAL PARK COMMISSIONER.**

The Municipal Park Commissioner shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be one (1) year from the effective date of the appointment unless removed sooner by the Mayor and City Council. He or she may be removed from office at any time by a two-thirds (2/3) vote of the City Council and with the consent of the Mayor.

The Municipal Park Commissioner shall have the immediate control and supervision of the Municipal Park System and of all employees and property that make up the Park System, subject to the general control and directives of the Director of Public Works. He or she shall, at least every six (6) months, make a detailed report to the Board of Park Commissioners on the condition of the Park System and shall direct their attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed, along with an estimate of the costs thereof.

The Municipal Park Commissioner shall, subject to the orders and directives of the Director of Public Works, have general charge, direction and control of all work on property that make up the Municipal Park System and shall perform such other duties as the Governing Body may require.  
*(Ord. No. 509, 12/13/88) (Amended by Ord. Nos. 512, 3/14/89; 588, 8/25/92)*

#### **§ 1-223 APPOINTED OFFICIALS; MUNICIPAL COORDINATOR.**

*(Repealed by Ord. No. 584, 7/14/92)*

#### **§ 1-224 APPOINTED OFFICIALS; EMERGENCY MEDICAL TECHNICIAN ASSOCIATION CHIEF.**

The Emergency Medical Technician Association Chief shall be appointed by the Mayor and majority of the City Council upon receipt of official recommendation from the Stromsburg Emergency Medical Technician's Association. The term of appointment shall be one year from the

effective date of the appointment unless notice is received by the Mayor and City Council from the Stromsburg Emergency Medical Technician's Association that they recommend the appointment of another person. The Council reserves the right to reject any person recommended by the Stromsburg Emergency Medical Technician Association.

The Stromsburg Emergency Medical Technician Association Chief shall have the immediate control and supervision over the City of Stromsburg ambulance and all necessary supplies and equipment necessary to equip said ambulance and to provide emergency medical service. He or she shall be responsible for the scheduling of necessary transfers and all emergency medical technician training sessions, ordering supplies and equipment and to keep the City of Stromsburg's Emergency Medical Technicians advised as to certification and recertification requirements. He or she shall be required to perform such other duties as the Governing Body may delegate to him or her from time to time. (*Ord. No. 541, 4/24/90*) (*Amended by Ord. No. 622, 5/10/94*)

**§ 1-224.01 APPOINTED OFFICIALS; EMERGENCY MEDICAL TECHNICIAN ASSOCIATION ASSISTANT CHIEF.**

The Emergency Medical Technician Association Assistant Chief shall be appointed by the Mayor and the majority of the City Council upon receipt of the official recommendation from the Stromsburg Emergency Medical Technician's Association. The term of appointment shall be one (1) year from the effective date of the appointment unless notice is received by the Mayor and City Council from the Stromsburg Emergency Medical Technician's Association that they recommend the appointment of another person. The Council reserves the right to reject any person recommended by the Stromsburg Emergency Medical Technician Association.

The Stromsburg Emergency Medical Technician Association Assistant Chief shall be required to assist the Stromsburg Emergency Medical Technician Chief as requested by the Chief and perform such duties and responsibilities as may be delegated to him or her by the Chief. In addition, he or she shall be required to perform such other duties as the Governing Body may delegate to him or her from time to time. (*Ord. No. 622, 5/10/94*)

**§ 1-224.02 APPOINTED OFFICIALS; EMERGENCY MEDICAL TECHNICIAN ASSOCIATION EQUIPMENT MANAGER.**

The Emergency Medical Technician Association Equipment Manager shall be appointed by the Mayor and the majority of the City Council upon receipt of the official recommendation from the Stromsburg Emergency Medical Technician's Association. The term of appointment shall be one (1) year from the effective date of the appointment unless notice is received by the Mayor and City Council from the Stromsburg Emergency Medical Technician's Association and they recommend the appointment of another person. The Council reserves the right to reject any person recommended by the Stromsburg Emergency Medical Technician Association.

The Stromsburg Emergency Medical Technician Association Equipment Manager shall be required to maintain the City of Stromsburg's ambulance and all equipment necessary for the operation of the ambulance in working order at all times. He or she shall provide for normal and

routine services to the vehicle and equipment and ensure that the ambulance has adequate fuel and is kept in a neat and clean manner. He or she will report directly to the Emergency Medical Technician Association Chief. He or she shall be required to perform such other duties as the Governing Body may delegate to him or her from time to time. (*Ord. No. 622, 5/10/94*)

**§ 1-225 APPOINTED OFFICIALS; DIRECTOR OF PUBLIC WORKS/CITY SUPERVISOR.**

(A) The Public Works Director/City Supervisor shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be until the second Monday of December in each even-numbered year unless removed sooner by the Mayor and City Council. He/she may be removed from office at any time by two-thirds ( $\frac{2}{3}$ ) vote of the City Council and with the consent of the Mayor.

(B) The Director of Public Works/City Supervisor shall have the control and supervision over the Municipal Water Commissioner, the Municipal Electric Commissioner, the Sewer Commissioner, the Municipal Gas Superintendent, the Municipal Street commissioner, the Municipal Park Commissioner, the Cemetery Care Taker, the Swimming Pool Manager, the Municipal Clerk/Treasurer, and the employees and property that make up the Water, Electric, Sewer, Gas, Street and Park Departments of the City subject to the general control and directive of the Governing Body. The Deputy Clerk/ Treasurer and the Billing Clerk/ Receptionist shall immediately report to the Municipal Clerk/Treasurer. The Director of Public Works/City Supervisor shall supervise the scheduling of work assignments of the Municipal Water Commissioner, the Municipal Electric Commissioner, the Sewer Commissioner, the Municipal Gas Superintendent, the Municipal Street Commissioner, the Municipal Park Commissioner, the Cemetery Care Taker, the Swimming Pool Manager, the Municipal Clerk/Treasurer, and employees within the named departments, including temporary assignments of persons outside their normal department in order to maximize the efficient operation of City functions. The City Clerk/Treasurer shall supervise the scheduling of work assignments of the Deputy Clerk/Treasurer and the Billing Clerk/Receptionist.

(C) The Director of Public Works/City Supervisor shall be responsible for the purchasing of all materials and equipment necessary for use in the Gas, Water, Sewer, Electric, Street and Park Departments. He/she shall require each department head to make an accurate inventory of all property owned by each department and to update the inventory on a quarterly basis.

(D) The Director of Public Works/City Supervisor shall be responsible for identifying personnel, equipment, and material needs of all departments under his/her supervision and to compile and submit budget estimates for each department, shall approve all public works expenditures and review all claims before submitting them to the City Council for payment.

(E) The Director of Public Works/City Supervisor shall attend all meetings of the Mayor and City Council and shall report on activities under the Director of Public Works/City Supervisor's supervision and control and shall make recommendations regarding the same to the Mayor and Council

(F) The Director of Public Works/City Supervisor shall recommend to the Mayor and Council the appointment of City employees over which this office exercises jurisdiction as well as the disciplining and dismissal of such employees.

(G) The Director of Public Works/City Supervisor shall have such other duties and functions as the Governing Body may delegate to him/her from time to time.  
*(Ord. No. 584, 7/14/92) (Amended by Ord. No. 1081, 6/9/14)*

**§ 1-225.01 APPOINTED OFFICIALS; ASSISTANT CITY SUPERVISOR.**

(A) The Assistant City Supervisor shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be until the second Monday of December in each even-numbered year unless removed sooner by the Mayor and City Council. He/she may be removed from office at any time by two thirds ( $\frac{2}{3}$ ) vote of the City Council and with the consent of the Mayor.

(B) The Assistant City Supervisor shall perform the duties of the Public Works Director/City Supervisor described in § 1-225 of this Code in the absence of the Public Works Director/City Supervisor.  
*(Ord. No. 1082, 6/9/14)*

**§ 1-226 APPOINTED OFFICIALS; ECONOMIC DEVELOPMENT DIRECTOR.**

(1) The Economic Development Director shall be appointed by the Mayor and majority of the City Council and shall serve at the pleasure of the Mayor and City Council. The term of appointment shall be for a period of one (1) year unless removed sooner by the Mayor and City Council. He/she may be removed from office at any time by a  $\frac{2}{3}$  vote of the City Council and with the consent of the Mayor.

(2) The Economic Development Director shall have the control and supervision over all economic development activities of the City. He/she shall work closely with the Stromsburg Development Corporation and the Stromsburg Chamber of Commerce for the retention of existing businesses and recruitment and development of new businesses.

(3) The Economic Development Director shall be responsible for the research and preparation of economic development grant applications when he/she feels that is in the City's best interest and shall work with all state and federal officials concerning grant applications.

(4) The Economic Development Director shall have such other duties and functions as the Governing Body may delegate to him/her from time to time.

(5) The offices of the Director of Public Works and the Economic Development Director may be combined so that one person shall perform the duties and responsibilities of each office. *(Ord. No. 915, 5/11/04)*

## ARTICLE 3: BONDS AND OATH

### § 1-301 BONDS; REQUIREMENTS.

(A) The City may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The City may pay the premium for such bonds or insurance coverage. (*Ref. 17-604 RS Neb.*)

(B) (1) All official bonds of officers of the City shall be in form joint and several and made payable to the City in such penalty as the City council may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The Municipality may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the City Council, and with such terms and conditions as may be required. (*Ref. 11-104 RS Neb.*)

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the City Clerk's office within the following time:

(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten (10) days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within thirty (30) days after their appointment; and

(c) Of officers elected at any special election and City officers, within thirty (30) days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, section 5, of the Constitution of Nebraska. (*Ref. 11-105 RS Neb.*)

(D) All official bonds of City officers shall be executed by the principal named in such bonds and by at least two (2) sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a City officer may be executed by the officer as principal and by a

guaranty, surety, fidelity, or bonding company as surety, or by two (2) or more such companies. Only such companies as are legally authorized to transact business in this State shall be eligible to suretyship on the bond of a City officer. *(Ref. 11-109 RS Neb.)*

(E) The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases. *(Ref. 11-110 RS Neb.)*

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved. *(Ref. 11-111 RS Neb.)*

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

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. *(Ref. 11-112 RS Neb.)*

(H) No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval. *(Ref. 11-113 RS Neb.)*

(I) No City official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required. *(Ref. 11-114 RS Neb.)*

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within ten (10) days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within ten (10) days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office. *(Ref. 11-115 RS Neb.)*

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. *(Ref. 11-116 RS Neb.)*

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the non-election or non-appointment of a successor or of the neglect or

refusal of the successor to qualify, he or she shall qualify anew within ten (10) days from the time at which his or her successor, if elected, should have qualified. *(Ref. 11-117 RS Neb.)*

(M) No person shall be surety for the same officer for more than two (2) successive terms of the same office, but this provision shall not apply to incorporated surety companies. *(Ref. 11-118 RS Neb.)*

(N) If the sureties on the official bond of any appointed officer of the City, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the office. *(Ord. No. 1093, 9/22/14)*

### **§ 1-302 OATH OF OFFICE; MUNICIPAL OFFICIALS.**

All officials of the Municipality, whether elected or appointed, except when a different oath is specifically provided herein, shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon 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." *(Ref. 11-101 RS Neb.)*



## **ARTICLE 4: CORPORATE SEAL**

### **§ 1-401 SEAL; OFFICIAL CORPORATE.**

The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "Seal, City of Stromsburg, Nebraska." The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Governing Body and countersigned by the Municipal Clerk. (*Ref. 17-502 RS Neb.*)

## **ARTICLE 5: MEETINGS**

### **§ 1-501 MEETINGS; DEFINED.**

Meetings, as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. *(Ref. 84-1409(2) RS Neb.) (Ord. No. 274, 4/26/77) (Amended by Ord. No. 403, 10/11/83)*

### **§ 1-502 MEETINGS; PUBLIC BODY DEFINED.**

(1) Public Body as used in this Article shall mean:

(a) The Governing Body of the Municipality,

(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 Article 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. *(Ref. 84-1409(1) RS Neb.) (Ord. No. 274, 4/26/77) (Amended by Ord. Nos. 403, 10/11/83; 604, 3/23/93)*

### **§ 1-503 MEETINGS; PUBLIC.**

All public meetings as defined by law shall be held in a Municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Governing Body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the Governing Body and to the public by a method designated by the Governing Body or by the Mayor if the Governing Body has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four (24) hours before the scheduled commencement of the meeting or (b) forty-eight (48) hours before the scheduled commencement of a meeting of the Governing Body scheduled outside the corporate limits of the Municipality. The Governing Body shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the Governing Body present or absent at each convened meeting. The minutes of the

Governing Body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Governing Body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote. (*Ref. 84-1408, 84-1409, 84-1411, 84-1413 RS Neb.*) (*Amended by Ord. Nos. 274, 4/26/77; 403, 10/11/83; 471, 10/13/87*)

#### **§ 1-504 MEETINGS; CLOSED SESSIONS.**

(A) (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
- (b) Discussion regarding deployment of security personnel or devices;
- (c) Investigative proceedings regarding allegations of criminal misconduct; or
- (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

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

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

- (1) The protection of the public interest or

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

Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. *(Ref. 84-1410 RS Neb.) (Ord. No. 274, 4/26/77) (Amended by Ord. Nos. 403, 10/11/83; 605, 3/23/93; 664, 3/14/95; 925, 1/11/05)*

#### **§ 1-504.01 MEETINGS; PROHIBITED ACTS; EXEMPT EVENTS.**

(A) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this Article or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this Article or the Act.

(B) This Article does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. *(Ref. 84-1410 RS Neb.) (Ord. No. 925, 1/11/05)*

#### **§ 1-505 MEETINGS; EMERGENCY MEETINGS.**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of section 1-508 of this Article 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. *(Ref. 84-1411 RS Neb.) (Ord. No. 274, 4/26/77) (Amended by Ord. No. 403, 10/11/83)*

#### **§ 1-506 MEETINGS; MINUTES.**

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

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

(C) Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier, except that the City may have an additional ten (10) working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. *(Ref. 84-1412, 84-1413 RS Neb.) (Ord. No. 274, 4/26/77)*

### **§ 1-507 MEETINGS; VOTES.**

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the Municipality utilizing an electronic voting device which allows the yeas and nays of each member of the Governing Body to be readily seen by the public.

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. (*Ref. 17-616, 84-1413 RS Neb.*) (*Ord. No. 274, 4/26/77; Amended by Ord. No. 307, 1/10/79*)

### **§ 1-508 MEETINGS; NOTICE TO NEWS MEDIA.**

The Municipal Clerk, in the case of the City Council, and the Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. (*Ref. 84-1411 RS Neb.*) (*Ord. No. 274, 4/26/77*)

### **§ 1-509 MEETINGS; PUBLIC PARTICIPATION.**

(A) Subject to the provisions of this subchapter, the public shall have the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 1-504 (Closed Sessions), may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

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

(D) No public body shall, for the purpose of circumventing the provisions of this subchapter, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) 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.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of

this State if, but only if, a member entity of the public body is located outside of this state and the other requirements of section 84-1412 RS Neb. are met.

(G) 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.

(H) 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. (*Ref. 84-1412 RS Neb.*) (*Ord. No. 274, 4/26/77*) (*Amended by Ord. Nos. 403, 10/11/83; 448, 12/9/86; 472, 10/13/87; 837, 5/28/02*)

## **§ 1-510 MEETINGS; GOVERNING BODY.**

The meetings of the Governing Body shall be held in the Council Chambers of the Municipal office. Regular meetings shall be held on the second (2nd) and fourth (4th) Monday of each month at the hour of seven (7:00) o'clock p.m. In the event the second (2nd) or fourth (4th) Monday falls on a holiday observed by the City, the meeting shall be held the following day. Special meetings may be called by the Mayor, or by three (3) members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state, or physically unable to be present. Two-thirds (2/3) of the members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members; provided, that on the request of any two (2) members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend. At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President pro tempore. (*Ref. 17-105, 17-106 RS Neb.*) (*Amended by Ord. No. 361, 7/14/81*)

## **§ 1-511 MEETINGS; ORDER OF BUSINESS.**

All meetings of the Governing Body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Governing Body, the Municipal Clerk, the Mayor, and such other Municipal officials that may be required shall take their regular stations in the meeting place, and the business of the Municipality shall be taken up for consideration, and disposition in the following order:

- Roll Call
- Reading and Approval of the Minutes of the Previous Meeting
- Consideration of Petitions and other Communications
- Reports of Officers, Boards, and Committees
- Unfinished Business of the Preceding Meeting
- Introduction of Ordinances and Resolutions; First Reading
- Second Reading of Ordinances

Third Reading of Ordinances  
Final Passage of Ordinances  
New Business  
Miscellaneous Business  
Appropriations and Consideration of Claims  
Adjournment

## **§ 1-512 MEETINGS; PARLIAMENTARY PROCEDURE.**

The Mayor shall preserve order during meetings of the Governing Body and shall decide all questions of order, subject to an appeal to the Governing Body. When any person is called to order, he 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 seat and address himself to the presiding officer and while speaking shall confine himself to the question. When two (2), 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 Municipal Clerk, or any member of the Governing Body. Every member of the Governing Body who is present when a question is voted upon, shall cast his vote unless excused by a majority of the Governing Body 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 Governing Body 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 Governing Body. 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 Governing Body 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 (3rd) 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 Governing Body for meetings may be suspended by a two-thirds ( $\frac{2}{3}$ ) 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 Governing Body shall decide all procedural disputes that may arise.

## **§ 1-513 MEETINGS; ORGANIZATIONAL.**

The newly elected Council shall convene at the regular place of meeting in the City on the first (1st) regular meeting in December of each year in which a Municipal election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is

hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first (1st) regular meeting in December following his election. All appointive officers shall qualify within two (2) weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the Municipality and to perform faithfully and impartially the duties of his office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon. (*Ord. No. 273, 4/26/77*)

#### **§ 1-514 MEETINGS; REGULAR MEETING.**

(1) The meetings of the City Council shall be held in the meeting place of the Municipality. Regular meetings shall be held on the second (2nd) and fourth (4th) Monday of each month at the hour of seven o'clock (7:00) p.m. In the event the second (2nd) or fourth (4th) Monday falls on a holiday observed by the City, the meeting shall be held the following day.

(2) A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless agreed a vote is required by law and an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business. (*Ref. 17-105 RS Neb.*) (*Ord. No. 449, 12/9/86*) (*Amended by Ord. Nos. 464, 4/14/87; 557, 2/12/91; 570, 1/14/92; 688, 1/23/96; 974, 8/8/06*)

#### **§ 1-515 MEETINGS; SPECIAL MEETINGS.**

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

At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. (*Ref. 17-106 RS Neb.*) (*Ord. No. 449, 12/9/86*)

#### **§ 1-516 MEETINGS; TELECONFERENCING.**

(A) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act



or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

- (1) The territory represented by the member public agencies of the entity or pool covers more than one (1) county;
- (2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;
- (3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;
- (4) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;
- (5) At least one (1) copy of all documents being considered is available to the public at each site of the telephone conference call;
- (6) At least one (1) member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;
- (7) The telephone conference call lasts no more than one(1) hour; and
- (8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act. *(Ref. 84-1411 RS Neb.) (Ord. No. 828, 4/24/01) (Amended by Ord. No. 924, 1/11/05)*

#### **§ 1-517 MEETINGS; VIDEOCONFERENCING.**

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

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

(3) At least one (1) copy of all documents being considered is available to the public at each site of the videoconference;

(4) At least one (1) member of the governing body or advisory committee is present at each site of the videoconference; and

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

(B) Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act. (*Ref. 84-1411 RS Neb.*)

(C) For the purpose of this section, the following definition applies.

VIDEOCONFERENCING. Conducting a meeting involving participants at two (2) or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations. (*Ref. 84-1409 RS Neb.*) (*Ord. No. 923, 1/11/05*)

## **ARTICLE 6: ORDINANCES, RESOLUTIONS, AND MOTIONS**

### **§ 1-601 ORDINANCES, RULES, AND RESOLUTIONS; GRANT OF POWER.**

The Governing Body may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and manufactories. (*Ref. 17-505 RS Neb.*) (*Amended by Ord. No. 727, 7/22/97*)

#### **§ 1-601.01 ORDINANCES; INTRODUCTION.**

Ordinances shall be introduced by members of the Governing Body in one of the following ways:

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

(2) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the members elected to the Governing Body, shall read aloud the substance of the ordinance and file it for future consideration. (*Ord. No. 726, 7/22/97*)

#### **§ 1-602 ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS; READING; PASSAGE.**

(A) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. Ordinances of a general or permanent nature shall be read by title on three (3) different days unless three-fourths ( $\frac{3}{4}$ ) of the City Council vote to suspend this requirement, except that this requirement shall not be suspended for any ordinance for the annexation of territory. In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths ( $\frac{3}{4}$ ) of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section. (*Ref. 17-614 RS Neb.*)

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

*(Amended by Ord. Nos. 665, 3/14/95; 728, 7/22/97; 1090, 9/22/14)*

**§ 1-603 ORDINANCES; PUBLICATION OR POSTING.**

All ordinances of a general nature shall, before they take effect, be published one (1) time, within fifteen (15) days after they are passed:

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

(2) In book or pamphlet form.

*(Ref. 17-613 RS Neb.) (Amended by Ord. Nos. 450, 12/9/86; 729, 7/22/97)*

**§ 1-604 ORDINANCES; STYLE.**

The style of all Municipal ordinances shall be:

"Be it ordained by the Mayor and Council of the City of Stromsburg, Nebraska:"

*(Ref. 17-613 RS Neb.)*

**§ 1-605 ORDINANCES; TITLE.**

No ordinance shall contain a subject not clearly expressed in its title. *(Ref. 17-614 RS Neb.)*

**§ 1-606 ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES.**

(1) Except as provided in subsection (2) of this section, an ordinance for the government of the Municipality which has been adopted by the Governing Body without submission to the voters of the Municipality shall not go into effect until fifteen (15) days after the passage of the ordinance.

(2) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths ( $\frac{3}{4}$ ) vote of the Governing Body, and be entered of record on the Municipal Clerk's minutes. *(Ref. 17-613, 19-3701 RS Neb.) (Amended by Ord. No. 730, 7/22/97)*

**§ 1-607 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING.**

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

**§ 1-608 ORDINANCES; AMENDMENTS AND REVISIONS.**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the Municipality and modifications to zoning or building districts may be adopted as otherwise provided by law. *(Ref. 17-614 RS Neb.)*  
*(Amended by Ord. No. 731, 7/22/97)*

## **ARTICLE 7: ELECTIONS**

### **§ 1-701 ELECTIONS; GENERALLY.**

(A) All Municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if Municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All Municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. *(Ref. 32-556 RS Neb.)*

(B) When the Municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the Municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the Municipality. *(Ref. 32-404 RS Neb.) (Amended by Ord. Nos. 272, 4/26/77; 290, 10/25/77; 926, 1/11/05)*

### **§ 1-702 ELECTIONS; TERM OF OFFICE.**

All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. *(Ref. 17-107.02 (2) RS Neb.) (Ord. No. 272, 4/26/77) (Amended by Ord. No. 365, 10/13/81)*

### **§ 1-703 ELECTIONS; PRIMARY ELECTION, NUMBER OF CANDIDATES FILING.**

If the number of candidates properly filed for nomination at the primary election does not exceed two (2) for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. *(Ref. 17-107.02(4) RS Neb.) (Ord. No. 272, 4/26/77)*

### **§ 1-704 ELECTIONS; PRIMARY ELECTION, WRITE IN CANDIDATES.**

*(Repealed by Ord. No. 321, 9/13/79)*

### **§ 1-704.01 ELECTIONS; ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.**

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or the County Clerk, on forms prescribed by such official, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. *(Ref. 32-404 RS Neb.) (Ord. No. 926, 1/11/05)*

### **§ 1-705 ELECTIONS; TIE VOTES.**

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (*Ref. 17-107.02(6) RS Neb.*) (*Ord. No. 272, 4/26/77*)

#### **§ 1-706 ELECTIONS; GENERAL ELECTION, PREPARATION OF BALLOT.**

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

The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing. (*Ref. 17-107.02(6)&(7) RS Neb.*) (*Ord. No. 272, 4/26/77*) (*Amended by Ord. No. 366, 10/13/81*)

#### **§ 1-707 ELECTIONS; ELECTION TO TERMS.**

The candidates shall be placed on the general election ballot and the candidates receiving the greatest number of votes shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the names of the candidates shall be placed upon the general election ballot in the order of their filing. The term of office of all such members shall commence on the first regular meeting of the Council in December following their election. Any vacancy on the Council resulting from causes other than expiration of the term shall be filled by vote of the remaining members as provided in section 1-105. (*Ref. 17-107.02(8) RS Neb.*) (*Ord. No. 272, 4/26/77*) (*Amended by Ord. No. 290, 10/25/77*)

#### **§ 1-708 ELECTIONS; PRIMARY, OR GENERAL ELECTION NOTICE.**

The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the Primary or General Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref. 32-402.01 RS Neb.*) (*Amended by Ord. No. 267, 4/26/77*)

#### **§ 1-709 ELECTIONS; SPECIAL ELECTION NOTICE.**

No less than five (5) days nor more than ten (10) days, prior to any special Municipal election, the Municipal Clerk shall prepare and cause to be published once in a newspaper that is in or of

general circulation in the Municipality, but if no newspaper is published in or is of general circulation in the Municipality, then by posting in each of three (3) public places in the Municipality, a notice containing the proclamation concerning the said special election. The notice shall be in the form prescribed by State law. (*Ref. 19-3006 RS Neb.*)

## **§ 1-710 ELECTIONS; PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.**

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

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

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

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

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least twenty percent (20%) of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality or in the ward in which the officer is to be elected, as appropriate, not to exceed two thousand (2,000). (*Ref. 32-618 RS Neb.*) (*Amended by Ord. Nos. 424, 8/14/84; 762, 9/22/98; 880, 5/13/03*)

## **§ 1-711 ELECTIONS; VOTER QUALIFICATIONS.**



Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. *(Ref. 17-602, 32-102 RS Neb.)*

**§ 1-712 ELECTIONS; OFFICIALS.**

*(Repealed by Ord. No. 763, 9/22/98)*

**§ 1-713 ELECTIONS; OFFICIALS OATH.**

*(Repealed by Ord. No. 763, 9/22/98)*

**§ 1-714 ELECTIONS; OFFICIALS APPEARANCE.**

Each person appointed by the County Clerk as judge or clerk of election shall be notified of the appointment by letter. Each appointee shall, unless excused by reason of ill health, or other good and sufficient reason, serve as such officer for the term of his appointment. Any person selected as a judge or clerk of election may, at any time before election day, be excused by the County Clerk from serving in such capacity by reason of his or her own sickness, the serious illness of any member of his or her family, or unavoidable absence from the voting precinct on election day. Upon excusing a member of the Election Board, the County Clerk shall fill the position from a list submitted by the Chairman of the same party as the members excused, and the person selected to fill such vacancy shall be notified of such appointment by mail. The Board shall be employed at all elections held in the county at which the County Clerk directs them to serve. If any person ordered to serve by the County Clerk fails, refuses, or neglects to serve without first being excused, such person shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00). The County Clerk is authorized to file a complaint therein against any such person failing to appear. *(Ref. 19-3012 through 19-3014 RS Neb.)*

**§ 1-715 ELECTION WARDS.**

For election purposes the City of Stromsburg shall be divided into two wards as provided by section 17-102 RRS 1943, as amended. The North Election Ward shall consist of all territory within the City limits north of Sixth Street from the west City limits to Central Street; north of Seventh Street from Central Street to Ekeley Street and north of Fifth Street from Ekeley Street to the east City limits. The South Election Ward shall consist of all other territory within the Stromsburg City limits. *(Ref. 17-102 RS Neb.) (Amended by Ord. Nos. 567, 11/12/91; 1032, 8/8/11)*

**§ 1-716 ELECTIONS; BALLOTS.**

It shall be the duty of the County Clerk to provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. *(Ref. 32-417, 32-418 RS Neb.)*

**§ 1-717 ELECTIONS; CERTIFICATE OF ELECTION.**

*(Repealed by Ord. No. 926, 1/11/05)*

**§ 1-718 ELECTIONS; RECOUNT OF BALLOTS.**

The losing candidate for any office at the Municipal election may request a recount of the ballots cast when the official canvass of such votes cast reveals that there is a difference of twenty-five (25) votes or less between the total cast for the winner and the loser. Such recount shall be made if the losing candidate files a written request therefor with the Municipal Clerk within three (3) days following the completion of the official canvass. *(Ref. 19-3042 through 19-3050 RS Neb.)*

**§ 1-719 ELECTIONS; JUDGES AND CLERKS COMPENSATION.**

The judges and clerks of election shall receive for each one (1) hour of service rendered one dollar and sixty cents (\$1.60); provided, that in precincts having a Counting Board, no member of the Receiving Board shall receive pay for more than thirteen (13) hours of service. Each member of the Election Board shall make an affidavit before a qualified officer of the number of hours he has worked. The messenger appointed to receive and deliver the election supplies to the election place and the messenger appointed to make the return to the County Clerk shall receive for such service three dollars (\$3.00) and mileage at the rate of ten cents (10¢) per mile necessarily traveled in the performance of said duties. In the event that a voting machine is used, the wages of the election officials shall be based on the rate of one dollar (\$1.00) per hour for the time served as follows: one half dollar (50¢) for each one half hour for making the examination of the voting machines before the hour of opening the polls; one dollar (\$1.00) for each hour that the polls are open; and one dollar (\$1.00) for one (1) hour for making the canvass. *(Ref. 32-4,128, 33-137 RS. Neb.)*

**§ 1-720 ELECTIONS; RECALL PROCEDURE.**

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

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

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

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

voters at the general election. (*Ref. 32-1302 RS Neb.*)

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

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

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one (1) registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of sixty (60) words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the official sought to be removed by any method specified in section 25-505.01 RS Neb. or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01 RS Neb., by leaving a copy of the affidavit at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of sixty (60) words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty (20) days after the official receives the copy of the affidavit. The principal circulator or circulators shall gather the petition papers within twenty (20) days after the receipt of the official's defense statement. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty (30) days from the date of issuing the petitions.

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

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630 RS Neb. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question. (*Ref. 32-1303 RS Neb.*)

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

(E) (1) The principal circulator or circulators shall file, as one (1) instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within thirty (30)

days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) of this section.

(2) Within fifteen (15) days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. *(Ref. 32-1305 RS Neb.)*

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

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

(3) If the City Council fails or refuses to order a recall election within the time required, the election may be ordered by the District Court having jurisdiction over a county in which the elected official serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election. *(Ref. 32-1306 RS Neb.)*

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

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

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

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

(4) If there are vacancies in the offices of a majority or more of the members of the City Council or any other governing body at one (1) time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. *(Ref. 32-1308 RS Neb.)*

(I) No recall petition shall be filed against an elected official within twelve (12) months after a recall election has failed to remove him or her from office or within six (6) months after the beginning of his or her term of office or within six (6) months prior to the incumbent filing deadline for the office.

*(Ref. 32-1309 RS Neb.) (Ord. No. 322, 9/13/79) (Amended by Ord. Nos. 424, 8/14/84; 799, 5/25/99; 881, 5/13/03; 904, 1/27/04)*

## **§ 1-721 ELECTIONS; SPECIAL.**

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

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

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

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. *(Ref. 32-405 RS Neb.) (Ord. No. 424, 8/14/84) (Amended by Ord. Nos. 732, 7/22/97; 903, 1/27/04)*

#### **§ 1-722 ELECTIONS; CANDIDATE QUALIFICATIONS.**

Any person seeking elected office in the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The Mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. *(Ref. 17-108.02, 32-4,157 RS Neb.) (Ord. No. 424, 8/14/84)*

#### **§ 1-723 ELECTIONS; EXIT POLLS.**

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within twenty feet (20') of the entrance of any polling place room or, if inside the polling place building, within one hundred feet (100') of any voting booth. *(Ref. 32-1221 RS Neb.) (Ord. No. 451, 12/9/86)*

#### **§ 1-724 ELECTIONS; CERTIFICATE OF NOMINATION OR ELECTION.**

*(Repealed by Ord. No. 926, 1/11/05)*

### **ARTICLE 8: FISCAL MANAGEMENT**

#### **§ 1-801 FISCAL MANAGEMENT; FISCAL YEAR.**

The fiscal year of the Municipality and any public utility of the Municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. *(Ref. 17-701 RS Neb.) (Amended by Ord. No. 689, 1/23/96)*

#### **§ 1-802 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.**

(A) The Governing Body shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget

statement. A proposed budget statement shall contain the following information, except as provided by state law:

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

(2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. 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 fifty percent (50%) of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent (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 Governing Body 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 Governing Body; 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 Governing Body as provided in the Municipal Proprietary Function Act.

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

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

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to 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. *(Ref. 13-505 RS Neb.) (Amended by Ord. Nos. 425, 8/14/84; 624, 8/9/94; 733, 7/22/97; 764, 9/22/98; 825, 4/24/01; 883, 5/13/03)*

**§ 1-803 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.**

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

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

(1) The amount to be applied to the payment of principal or interest on bonds issued by the Governing Body and

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

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty (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. *(Ref. 13-506 RS Neb.)*

(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. *(Ref. 13-507 RS Neb.) (Amended by Ord. Nos. 765, 9/22/98; 884, 5/13/03)*

**§ 1-804 FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.**

(1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Governing Body shall file with and certify to the levying board or boards on or before September 20 of each year and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with sections 13-518 to 13.522 RS Neb., together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the Governing Body and (b) the



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

(2) The Governing Body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent (5%) of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the Governing Body shall not certify an amount of tax more than one percent (1%) greater or lesser than the amount determined in section 1-802.

(3) The Governing Body shall use the certified taxable values as provided by the County Assessor pursuant to section 13-509 RS Neb. for the current year in setting or certifying the levy. The Governing Body may designate one of its members to perform any duty or responsibility required of the Governing Body by this section. (*Ref. 13-508 RS Neb.*) (*Amended by Ord. Nos. 291, 10/25/77; 625, 8/9/94; 690, 1/23/96; 734, 7/22/97; 766, 9/22/98*)

#### **§ 1-804.01 FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET.**

(1) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Governing Body in September, the Governing Body may expend any balance of cash on hand for the current expenses of the Municipality. Except as provided in subsection (2) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the Governing Body that expenditures beyond the amount authorized are necessary to enable the Municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Governing Body in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the Municipality in excess of that authorized by any other statutory provision. (*Ref. 13-509.01, 13-509.02 RS Neb.*) (*Ord. No. 666, 3/14/95*)

#### **§ 1-805 FISCAL MANAGEMENT; BUDGET PROCEDURE.**

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

#### **§ 1-806 FISCAL MANAGEMENT; APPROPRIATIONS.**

The Governing Body shall adopt a budget statement pursuant to the Nebraska Budget Act, to be

termed "The Annual Appropriation Bill", in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the Municipality. (*Ref. 17-706 RS Neb.*) (*Amended by Ord. Nos. 627, 8/9/94; 691, 1/23/96*)

**§ 1-807 FISCAL MANAGEMENT; PROPERTY TAX; CERTIFICATION OF AMOUNT.**

The Governing Body shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the Municipality which the Municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to section 77-3442 RS Neb., the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in section 17-702 RS Neb. (*Ref. 17-702 RS Neb.*) (*Amended by Ord. No. 767, 9/22/98*)

**§ 1-808 FISCAL MANAGEMENT; ANNUAL AUDIT; FINANCIAL STATEMENTS.**

The Governing Body shall cause an audit of the Municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Governing Body. The said audit shall be completed, and the annual audit report made not later than six (6) months after the close of the fiscal year. The accountant making the audit shall submit not less than three (3) copies of the audit report to the Governing Body. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, except in Villages having a population of less than eight hundred (800), and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the Municipality as well as an opinion by the accountant with respect to the financial statements. Two (2) copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter, be open for public inspection. One (1) copy shall be filed with the Auditor of Public Accounts; provided, that all Villages may file an unaudited statement of cash receipts and disbursements annually in lieu of an annual audit. Such unaudited statement shall be filed with the Auditor of Public Accounts in a form prescribed by him. The unaudited statement of cash receipts and disbursements shall become a part of the public records of the Municipal Clerk and shall at all times thereafter be open and subject to public inspection. Every Governing Body that is required herein to

submit to an audit of its accounts shall provide and file with the Municipal Clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (*Ref. 19-2901 through 19-2909, 13-606 RS Neb.*) (*Amended by Ord. Nos. 292, 10/25/77; 426, 8/14/84*)

**§ 1-809 FISCAL MANAGEMENT; EXPENDITURES.**

No Municipal official shall have the power to appropriate, issue, or draw any order or warrant on the Municipal Treasury for money, unless the same has been appropriated or ordered by

ordinance. Neither the Governing Body nor any department or office of the Municipality shall add to the Municipal expenditures in any one (1) year anything over and above the amounts provided for in the annual appropriation bill for that year. No expenditure for any improvement to be paid for out of the general fund of the Municipality shall exceed in any one (1) year the amount provided for that improvement in the adopted budget statement. (*Ref. 17-708 RS Neb.*)

**§ 1-810 FISCAL MANAGEMENT; CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.**

(A) Except as provided in section 18-412.01 RS Neb. for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over thirty thousand dollars (\$30,000), shall be made unless it is first approved by the Governing Body.

(B) Except as provided in section 18-412.01 RS Neb., before the Governing Body makes any contract in excess of thirty thousand dollars (\$30,000) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the Governing Body. In advertising for bids as provided in divisions (C) and (E) of this section, the Governing Body may publish the amount of the estimate.

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

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

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

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

(1) Thirty thousand dollars (\$30,000) or less;

(2) Sixty thousand dollars (\$60,000) or less and the city electric utility has gross annual revenue from retail sales in excess of one million dollars (\$1,000,000);

(3) Ninety thousand dollars (\$90,000) or less and the city electric utility has gross annual revenue from retail sales in excess of five million dollars (\$5,000,000); or

(4) One hundred twenty thousand dollars (\$120,000) or less and the city electric utility has

gross annual revenue from retail sales in excess of ten million dollars (\$10,000,000).

(E) The advertisement provided for in division (C) of this section shall be published at least seven (7) days prior to the bid closing in a legal newspaper published in or of general circulation in the Municipality, and if there is no legal newspaper published in or of general circulation in the Municipality, then in some newspaper of general circulation published in the County in which the Municipality is located, and if there is no legal newspaper of general circulation published in the County in which the Municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the County where bids are required, and if no newspaper is published in the Municipality or County, or if no newspaper has general circulation in the County, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality at least seven (7) days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 RS Neb. when adopted by a three-fourths (3/4) vote of the Governing Body and entered of record.

(F) If, after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract or if the bids received by the Governing Body contain a price which exceeds the estimated cost, the Governing Body may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Governing Body or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the Municipality, the

Governing Body or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. (*Ref. 17-568.01 RS Neb.*)

(H) Any bidding procedure may be waived by the Governing Body or Board of Public Works:

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

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

(3) When required to comply with any federal grant, loan, or program. (*Ref. 17-568.02 RS Neb.*)

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

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

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

**PURCHASING or PURCHASE** means the obtaining of personal property by sale, lease, or other contractual means. (*Ref. 18-1756 RS Neb.*)  
(*Amended by Ord. Nos. 269, 4/26/77; 323, 9/13/79; 404, 10/11/83; 774, 9/22/98*)

#### **§ 1-811 FISCAL MANAGEMENT; CLAIMS.**

All claims against the Municipality shall be presented to the Governing Body in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the Municipality in any action brought against it for an unliquidated claim which has not been presented to the Governing Body to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order, or warrant shall be drawn in excess of eighty-five (85%) percent of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the Municipal Treasury for the appropriate fund against which it is to be drawn. (*Ref. 17-714, 17-715 RS Neb.*)

#### **§ 1-812 FISCAL MANAGEMENT; WARRANTS.**

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

#### **§ 1-813 FISCAL MANAGEMENT; TRANSFER OF FUNDS.**

(*Repealed by Ord. No. 771, 9/22/98*)

#### **§ 1-814 FISCAL MANAGEMENT; SPECIAL ASSESSMENT FUND.**

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

#### **§ 1-815 FISCAL MANAGEMENT; SINKING FUNDS.**

The Governing Body, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by State law upon the assessed value of all taxable property within the Municipality for a term not to exceed that prescribed by State law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the Municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by State law. To initiate the said sinking fund, the Governing Body shall declare its purpose by resolution to submit to the qualified electors of the Municipality the proposition to provide the improvement at the next general Municipal election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three (3) times on successive weeks before the day of the election in a legal newspaper of general circulation in the Municipality. The sinking fund may be established after the election if a majority, or more of the legal votes were in favor of the establishment of the fund. The Governing Body may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable State law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the Governing Body in the manner provided by State law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the

Governing Body is authorized to do so by sixty (60%) percent of the qualified electors of the Municipality voting at a general election favoring such a change in the use of the sinking fund. (*Ref. 19-1301 through 19-1304, 77-2337, 77-2339 RS Neb.*)

#### **§ 1-816 FISCAL MANAGEMENT; GENERAL FUND.**

*(Repealed by Ord. No. 771, 9/22/98)*

#### **§ 1-817 FISCAL MANAGEMENT; DEPOSIT OF FUNDS.**

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

(B) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money

sustained by reason of the failure of any such depository so designated and approved. (*Ref. 17-607 RS Neb.*)

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

(D) Section 77-2366 RS Neb. shall apply to deposits in capital stock financial institutions. Section 77-2365.01 RS Neb. shall apply to deposits in qualifying mutual financial institutions. (*Ref. 17-607, 77-2362 RS Neb.*) (*Amended by Ord. Nos. 772, 9/22/98; 839, 5/28/02; 888, 5/13/03; 906, 1/27/04*)

### **§ 1-817.01 FISCAL MANAGEMENT; CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.**

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in sections 16-714 to 16-716 RS Neb. Section 77-2366 RS Neb. shall apply to deposits in capital stock financial institutions. Section 77-2365.01 RS Neb. shall apply to deposits in qualifying mutual financial institutions. (*Ref. 17-720 RS Neb.*) (*Ord. No. 773, 9/22/98*) (*Amended by Ord. No. 840, 5/28/02*)

### **§ 1-818 FISCAL MANAGEMENT; INVESTMENT OF FUNDS.**

Whenever a city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Governing Body of such city may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (*Ref. 17-608, 17-609, 21-1316.01, 77-2341 RS Neb.*) (*Amended by Ord. No. 524, 11/14/89*)

### **§ 1-819 FISCAL MANAGEMENT; BOND ISSUES.**

The Governing Body may, after meeting all the requirements of State law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by State law. The Governing Body shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by State law. (*Ref. 10-201 through 10-411, 10-601 through 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836 RS*)

*Neb.)*

**§ 1-820 FISCAL MANAGEMENT; MOTOR VEHICLE FEE.**

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

**LIMITS OF THE CITY.** Includes the extraterritorial zoning jurisdiction of the City.

**PERSON.** Includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. **PERSON** does not include any federal, state, or local government or any political subdivision thereof.

(B) Except as otherwise provided in division (D) of this section, the Governing Body of the City shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the City and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this section shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(C) No motor vehicle fee shall be required under this section if:

(1) A vehicle is used or stored but temporarily in the City for a period of six (6) months or less in a twelve (12)-month period;

(2) An individual does not have a primary residence or a person does not own a place of business within the limits of the City and does not own and operate a motor vehicle within the limits of the City; or

(3) An individual is a full-time student attending a postsecondary institution within the limits of the City and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(D) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of the City.

(E) The fee shall be paid to the County Treasurer of the County in which the City is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These fees shall be credited by the County Treasurer to the road fund of the City. (*Ref. 18-1214 RS Neb.*) (*Ord. No. 497, 11/8/88*) (*Amended by Ord. No. 525, 11/14/89*)

**§ 1-821 FISCAL MANAGEMENT; DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.**



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

(2) No debt owed pursuant to subsection (1) of this section may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last-known address of the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid and (b) at least thirty (30) days have elapsed from the time the notice was sent.

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

(4) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgement of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be twenty-five dollars (\$25.00) or four and one-half percent (4½ %) of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service. (*Ref. 45-623 RS Neb.*) (*Ord. No. 655, 9/27/94*)

#### **§ 1-822 FISCAL MANAGEMENT; COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.**

(1) The Municipality shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last-known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(2) The Municipality shall:

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

(b) File a release of assessment upon final payment of each assessment with the Register of Deeds. (*Ref. 18-1216 RS Neb.*) (*Ord. No. 735, 7/22/97*)

#### **§ 1-823 FISCAL MANAGEMENT; PROPERTY TAX REQUEST; PROCEDURE.**

(1) 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 section 77-1601 RS Neb. unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in

the area of the Municipality at least five (5) days prior to the hearing.

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

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

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

(c) 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.

(3) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 13 of the year for which the tax request is to apply.

(4) Any tax levy which is not in compliance with this section and section 77-1601 RS Neb. shall be construed as an unauthorized levy under section 77-1606 RS Neb. (*Ref. 77-1601.02 RS Neb.*) (*Ord. No. 736, 7/22/97*) (*Amended by Ord. Nos. 769, 9/22/98; 813, 6/13/00*)

#### **§ 1-824 FISCAL MANAGEMENT; PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.**

(A) Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The City may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 RS Neb., museum pursuant to section 51-501 RS Neb., visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637 RS Neb., or statue, memorial, or monument pursuant to section 80-202 RS Neb. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the City which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 RS Neb. unless approved under division (C). (*Ref. 77-3442 RS Neb.*)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal

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

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

(3) (a) The City Council shall:

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

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

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

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

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

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

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

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

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

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

(6) The City Council may pass no more than one (1) resolution calling for an election pursuant to this division (C) during any one (1) calendar year. Only one (1) election may be held in any one (1) calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in section 77-3444 RS Neb.

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

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

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

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

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

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not

have a duration greater than five (5) years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty (30) days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (*Ref. 77-3444 RS Neb.*) (*Ord. No. 768, 9/22/98*) (*Amended by Ord. Nos. 814, 6/13/00; 886, 5/13/03*)

**§ 1-825 FISCAL MANAGEMENT; ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.**

(1) The Governing Body has decided to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in section 77-3442 RS Neb., the all-purpose levy shall not exceed the annual levy specified in section 19-1309 RS Neb. to be levied upon the taxable valuation of all taxable property in the Municipality.

(2) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Governing Body shall allocate the amount raised by the all-purpose levy to the several departments of the Municipality in its annual budget and appropriation ordinance, or in other legal manner, as the Governing Body deems wisest and best.

(3) The Municipality shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

(4) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the Municipality may be made by the Municipality in addition to the all-purpose levy. (*Ref. 19-1309 through 19-1312 RS Neb.*) (*Ord. No. 770, 9/22/98*)

**§ 1-826 FISCAL MANAGEMENT; CREDIT CARDS AND ELECTRONIC TRANSFERS; AUTHORITY TO ACCEPT.**

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

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

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

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

(E) The Governing Body may choose to participate in the state contract for such payment services. If the Governing Body chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one (1) or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services.

(F) When authorizing acceptance of credit card or charge card payments, the Governing Body shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the municipality, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the Municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(G) For purposes of this section, electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (*Ref. 13-609 RS Neb.*) (*Ord. No. 775, 9/22/98*) (*Amended by Ord. No. 887, 5/13/03*)

## **§ 1-827 FISCAL MANAGEMENT; REVISION OF BUDGET.**

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

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

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

(3) The Governing Body has been notified by the Auditor of Public Accounts of a

mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

(1) The time and place of the hearing;

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

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

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

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

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

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

(E) Within thirty (30) days after the adoption of the budget under section 13-506 RS Neb., a Governing Body may, or within thirty (30) days after notification of an error by the Auditor of Public Accounts, a Governing Body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent (1%) or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Governing Body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such Governing Body is located and with the Auditor of Public Accounts. The Governing Body may then issue warrants in payment for expenditures authorized by the budget. *(Ref. 13-511 RS Neb.) (Ord. No. 815, 6/13/00) (Amended by Ord. Nos. 841, 5/28/02; 885, 5/13/03)*

#### **§ 1-828 FISCAL MANAGEMENT; NON-SUFFICIENT FUNDS CHECK FEE.**

Any person issuing a check to the City for payment of any obligation to the City shall be assessed a fee of twenty-five dollars (\$25.00) for a check being returned to the City for non-sufficient funds or any other reason. *(Ord. No. 963, 4/11/06)*

## **ARTICLE 9: COMPENSATION**

### **§ 1-901 COMPENSATION; MUNICIPAL OFFICIALS.**

The Compensation of any elective official of the Municipality shall not be increased or diminished during the term for which he shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Governing Body, a board, or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he resigns and desires to be rehired during the unexpired term of office. He may be rehired after the term of office during which he resigned at a greater salary. All salaries shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk. *(Ref. 17-108.02, 17-612 RS Neb.)*

### **§ 1-902 COMPENSATION; 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 one thousand dollars (\$1,000.00) or more at fair market value or which represents more than a five percent (5%) equity interest or is a stockholder of publicly traded stock worth ten thousand dollars (\$10,000.00) or more at fair market value or which represents more than ten percent (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 stockbroker. *(Ref. 49-1408 RS Neb.)*

**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. *(Ref. 49-1425 RS Neb.)*

#### **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 section 49-1499.04 or 70-624.04 RS Neb., 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 (1) 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 benefitted 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 five percent (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) Section 49-14,102 RS Neb. does not apply to contracts covered by this section. (*Ref. 49-14,103.01 RS Neb.*)

(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 (5) 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 10 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. (*Ref. 49-14,103.02 RS Neb.*)

(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 (10) 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. (*Ref. 49-14,103.03 RS Neb.*)

(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. (*Ref. 49-14,103.05 RS Neb.*)

(K) The Governing Body may exempt from divisions (A) through (I) of this section, contracts involving one hundred dollars (\$100.00) or less in which an officer of that body may have an interest. (*Ref. 49-14,103.06 RS Neb.*)

*(Amended by Ord. Nos. 381, 8/10/82; 415, 11/8/83; 427, 8/14/84; 452, 12/9/86)*

**ARTICLE 10: EMINENT DOMAIN**

**§ 1-1001 EMINENT DOMAIN; PROCEDURE.**

The Governing Body may, after negotiations in good faith have failed, bring condemnation actions for the acquisition of property within the Municipality. Such procedure shall be prescribed by State law and damages shall be paid to the condemnee according to the provisions therein. (Ref. 76-701 thru 76-724 RS Neb.)

**ARTICLE 11: MUNICIPAL FORMS**

**§ 1-1101 FORMS; OFFICIAL MUNICIPAL.**

Unless otherwise provided, all Municipal license applications, license forms, and notice forms shall be substantially as follows, unless otherwise provided by the Governing Body:

*Notice Form:*

NOTICE TO \_\_\_\_\_

\_\_\_\_\_, Nebraska  
\_\_\_\_\_, 19

To: \_\_\_\_\_  
owner (occupant) of the premises known as No. \_\_\_\_\_ Street,  
legally described as follows, to-wit:

\_\_\_\_\_  
YOU ARE HEREBY NOTIFIED to \_\_\_\_\_

\_\_\_\_\_  
YOU ARE FURTHER NOTIFIED that failure to comply with this order constitutes a violation of the ordinances of said \_\_\_\_\_, and that your failure renders you liable to prosecution and fine in the Police Court of said \_\_\_\_\_.

Municipal Clerk

**RETURN**

STATE OF NEBRASKA \_\_\_\_\_  
County of \_\_\_\_\_

of \_\_\_\_\_  
I, \_\_\_\_\_ Municipal Clerk of the \_\_\_\_\_ of \_\_\_\_\_, Nebraska, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_ .M., I served the within notice on said \_\_\_\_\_ by delivering a true and correct copy thereof to said \_\_\_\_\_, personally (or by posting a typewritten copy thereof on said premises).

**CERTIFICATE**

I, \_\_\_\_\_ Municipal Clerk of the \_\_\_\_\_ of \_\_\_\_\_ Nebraska, hereby certify that the foregoing is a true, accurate and correct copy of a notice \_\_\_\_\_ now in my hands for service with all endorsements thereon.

Dated \_\_\_\_\_, 19 \_\_\_\_

Municipal Clerk

*Application Form*

**APPLICATION FOR LICENSE**

\_\_\_\_\_, Nebraska  
\_\_\_\_\_, 19\_\_\_\_

I, \_\_\_\_\_ hereby make application to the \_\_\_\_\_ and of the \_\_\_\_\_ of \_\_\_\_\_, Nebraska, for license to \_\_\_\_\_ in said \_\_\_\_\_ for period ending \_\_\_\_\_, 19\_\_\_\_. I certify that I am \_\_\_\_\_ and qualified to engage in \_\_\_\_\_. I agree to conform strictly to the ordinances of this \_\_\_\_\_ relative to said \_\_\_\_\_, and obey all orders, requirements and regulations of its lawfully constituted authorities.

I include with this application all required documents.

I accompany this application with \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in payment of the occupation tax in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), and bond for approval of the \_\_\_\_\_ and \_\_\_\_\_ of said \_\_\_\_\_, and other charges required by ordinance for the issuance of said license.

Applicant

License Form:

LICENSE

License Fee

\$ FOR THE CALENDAR YEAR No.

19

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_ having paid \$ \_\_\_\_\_ pursuant to application filed in the office of undersigned,

NOW THEREFORE, said \_\_\_\_\_, Nebraska to \_\_\_\_\_ from the date

\_\_\_\_\_

This license is neither negotiable nor transferable and shall be of no force and effect outside the corporate limits of the Municipality and if revoked and forfeited renders licensee ineligible to receive a new license for a period of one year from the date of such revocation and forfeiture.

Dated at \_\_\_\_\_, Nebraska, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Municipal Clerk

(SEAL)

ARTICLE 12: INITIATIVE AND REFERENDUM

[Editor's Note: Article 12 was amended and adopted in its entirety by Ordinance No. 382, Passed on August 10, 1982. Sections 1-1202 thru 1-1205, 1-1208 thru 1-1214 were amended by Ordinance No. 428, Passed on August 14, 1984.]

§ 1-1201 INITIATIVE AND REFERENDUM; DEFINITIONS.

The powers of initiative and referendum are reserved to the qualified electors of the Municipality by State law. This Article shall govern the use of initiative to enact, and the use of referendum to amend or repeal measures affecting the governance of the Municipality. For purposes of this Article, the definitions set out in this Section, unless the context otherwise requires, shall apply.

CIRCULATOR shall mean any person who solicits signatures for an initiative or referendum

petition.

**CLERK** shall mean the Municipal Clerk or the Municipal Official in charge of elections.

**GOVERNING BODY** shall mean the legislative authority of the Municipality.

**MEASURE** shall mean an ordinance, charter provision, or resolution which is within the legislative authority of the Governing Body to pass, and which is not excluded from the operation of referendum by the exceptions in Section 1-1212.

**MUNICIPALITY** shall mean the City of Stromsburg, Nebraska.

**PETITION** shall mean a document authorized for circulation pursuant to Section 1-1202, or any copy of such document.

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

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

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

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

**SIGNATURE SHEET** shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort. (*Ref. 18-2501 thru 18-2511 RS Neb.*)

## **§ 1-1202 INITIATIVE AND REFERENDUM; PETITIONS, BALLOTS.**

Before circulating an initiative or referendum petition, the petitioner shall file with the Clerk a prospective petition. The Clerk shall date the prospective petition immediately upon its receipt. The Clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, as described below. If the prospective petition is in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within three (3) working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the Clerk shall, within three (3) working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the Clerk in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within two (2) working days from the receipt of the properly revised petition. Verification by the Clerk that the prospective petition is in proper form does not constitute an admission by the Clerk, Governing Body, or Municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

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

- A. A briefly-worded caption by which the measure is commonly known or which accurately summarizes the measure;
- B. A briefly-worded question which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and
- C. A concise and impartial statement, of not more than seventy-five (75) words, of the chief purpose of the measure.

The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lower case ten point type, except that the caption shall be in bold face type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization. (*Ref. 18-2512, 18-2513 RS Neb.*)

### **§ 1-1203 INITIATIVE AND REFERENDUM; PETITION FORM.**

(A) The forms designed by the Secretary of State to be used for initiative and referendum petitions shall be made available to the public by the City Clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the City Clerk. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted. (*Ref. 18-2514 RS Neb.*)

(B) Each petition presented for signature must be identical to the petition authorized for circulation by the City Clerk. Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the municipality potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and the statement specified to be part of the ballot title. When a special election is being requested, such fact shall be stated on every petition. (*Ref. 18-2515 RS Neb.*) (*Amended by Ord. No. 905, 1/27/04*)

### **§ 1-1203.01 INITIATIVE AND REFERENDUM; DECLARATORY JUDGMENT.**

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

(B) Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the City Clerk for signature verification until 40 days from the date the City Council received

notification from the verifying official that the necessary signatures have been obtained. If the city does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative, until after it has received such notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this Article. If the city does file such an action prior to receiving such notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action.

(C) Any action for a declaratory judgment shall be governed generally by sections 25-21,149 through 25-21,164 RS Neb., except that only the city and each chief petitioner shall be required to be made parties. The city, City Clerk, City Council, or any of the city's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five (5) days prior to the election.

(D) The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law. *(Ref. 18-2538 RS Neb.) (Ord. No. 905, 1/27/04)*

#### **§ 1-1204 INITIATIVE AND REFERENDUM; SIGNATURE SHEETS.**

Every signature sheet shall:

1. Contain the caption required in subdivision A. of Section 1-1202 of this Article;
2. Be part of a complete and authorized petition when presented to potential signatories;
3. Provide space for signatories to write their names, residential addresses, and the date of signing; and
4. Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

No more than twenty-five (25) signatures on each signature sheet shall be counted. In order to be valid, a signature shall be that of an individual registered to vote, at the time of signing, in the jurisdiction governed or to be governed by the measure addressed in the petition. A signature shall include the signatory's full name, his or her place of residence, and the date of signing. No signatory shall use ditto marks as a means of affixing his or her place of residence or date on any petition. A wife shall not use her husband's Christian or given name when she signs a petition and she shall sign her own Christian or given name along with her surname. *(Ref. 18-2516 RS Neb.)*

#### **§ 1-1205 INITIATIVE AND REFERENDUM; PETITIONS, AFFIDAVIT.**

Included in the contents of every petition shall be an affidavit, to be signed by the circulator in



the presence of a notary, which states that the circulator is a qualified elector, that each person who signed the petition did so in the presence of the circulator on the date indicated, and that the circulator believes that each signatory was registered to vote in the affected jurisdiction at the time he or she signed the petition and that the circulator believes that each signatory has stated his or her name and place of residence correctly. *(Ref. 18-2517 RS Neb.)*

#### **§ 1-1206 INITIATIVE AND REFERENDUM; PETITIONS, NOTIFICATION.**

A. Signed petitions shall be filed with the Clerk for signature verification. Upon the filing of a petition, and passage of a resolution by the Governing Body, the Municipality and the County Clerk or Election Commissioner of the County in which such Municipality is located may by mutual agreement provide that the County Clerk or Election Commissioner shall ascertain whether the petition is signed by the requisite number of voters. The Municipality shall reimburse the County for any costs incurred by the County Clerk or Election Commissioner. When the verifying official has determined that one hundred (100%) per cent of the necessary signatures required by this Article have been obtained, he or she shall notify the Governing Body of that fact, and shall immediately forward to the Governing Body a copy of the petition.

B. In order for an initiative or referendum proposal to be submitted to the Governing Body and the voters, the necessary signatures shall be on file with the Clerk within six (6) months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.  
*(Ref. 18-2518 RS Neb.)*

#### **§ 1-1207 INITIATIVE AND REFERENDUM; FREQUENCY OF OCCURRENCE.**

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two (2) years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two (2) years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt. *(Ref. 18-2519 RS Neb.)*

#### **§ 1-1208 INITIATIVE AND REFERENDUM; DIRECT VOTE.**

The Executive Officer and Governing Body of the Municipality may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under this Article and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the Clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in this Article for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast. *(Ref. 18-2520 RS Neb.)*

**§ 1-1209 INITIATIVE AND REFERENDUM; ELECTIONS.**

The Clerk shall call elections under this Article, either at a special election or regularly scheduled primary or general election. He or she shall cause notice of every such election to be printed in one (1) or more newspapers of general circulation in such Municipality at least once not less than thirty (30) days prior to such election and also posted in the office of the Clerk and in at least three (3) conspicuous places in such Municipality at least thirty (30) days prior to such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at (identify polling place or precinct) of the Municipality of \_\_\_\_\_, Nebraska, an election will be held at which there will be submitted to the electors of the Municipality for their approval or rejection, the following measures, propositions, or issues:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(naming measures, propositions, or issues), which election will be open at 8:00 a.m. and will continue open until 8:00 p.m., of the same day.

Dates this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of the City/Village of \_\_\_\_\_, Nebraska.

The Clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this Section shall designate where such a copy in pamphlet form may be obtained. *(Ref. 18-2521 RS Neb.)*

**§ 1-1210 INITIATIVE AND REFERENDUM; BALLOTS.**

All ballots for use in special elections under this Article shall be prepared by the Clerk and furnished by the Governing Body, unless the Governing Body contracts with the County for such service, and shall be in form the same as provided by law for election of the Executive Officer and Governing Body of such Municipality. When ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election they shall be placed upon the official ballots as provided in this Article. *(Ref. 18-2522 RS Neb.)*

**§ 1-1211 INITIATIVE AND REFERENDUM; INITIATIVE.**

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

B. An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to Section 1-1212.

C. Whenever an initiative petition bearing signatures equal in number to at least fifteen (15%) per cent of the qualified electors of the Municipality has been filed with the Clerk and verified, it shall be the duty of the Governing Body to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the Governing Body fails to pass the measure without amendment, including an override of any veto, if necessary, within thirty (30) days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the Municipality. If the Governing

Body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the Municipality, the Governing Body, shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

D. Whenever an initiative petition bearing signatures equal in number to at least twenty (20%) per cent of the qualified electors which requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the Clerk and verified pursuant to Section 1-1206, it shall be the duty of the Governing Body to consider passage of the measure contained in the petition including an over ride of any veto, if necessary. If the Governing Body fails to pass the measure, without amendment, including an override of any veto, if necessary, within thirty (30) days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. The date of such election shall not be less than thirty (30) nor more than sixty (60) days from the date the Governing Body received notification pursuant to Section 1-1206.

E. If a majority of voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the Municipality thirty (30) days after certification of the election results, unless the Governing Body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds (2/3) majority of the members of the Governing Body. No such attempt to amend or repeal shall be made within one (1) year from the passage of the measure by the electors. *(Ref. 18-2523 thru 18-2526 RS Neb.)*

## **§ 1-1212 INITIATIVE AND REFERENDUM; REFERENDUM LIMITATIONS.**

(A) The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of the Municipality. *(Ref. 18-2527 RS Neb.)*

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

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

indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

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

(3) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

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

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

(6) Resolutions directing the Municipal Clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529 RS Neb.;

(7) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526 RS Neb.;

(8) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by the Municipality and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(9) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in section 19-905 RS Neb.;

(10) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(11) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

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

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

(2) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs of public ways, public property,

utility systems, and other capital projects and measures giving initial approval for industrial development projects;

(3) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal employees other than the members of the Governing Body and the Executive Officer; and

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

(D) Measures subject to limited referendum shall ordinarily take effect thirty (30) days after their passage by the Governing Body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 18-2518 RS Neb. within thirty (30) days after such measure's passage by the Governing Body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (E)(3) of this section. If the necessary number of signatures as provided in sections 18-2529 or 18-2530 RS Neb. has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(E) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, the Municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in this Article by the following procedure:

(1) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five (5) days prior to the date set for hearing in a newspaper of general circulation within the Municipality;

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

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

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

(b) For projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in

general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty (30) days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by this subdivision shall be published in at least one newspaper of general circulation within the Municipality and shall be published not later than fifteen (15) days after passage by the Governing Body, including an override of a veto, if necessary, of a measure approving the project.

The right of the Municipality to hold such a hearing prior to the passage of the measure by the Governing Body and give such notice after passage of such measure by the Governing Body to obtain exemption for any particular project in a manner described in this division is optional, and the Municipality shall not be required to hold such a hearing or give such notice for any particular project.

(F) Nothing in divisions (C) and (E) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(G) All measures, except as provided in divisions (B), (C), and (E) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the Governing Body, including an override of a veto, if necessary, or enacted by the voters by initiative. *(Ref. 18-2528 RS Neb.) (Amended by Ord. Nos. 606, 3/23/93; 827, 4/24/01; 882, 5/13/03)*

### **§ 1-1213 INITIATIVE AND REFERENDUM; REFERENDUM, PASSAGE.**

A. Whenever a referendum petition bearing signatures equal in number to at least fifteen (15%) per cent of the qualified electors of the Municipality has been filed with the Clerk and verified pursuant to Section 1-1206, it shall be the duty of the Governing Body to reconsider the measure or portion of such measure which is the object of the referendum. If the Governing Body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within thirty (30) days from the date the Governing Body receives notification pursuant to Section 1-1206, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the Municipality. If the Governing Body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the Municipality, the Governing Body shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

B. Whenever a referendum petition bearing signatures equal in number to at least twenty (20%) per cent of the qualified voters of the Municipality which requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the Clerk and verified, it shall be the duty of the Governing Body to reconsider the measure or portion of such measure which is the object of the referendum. If the Governing Body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within thirty (30) days from the date the Governing Body received notification. The date of such special election shall not be less than thirty (30) nor more than sixty

(60) days from the date the Governing Body received notification.

C. If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds (2/3) majority of the members of the Governing Body. No such attempt to reenact or return the measure to its original form shall be made within one (1) year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately be come effective or remain in effect. *(Ref. 18-2529 thru 18-2531 RS Neb.)*

#### **§ 1-1214 INITIATIVE AND REFERENDUM; VIOLATIONS, PENALTIES.**

A. Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Sections 18-2501 thru 18-2531 RS Neb. shall be guilty of a Class I misdemeanor with a limit of three hundred (\$300.00) dollars on the fine.

B. Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to Sections 18-2501 thru 18-2531 RS Neb. shall be guilty of a Class I misdemeanor with a limit of five hundred (\$500.00) dollars on the fine.

C. Whoever signs any petition under Sections 18-2501 thru 18-2531 RS Neb. knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this Section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of three hundred (\$300.00) dollars on the fine.

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

*(Ref. 18-2532 thru 18-2535 RS Neb.)*

#### **§ 1-1215 INITIATIVE AND REFERENDUM; APPLICABILITY.**

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

Nothing in this Article shall apply to procedures for initiatives or referendums provided in Nebraska Revised Statutes Sections 18-412 and 18-412.02 relating to Municipal light and power plants, Sections 70-504, 70-650.01 and 70-650.02, relating to public power districts, and Sections 80-203 to 80-205 relating to soldiers and sailors monuments. *(Ref. 18-2536, 18-2537 RS Neb.)*

## ARTICLE 13: INTERGOVERNMENTAL RISK MANAGEMENT

### § 1-1301 INTERGOVERNMENTAL RISK MANAGEMENT.

(A) PUBLIC AGENCY means any county, city, village, school district, public power district, rural fire district, or other political subdivision of this State, the State of Nebraska, the University of Nebraska, and any corporation whose primary function is to act as an instrumentality or agency of the State of Nebraska. (*Ref. 44-4303 RS Neb.*)

(B) The City Council and any one or more public agencies may make and execute an agreement providing for joint and cooperative action in accordance with the Intergovernmental Risk Management Act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

(1) General liability;

(2) Damage, destruction, or loss of real or personal property, including, but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;

(3) Errors and omissions liability; and

(4) Workers' compensation liability.

(C) The City Council and any one (1) or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action in accordance with the act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to provide health, dental, accident, and life insurance to member's employees and officers. (*Ref. 44-4304 RS Neb.*) (*Ord. No. 474, 10/13/87*) (*Amended by Ord. No. 838, 5/28/02*)



## **ARTICLE 14: PENAL PROVISION**

### **§ 1-1401 VIOLATION; PENALTY.**

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

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

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. No. 817, 6/13/00)*